Agenda
Bar Harbor Town Council
May 3, 2016

Neighborhood Meeting – Town Hill
V.I.S.

I. **CALL TO ORDER – 6:00 p.m.**
   A. **Excused Absence(s)**

II. **Town Hill neighborhood's requested Topics of Discussion.**
1. Parking Plan.
2. Transfer Station.
3. Wi-Fi Plan.

Agenda to continue following open discussion by 7:00 PM.

III. **PUBLIC COMMENT PERIOD** – The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.

IV. **APPROVAL OF MINUTES**
April 19, 2016 Regular Meeting

V. **ADOPTION OF AGENDA**

VI. **CONSENT AGENDA** – A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:

A. **Vehicles for Hire:**
Wild Iris Farm –possible motion to approve four carriage licenses as submitted by Marc R. Jaffrey, Wild Iris Farm, LLC. (Police Lt. Pinkham approved, Proof of Insurance provided.)

B. **Boundary Line Agreement:**
St. Saviour's Church –possible motion to approve a boundary line agreement between Rectors, Wardens and Vestrymen of the Parish of St. Saviour's Church and the Town of Bar Harbor at the village burying grounds.

C. **Sidewalk Sale** – Possible motion to approve the request of the

Bar Harbor Merchants Association for use of the public sidewalks for a one day Street Stroll sidewalk sale in conjunction with the Taste of Bar Harbor Festival on May 21, 2016.

VII. **PUBLIC HEARINGS:**

A. **Special Amusement Permit: The Lompoc,** 36 Rodick Street, request for Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by James Pike. (Renewal)

B. **Special Amusement Permit: The Dog and Pony Tavern,** 4 Rodick Place, request for Class 4, any other type of entertainment as provided by 28A MRSA 1054.1.C. (Renewal)

VIII. **REGULAR BUSINESS:**

A. Introduction of FEMA Flood Insurance Rate Maps and ordinance amendments. Robert Osborne, Planning Director.

B. **Treasurer's Warrant** – Request of Treasurer to authorize paid bills.

IX. **TOWN MANAGER'S COMMENTS**

X. **COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA**

XI. **EXECUTIVE SESSION:** (None Anticipated)

XII. **ADJOURNMENT**

In order to assure your full participation in this meeting, we would appreciate your informing us of any special requirements you might have due to a disability. Please call 288-4098

Manager's Memo

To: Bar Harbor Town Council
cc: Department Heads
From: Cornell Knight, Town Manager
Date: Friday April 29, 2016

Re: **Town Council Meeting of May 3rd**

CALL TO ORDER – 6:00 P.M.

I. **A. Excused Absences** – None that I am aware of any but if there is, a possible motion: to excuse Councilor _____ as provided by Town Charter section C-12.B(1)(d).

II. **Town Hill's requested discussion items:**

1. John Mountford requested there be discussion on the Parking Plan, the Transfer Station and the Wi-fi plan.

I know speeding is often a concern in neighborhoods, so the police did some monitoring with the speed trailer and radar patrols. Enclosed is a memo from the Police Chief. Lt. Kerns will attend to answer any questions.

The agenda will continue following the conclusion of the discussion items or by 7 pm

III. Comment Period

VI. **Consent agenda-**

A. Wild Iris Farm- Marc Jaffrey. 4 carriage licenses. The police have approved and insurance provided. Motion: to approve 4 carriage licenses to Wild Iris Farm LLC as submitted.

B. Boundary Line Agreement- The church is selling the old Parish House to Community Housing of Maine. The boundary line clarification is 12' on the west side of the cemetery. Chip has looked at it and is okay with it. A possible motion: to authorize the Town Manager to sign the Boundary Line Agreement between Rector, Wardens and Vestrymen of the Parish of St.Saviour's Church in Bar Harbor and the Town of Bar Harbor at the Village Burying Ground, 41 Mt. Desert St.

C. Sidewalk Sale- see the enclosed letter from Jane Holland requesting the Bar Harbor Merchants Association be allowed to display merchandise outside during the 2016 Street Stroll on May 21st. A possible motion: to approve the request of the BH Merchant's Association to use the sidewalks for a one day Street Stroll sidewalk sale in conjunction with the Taste of Bar Harbor Festival on May 21, 2016.

IV. Public Hearings-

A. Special Amusement Permits_

A. The Lompoc- James Pike36 Rodick Street, Class 3ad, renewal. 1 complaint was received in 2015 for music being too loud, it was not substantiated by the Police. Possible motion: motion to approve the Special Amusement Application for The Lompoc for a Class 3ad permit as advertised.

B. The Dog & Pony Tavern, Dustin & Amanda Gallant, 4 Rodick Place, Class 4, renewal. No complaints. Possible motion: to approve the Special Amusement application for the Dog & Pony Tavern for a Class 4 permit as advertised.

VIII. REGULAR BUSINESS:

A. FEMA Flood Ordinance Amendment- see the enclosed memo from Angela Chamberlain, Code Enforcement Officer. Amendments to the ordinance are underlined and deletions are struck through. New Flood Insurance Rate Maps have been prepared by FEMA and municipalities must amend their ordinances to reflect the new maps in order to remain in the program. Following questions and answers a possible motion: to schedule a public hearing on June 21, 2016 to hear comments on the amendments to the Floodplain Management Ordinance Chapter 90 of the Bar Harbor Code.

B. Treasurer's Warrant – I recommend passage of a motion: <u>to sign the Treasurer's Warrants for paid bills.</u>

II.

Cornell Knight

From: John Mountford <mounty@gwi.net>
Sent: Thursday, April 14, 2016 4:31 PM
To: manager@barharbormaine.gov
Subject: Council meeting in town hill

Thank you for the mailing I received about the meeting in town hill. Suggestions or items of interest would be the parking plan for Bar Harbor, the transfer station and the wifi plan. See you there!

John Mountford

Sent from my iPad

MOUNT DESERT POLICE DEPARTMENT
BAR HARBOR POLICE DEPARTMENT

James K. Willis, Chief of Police
jwillis@mdpolice.org
jwillis@barharbormaine.gov

BHPD
Lt. David Kerns
37 Firefly Lane
Bar Harbor, Maine 04609
Tel: 207-288-3391
dkerns@barharbormaine.gov

MDPD
Lt. Kevin Edgecomb
21 Sea Street, PO Box 248
NE Harbor, ME 04662
Tel: 207-276-5111
kedgecomb@mdpolice.org

To: Town Manager Knight
From: Chief Willis
Re: Town Hill speed data
April 28, 2016

Between 4/5/15 and 4/25/16 we collected speed data in the village of Town Hill. We used two different methods, patrols with marked cruisers the speed trailer(s). The roads monitored were Route #102, Indian Point Road, Crooked Road, Gilbert Farm Road and the Knox Road.

During this 22 day period several vehicles were stopped by our officers. As a result of the stops, one passenger was arrested for outstanding warrants, citations were issued for a variety of offenses including inspection sticker and registration violations, and several warnings were issued for speeding violations.

The speed trailer was placed is several locations throughout Town Hill and recorded over 26,000 cars travelling past it during this period. The average vehicle speeds in all areas are below the posted speed limits. The speed trailer data indicates that the trailer is quite effective at slowing traffic where is it placed, most cars slow down when they see the display. The speed trailer did record some violations of excessive speeds and we use that information to help us direct patrols to the times and locations when they take place.

Minutes

Bar Harbor Town Council

April 19, 2016

I. **CALL TO ORDER** – 7:00 p.m. –In attendance were Councilors: Paul Paradis, Gary Friedmann, Anne Greenlee, Peter St. Germain, David Bowden, Clark Stivers, Burt Barker; and Town Manager Cornell Knight.

II. **PUBLIC COMMENT PERIOD** – *The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.* - Roger Innes stated , that he is only voicing his opinion about how, the town budget should stay flat, taxes are too high and he also had concerns about broadband cost. It is his opinion that council has made mistakes here and there that ends up getting a lot of headlines. He thanked councilors for acting in good faith and intensions and or with advice from your counsel. It is his opinion that all the information on social media about Bar Harbor is not funny.

Diane Vreeland spoke about the economic impact study on cruise ships in Bar Harbor. She was wondering if they could do a study on negative impact of cruise ships coming into our village.

III. **APPROVAL OF MINUTES**

A. March 29, 2016 – Special Meeting

B. April 5, 2016 – Regular Meeting

Ms. Greenlee, with second by Mr. Stivers moved to approve the minutes for March 29, 2016 special meeting and as amended for April 5, 2016 regular meeting. Motion passed 7-0.

Mr. Friedmann asked for an amendment to the April 5, 2016 Town Council minutes under page 3 section VII. Regular Business, B. Senior Committee. He stated that his motion was to direct the Town Manager to work with Mrs. Lundquist to develop Bylaws for council consideration over the next 60 days for a Seniors Task Force. He wanted to clarify that he was not asking for a committee, just a Task Force. He stated that was his intent of the motion.

IV. **FINANCIAL STATEMENTS** – *Review and possible adoption of a motion to accept the financial statements as presented.*-Finance Director Stan Harmon gave a brief overview of the monthly results. He stated Highway spent $183,000 less at this point this year. Vehicle Excise is up 8% over last year. Recycling and Ambulance seem to stay well below budget. He commented that taxes were due at the end of March and collections are $400,000 ahead of last year. Mr. St. Germain, with second by Mr. Barker moved to accept and file the Financial Directors report dated April 11, 2016. Motion passed 7-0.

V. **ADOPTION OF AGENDA**

Mr. St. Germain, with second by Ms. Greenlee moved to adopt the agenda as published. Motion passed 7-0.

VI. **CONSENT AGENDA** – *A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:*

A. **Annual Town Meeting: June 2016** –

1. *Possible motion to sign the Notice of Public Hearing.*
2. *Possible motion to sign the Warrant calling for June 2016 annual town meeting.*

B. **State of Maine Primary** – *Possible motion to confirm appointment of Patricia Gray as warden for the State of Maine Primary, June 14, 2016, pursuant to Title 21-A.*

C. **Appointment of Election Clerks** – *Possible motion to approve the slate of election clerks.*

D. **Vehicles for Hire** – *Possible motion to approve:*

1. **Oli's Trolley** *request for six trolley licenses as submitted by Denise Morgan, Oli's Trolley Inc. (Police Lt. Pinkham approved, Proof of Insurance provided)*
2. **Bar Harbor Coastal Cab** *request for one taxi license as submitted by Craig Wood. (Police Lt. Pinkham approved, Proof of Insurance provided)*

E. **Property Tax Write Offs –**

1. **Small Balances** - *Possible passage of a motion to grant the Tax Collector and Treasurer the discretionary authority to write off any residual tax balances up to $10.00.*
2. **Personal Property Taxes** – *Possible passage of a motion to abate Personal Property Taxes deemed uncollectible that are listed in the Tax Collector's April 15, 2016 memorandum attachment.*

F. **Special Amusement Permit: Little A's** – *Possible motion to file update status memo from Police Chief.*

G. **Quit Claim Deed: Andre L. Lozano** – *Possible motion to authorize the Town Manager to sign a Quit Claim Deed, releasing the Town's interest in the property of Andre L. Lozano, 11 High Street, Tax Map 104 Lot 311.*

Ms. Greenlee, with second by Mr. St. Germain moved *to* approve the items of business without discussion as presented. Motion passed 7-0.

VII. **PUBLIC HEARINGS:**

A. **Special Amusement Permits:**

1. **Mainely Meat BBQ**, *15 Knox Road, a request for Class 3a, three or more musicians with mechanical amplification as submitted by Barbara Maffucci, Atlantic Brewing Co. (Renewal)-* Ms. Greenlee asked how they would contain the music for neighborhood tranquility. And, have they had any complaints in the past. Mainely Meat representative voiced that the music is contained in a tent. And, they have had no complaints in the past. Mr. St. Germain, with second by Mr. Barker moved to entertain a motion to approve as advertised. Motion passed 7.0.

2. **Kebo Valley Golf Club,** *136 Eagle Lake Road, a request for Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by David Closson. (Renewal)* Mr. St. Germain, with second by Mr. Barker moved to approve this motion as published. Motion passed 7.0.

3. **Cherrystones**, *185 Main Street, a request for Class 3a, three or more musicians with mechanical amplification as submitted by Jeremy Bond, Fishmaine, Inc. (Renewal)* Mr. St. Germain, with second by Ms. Greenlee moved to approve this permit as advertised. Motion passed 7.0.

4. **Bar Harbor Beer Works**, *119 Main Street, request for Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by Jeremy Bond, Fishmaine, Inc. (Renewal)* Mr. St. Germain, with second by Ms. Greenlee moved to approve this motion as published. Motion passed 7.0.

5. **Bar Harbor Club & Spa**, *111 West Street, request for Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by Richard C. Ade, BHTC 111, LLC. (Renewal)* Mr. St. Germain, with second by Ms. Greenlee moved to approve this motion as published. Motion passed 7.0.

6. **The 1932 Criterion Theatre**, *35 Cottage Street, request for Class 4, any other entertainment or amusement as submitted by Heather Martin. (Renewal)* Mr. St. Germain, with second by Ms. Greenlee moved to approve this motion as published. Motion passed 7.0.

7. **Galyn's Galley**, *17 Main Street, request for Class 3a, three or more musicians with mechanical amplification as submitted by Richard & Gail Leiser. (NEW) Galyn's Galley Representative stated that this would be a one day event only.* Mr. St. Germain, with second by Ms. Greenlee moved to approve this permit for the one day event as advertised. Motion passed 7.0.

VIII. REGULAR BUSINESS:

A. **Cruise Ship Passengers** – *Request of Cruise Ship Committee to fund a University of Maine study of the economic impact of cruise passengers in Bar Harbor.* Mr.

Friedmann, with second by Mr. St. Germain moved that the University of Maine conduct an economic impact study of cruise ship passenger's in Bar Harbor. Not to exceed $10,000.

B. **Pay As You Throw**:

1. *Staff's report of PAYT cost and logistics for a trial period starting 11/1/16.*-Mr. Reeves, Public Works Director gave a screen presentation of cost and logistics for PAYT trial period. He spoke about where they would put the temporary weight scale, new fencing and making changes for better traffic flow. He stated they have had complaints from neighbors about the traffic flow and commercial waste dumping that creates traffic congestion. Mr. Graves from the transfer station spoke about the amount of vehicles that would back up the traffic pattern. *Ms.* Bernier represented WasteZero to review the contract to supply PAYT bags. She discussed cost of the bags $2.00 Large and Small $1.00. WasteZero manufactures the bags. She spoke about other towns in Maine that do some form of PAYT program. She talked about solid waste reduction, recycling increases, disposal and transportation cost decreasing and environment improvements, engagement and education for the town residents and other communities in Maine that cut their amount of solid waste in half. Council members had concerns of illegal dumping of trash, recycling issues with commercial trash haulers.
   Council member Mr. Bowden asked Mr. Reeves if they anticipated any additional waste from town trash cans as far as cost. Council member Mr. St. Germain spoke about the increase of cost for dumpster pickup for commercial accounts.

2. *Accepting comments from the public.* Chairman Mr. Paradis opened the public hearing for comments on PAYT. A crowd of Bar Harbor residents filled the council chambers and the recumbent room. There were 32 residents that gave comments and expressed concerns about the PAYT program. They were concerned about illegal dumping, rising cost for low income, taxes already covering trash disposal and then paying for special bags and also trash dumping into the lakes and ocean. Many residents expressed concerns about better recycling programs for plastics. They also suggested bag tags for non-residents to avoid tipping fees. Several residents spoke in favor of the program for environmental reasons and its fairness.
   Mr. Friedmann, second by Ms. Greenlee moved to implement PAYT Trial Period study November 1, 2016. Council Voted 4-3.
   Nay: Mr.Paradis, Mr. Bowden, Mr. St. Germain and Mr. Barker
   Yay: Mr. Friedmann, Mr. Stivers and Ms. Greenlee.

3. *Review the contract with WasteZero to supply PAYT bags for a five year term.* - Chairman Mr. Paradis asked council members if there was any need to discuss the contract for WasteZero. They all agreed there was no need to review.

C. **Cell Tower Lease: Fire Station** – R*equest of Lease Advisors to purchase the lease and easement for the cell tower on top of the Fire Station.* Mr. Bowden, with second by Ms. Greenlee moved not to accept cell tower buy-out offer from Lease Advisors. Motion passed 7-0.

D. **Budget Transfer: Municipal Building Renovations** – *Request of Treasurer to authorize a transfer of funds for the additional work and change orders for the Municipal Building renovations.*- Mr. Friedmann, with second by Mr. St. Germain moved that the town treasurer transfer $42,000 to the CIPMunicipal Building account #2124-6130; $22, from Contingency account #1036-5906 and $20,000 from Assessing account #1032-5105. Motion passed 7-0.

E. **Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.*- Mr.Friedmann, with second by Mr. St. Germain moved to sign Treasurer's warrant for paid bills. Motion passed 7-0.

IX. **TOWN MANAGER'S COMMENTS** – Mr. Knight announced the next Town Council meeting on May 3, 2016 at 6:00 pm, will be held at Town Hill fire station. Notices have been sent out to Town Hill residents. Mr. Knight stated that he had one response from a resident of Town Hill about information they would like to discuss.

X. **COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA** – Mr. Barker thanked Mr. Friedmann for all his hard work on the PAYT program. Mr. Barker commented that he appreciated what Mr. Innes said, what I felt with him was accurate during public comment period. He made comments about how residents were concerned about the cost of PAYT. He also stated that he wished he had that support during the school budget meeting. Mr. St. Germain would like to find a way to get the new lift operating on the town pier. Town Manager, Mr. Knight said, the Harbor Master Mr. Phippen is hiring an engineer to certify it. Ms. Greenlee thanked Mr. Friedmann for all his passion on many subjects tonight. She also thanked the public for speaking and emails on the PAYT program. Mr. Friedmann commented that the solar farm has been fully subscribed now. They are hoping to break ground by the summer. He stated they are making plans to have a dedication ceremony on the property. Mr. Paradis also thanked Mr. Innes for his comments and stated he believes it is true. He thinks all the council members work very hard. He also stated, they have different points of view sometimes. Most of the time they all have the same goals. He is very proud of the dedication from council members.

XI. **EXECUTIVE SESSION:** *(None Anticipated)*

XII. **ADJOURNMENT** – Mr. Friedmann, with second by Mr. St. Germain, moved to adjourn at 10:20 p.m. Motion passed 7-0.

Elizabeth B. Murray, Deputy Clerk

VI A

Town of Bar Harbor

Application for Bus/Carriage-for-Hire/Limousine/Taxicab/Pedicab License

FEE SCHEDULE
Taxi, Carriage-for-Hire and Pedicab (1 – 14 passengers) **$65**
Limousine and Bus (15 or more passengers) **$119**

Owner's Name: Sandra J. Read **d/b/a:** Wild Iris Farm, LLC

Address: 2 Lakewood Farm Road, Bar Harbor, ME 04609

Phone (land): 207-288-5234 **Phone (cell):** 207-812-2322

List all drivers and their Maine Driver's License Number below (use back of application if more space is necessary)

Name: Marc R. Jaffrey **ME Driver's Lic #:** 4986337

Name: Sandra Read **ME Driver's Lic #:** 3050318

Name: _____ **ME Driver's Lic #:** _____

Name: _____ **ME Driver's Lic #:** _____

List all the vehicles you wish to include in this application (use additional sheet if more space is necessary)

Type of Vehicle Bus/Carriage/Limo/Taxi/Pedicab	Year/Make/Model/Serial or VIN	# Seats	Own or Lease
Carriage	2011 / Green Farm Wagon/Beer Wagon	14	Own
Carriage	2012 / Vis-A-Vis/ Serial 14422	6	Own
Carriage	2008 / Coyaltex / Picnic Carriage	24	Own
Carriage	2008 / Blue Yukonette	4	Own

I hereby agree to abide by Chapter 40 of the Bar Harbor Town Code as well as all applicable laws, statutes, ordinances and regulations related to the operation of Buses, Carriages-for-Hire, Limousines, Taxicabs and Pedicabs.

Owner's Signature Sandra J Read **Date** 4-15-16

For official use:

Approvals:

Police Department _____ Date 4.15.16

Town Clerk, Fee Paid _____ Date 4-15-16

Proof of Insurance (DEC page with VIN) _____ Date 4-15-16

Copy of Chapter 40 of the Bar Harbor Town Code provided ☒

Revised 03/18/2015

VI. B

Cornell Knight

From: Timothy H. Boulette <tboulette@mpmlaw.com>
Sent: Friday, April 15, 2016 10:09 AM
To: 'manager@barharbormaine.gov'
Cc: 'Jim Fisher'; 'Erin Cooperrider (erin@chomhousing.org)'; Gail A. Sanborn; 'Tadenev, Mike'
Subject: CHOM/St. Saviour's Boundary Line Agreement
Attachments: Boundary Line Agreement-3.doc; Subdivision Plan with common boundary line.pdf

Cornell,

I represent Community Housing of Maine, Inc. with respect to its acquisition and rehabilitation of the Parish House at St. Saviour's. I understand Jim Fisher has been in touch with you about a Boundary Line Agreement that would clarify the boundary between the St. Saviour's parcel and the neighboring cemetery, owned by the Town.

The church's counsel (Mike Tadenev of Eaton Peabody) prefers to only deal at this time with the portion of the boundary that will affect the out conveyance to CHOM. Thus, we have prepared a Boundary Line Agreement addressing only that relatively short common line between the parcels, which is attached. Also attached is a copy of the recorded subdivision plan, with the line in question indicated in yellow for your convenience.

Mike Tadenev is copied on this email. While the agreement is, strictly speaking, between the Town and St. Saviour's, please copy me on any further discussion of the draft.

Thanks,

Tim

Timothy H. Boulette
thb@mpmlaw.com
LinkedIn Profile
Twitter: @MEBizBankingLaw
Murray Plumb & Murray
75 Pearl Street, Portland ME 04101
(207) 523-8212 (direct) • (207) 773-5651 (main) • (207) 773-8023 (fax)

Please consider the environment before printing this e-mail.

BOUNDARY LINE AGREEMENT

This Boundary Line Agreement is dated this _____ day of _____, 2016 by and between **RECTOR, WARDENS AND VESTRYMEN OF THE PARISH OF ST. SAVIOUR'S CHURCH IN BAR HARBOR, MAINE**, a body corporate and politic organized and existing under Chapter 180 of the Private and Special Laws of Maine of 1869, as amended, and having a place of business at Bar Harbor, County of Hancock, and State of Maine (the "Church") and the **TOWN OF BAR HARBOR, MAINE**, a municipal corporation, having a place of business in the Town of Bar Harbor, County of Hancock, and State of Maine ("Town").

WHEREAS, the Church represents and warrants that it is the owner in fee simple of that certain parcel of land described in the conveyance from the Trustees of Diocesan Funds in the Diocese of Maine, dated March 16, 1989, and recorded in the Hancock County Registry of Deeds in Book 1742, Page 404, and known as 41 Mount Desert Street, Bar Harbor, Maine and shown on Tax Map 104 as Lot 318 ("Church Lot"); and

WHEREAS, the Town represents and warrants that it is the owner in fee simple of that certain parcel of land known as the Village Burying Ground, Bar Harbor, Maine and shown on Tax Map 104 as Lot 338 (the "Cemetery," also referred to herein as the "Old Burial Ground / Village Burying Ground"); and

WHEREAS, for the purpose of ascertaining and fixing the location of the boundary line dividing their above-described parcels of land, the Church and the Town have agreed that the following line, hereinafter referred to as the "Boundary Line," represents the common boundary line of a portion of their respective properties as shown on the Subdivision of C.H.O.M. Parish-House, prepared for Community Housing of Maine, Inc., by Northeast Civil Solutions, dated May 28, 2014, and last revised June 16, 2015, and recorded in said registry at File 42, Page 187, the relevant portion of which is attached hereto as Exhibit A (the "Plan"):

> "BEGINNING at a #5 rebar w/cap stamped 'NCS, INC PLS 1314'. Said rebar being the southwesterly corner of land now or formerly of Charles Pineo as recorded in Deed Book 624, Page 310, Hancock County Registry of Deeds;
>
> THENCE S 81°05'54" W along the northerly line of said 'Old Burial Ground / Village Burying Ground' eleven and eighty-eight hundredths (11.88) feet to a #5 rebar w/cap stamped 'NCS, INC PLS 1314' at a corner of said 'Old Burial Ground / Village Burying Ground'.

NOW, THEREFORE, it is agreed as follows:

1. The Church and the Town accept and confirm as true and correct the above-described Boundary Line dividing those portions of the Church Lot and the Cemetery described herein.

2. That the Church, in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration paid by the Town, the receipt of which is hereby acknowledged, does

hereby remise, release and forever quitclaim to the Town, its successors and assigns, so much of the property described in the said deed recorded in Book 1742, Page 404 as is situated southerly of and adjacent to the above-described Boundary Line dividing the Church Lot and the Cemetery, together with the appurtenances and all of the estate and rights of the Church in and to said premises.

3. That the Town, in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration paid by the Church, the receipt of which is hereby acknowledged, does hereby remise, release and forever quitclaim to the Church, its successors and assigns, all that parcel of land, together with any improvements thereon, lying northerly of and adjacent to the Boundary Line dividing the Church Lot and the Cemetery, together with the appurtenances and all of the estate and rights of the Town in and to said premises.

IN WITNESS WHEREOF, the Church and the Town have hereunto set their hands and seals all as of the day and year first above written.

WITNESS:

RECTOR, WARDENS AND VESTRYMEN OF THE PARISH OF ST. SAVIOUR'S CHURCH IN BAR HARBOR, MAINE

_____

By_____

_____

Its _____

TOWN OF BAR HARBOR, MAINE

_____

By_____

_____

Its _____

STATE OF MAINE
HANCOCK, SS.

_____, 2016

Personally appeared before me the above-named _____, in his/her said capacity, and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of said Rector, Wardens and Vestrymen of the Parish of St. Saviour's Church in Bar Harbor, Maine.

_____

Notary Public/Attorney at Law

_____

Print Name

STATE OF MAINE
HANCOCK, SS.

_____, 2016

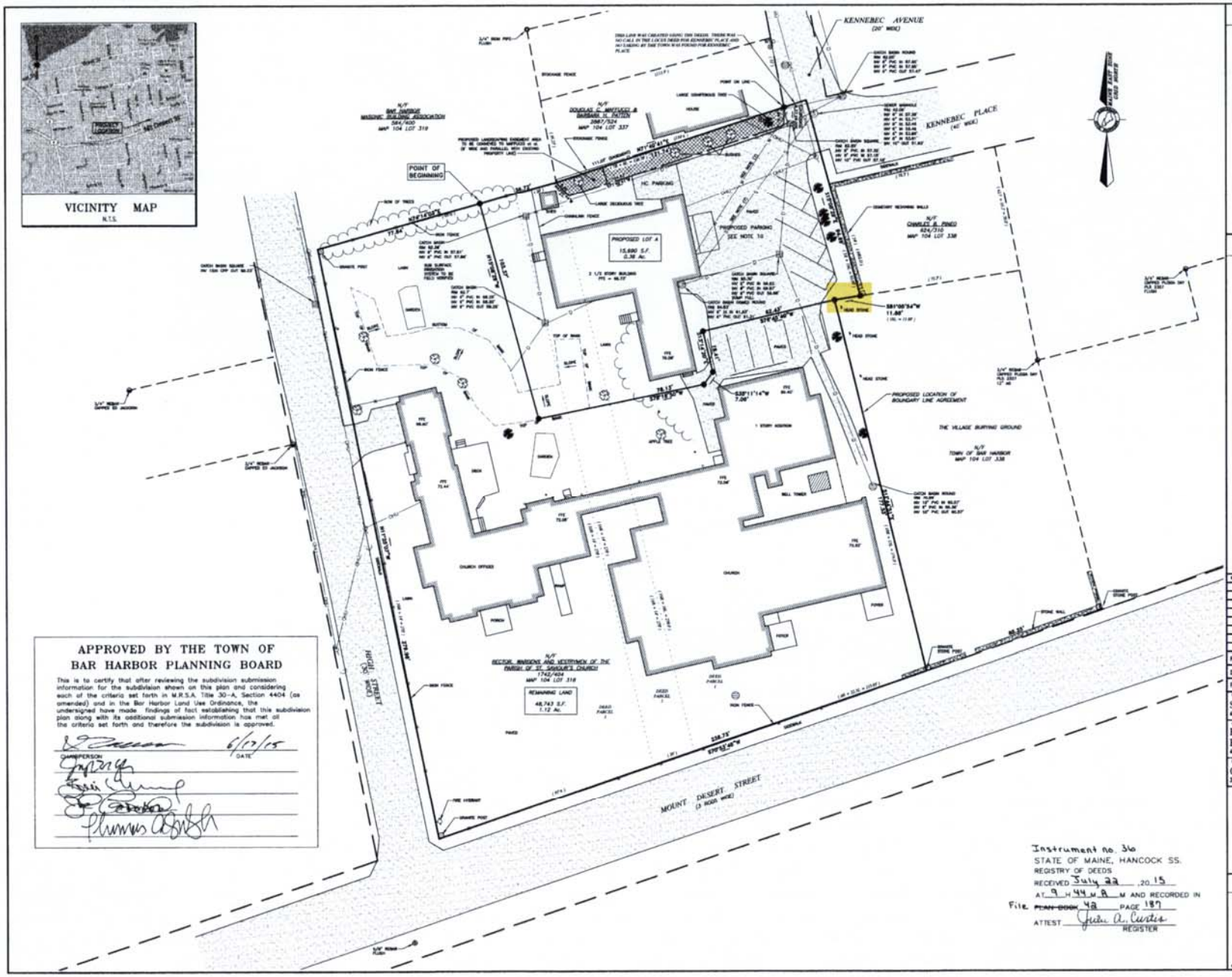
Personally appeared before me the above-named _____, in his/her said capacity, and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of said Town of Bar Harbor, Maine.

_____
Notary Public/Attorney at Law

_____
Print Name

S:\C\CHOM54\Boundary Line Agreement-3.doc

VICINITY MAP
N.T.S.



APPROVED BY THE TOWN OF BAR HARBOR PLANNING BOARD

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Bar Harbor Land Use Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

6/17/15
DATE

CHAIRPERSON

Instrument No. 36
STATE OF MAINE, HANCOCK SS.
REGISTRY OF DEEDS
RECEIVED July 23, 2015
AT 9 H 44 M A M AND RECORDED IN
File PLAN BOOK 42 PAGE 187
ATTEST Julie A. Curtis
REGISTER

LEGEND

- #5 REBAR WITH PLASTIC CAP STAMPED "NCS, INC. PLS 1314" TO BE SET
- FOUND IRON PIPE (SIZE & TYPE AS NOTED)
- FOUND IRON ROD
- FOUND CAPPED IRON ROD (NUMBER AS NOTED)
- UTILITY POLE (NUMBER AS NOTED)
- GUY WIRE ANCHOR
- FOUND DECIDUOUS TREE
- FOUND CONIFEROUS TREE
- TREE LINE (APPROXIMATE)
- BOUNDARY LINE
- EDGE OF PAVEMENT
- RIGHT-OF-WAY LINE
- ABUTTER LINE
- (OHU) OVERHEAD UTILITY
- (S) SEWER LINE
- (D) DRAIN LINE
- PROPOSED EASEMENT LINE
- N/F NOW OR FORMERLY OWNED BY
- 1234/567 DEED BOOK AND PAGE (HCRD)
- MAP 12 LOT 34 TAX MAP-LOT
- (123.45') PARENTHESES DENOTE RECORD DATA

NOTES

1. RECORD OWNERSHIP OF THE PARCEL SURVEYED CAN BE FOUND IN A DEED FROM TRUSTEES OF DIOCESAN FUNDS IN THE DIOCESE OF MAINE TO RECTOR, WARDENS AND VESTRYMEN OF THE PARISH OF ST. SAVIOUR'S CHURCH DATED MARCH 18, 1989 AND RECORDED IN DEED BOOK 1742, PAGE 404, HANCOCK COUNTY REGISTRY OF DEEDS (HCRD).
2. THE PARCEL SURVEYED IS IDENTIFIED ON THE TOWN OF BAR HARBOR TAX ASSESSOR'S MAP 104, PARCEL 318-001.
3. THE WIDTHS AND LAYOUTS OF MOUNT DESERT STREET, HIGH STREET AND KENNEBEC AVENUE ARE APPROXIMATE, AS RECORDS ARE VAGUE AND IMPRECISE.
4. REFERENCE IS MADE TO THE FOLLOWING PLANS:
   a. PLAN OF SURVEY FOR DOUGLAS C. MAFFUCCI & BARBARA P. MAFFUCCI KENNEBEC AVENUE BAR HARBOR, MAINE DATED APRIL 27, 2012 BY ALLEN-BOWDEN, INC. RECORDED AS INSTRUMENT NUMBER 79, FILE 41, NO. 51
   b. BOUNDARY SURVEY FOR THE TOWN OF BAR HARBOR THE VILLAGE BURYING GROUND MT. DESERT STREET MAINE DATED FEBRUARY 14, 2006 BY T.W. BENSON LAND SURVEYING, INC.
5. THE PARCEL SURVEYED IS LOCATED IN THE DOWNTOWN VILLAGE 1 ZONING DISTRICT. PORTIONS OF BULK AND SHAPE REQUIREMENTS ARE AS FOLLOWS:
   MINIMUM LOT AREA = 1,000 SQUARE FEET
   MINIMUM FRONTAGE = 20 FEET
   SETBACKS:
   FRONT = NONE
   SIDE = 25 FEET WHEN ABUTTING AN HISTORIC DISTRICT, AS IS THE CASE FOR THE NORTHERLY LINE OF "PROPOSED LOT A".
   REAR = 0 FEET
   *OTHER MUNICIPAL AND STATE OVERLAY ZONES MAY EXIST AND APPLY. BEFORE PROCEEDING ON ANY PROJECT VERIFY CURRENT ZONING, SETBACKS, AND OTHER RESTRICTIONS WITH THE APPROPRIATE AGENCIES.
6. ELEVATIONS ARE BASED ON NAVD 1988, OBTAINED BY STATIC GPS OBSERVATION.
7. THE UTILITIES SHOWN ON THIS PLAN WERE FROM FIELD OBSERVATION ONLY. THERE MAY BE OTHER UTILITIES EXISTING THAT ARE NOT SHOWN. CONTACT DIG-SAFE AT 1-888-DIG-SAFE PRIOR TO ANY EXCAVATION WORK. WATER AND SEWER CONNECTIONS ARE APPROXIMATE AND NEED TO BE FIELD VERIFIED BY THE TOWN OF BAR HARBOR.
8. "PROPOSED LOT A" SHALL BE SUBJECT TO A UTILITY EASEMENT AND AN INGRESS-EGRESS EASEMENT FOR USE BY THE GRANTOR BETWEEN KENNEBEC PLACE/KENNEBEC AVENUE AND "REMAINING LAND" AS SHOWN HEREON. FOR A LANDSCAPING EASEMENT TO BE CONVEYED TO OTHERS, SEE PLAN.
9. THIS PLAN REPRESENTS A SIX-LOT SUBDIVISION, WHEREAS THE EXISTING PARISH HOUSE ON "PROPOSED LOT A" IS BEING DIVIDED INTO SIX DWELLING UNITS.

Number	By	Date	Change
8	SBW	5/12/2015	PARCEL BOUNDARY ADJUSTMENT
7	SBW	4/2/2015	ADDED PROPOSED LANDSCAPING EASEMENT FOR ABUTTER
6	SBW	4/20/15	ADA PARKING AND ADDED
5	SBW	4/01/15	CHANGED PROPOSED LOT CONFIGURATION
4	SBW	3/12/15	ADDED NOTE 10
3	SBW	2/10/15	ADDED NOTE 10
2	SBW	1/16/15	PARCEL LOT SPLIT
1	SBW	12-19-14	PARCEL BOUNDARY LINE LOCATION

PROJECT: 34222 | DRAWING NAME: 34222.DWG
DATE: MAY 28, 2014 | SCALE: 1"=20' | FB # SBW E. FB YES
FIELDED BY: SBW/MJB | FIELD DATE: MAY 7, 2014 | DRAWN BY: SBW

SUBDIVISION OF C.H.O.M. PARISH-HOUSE
41 MOUNT DESERT STREET, BAR HARBOR MAINE

RECTOR, WARDENS AND VESTRYMEN OF THE PARISH OF ST. SAVIOUR'S CHURCH
41 MOUNT DESERT STREET, BAR HARBOR MAINE

COMMUNITY HOUSING OF MAINE
306 CUMBERLAND AVENUE, SUITE 205 PORTLAND MAINE

SURVEYING ENGINEERING LAND PLANNING
Northeast Civil Solutions
INCORPORATED
153 US ROUTE 1, SCARBOROUGH, MAINE 04074
tel 207.883.1000 207.885.2227
fax 207.883.1001
e-mail info@northeastcivilsolutions.com

0 20' 40' 80'

STAMP AND SIGNATURE

6/16/2015
DATE

STATE OF MAINE
JOHN BUSHMAN
1314
REGISTERED LAND SURVEYOR

© Land Tenure/LANDS 2015/Community Housing of Maine - Bar Harbor/Map 34222.dwg

VI.C

April 17th, 2016

Dear Mr. Knight,

The Bar Harbor Merchants' Association, A Hub of Bar Harbor Organization is writing to you requesting that Bar Harbor businesses participating in the 2016 Street Stroll be allowed to place merchandising displays eg: Tables, clothing racks in an 8ft space in front of their place of business for the day of the event. We would not allow any glass/breakable display items. This year's event is to be held in conjunction with the BHCoC Taste of Bar Harbor on Saturday May 21st, 2016.

The Street Stroll Sidewalk Sale event is an opportunity for businesses, crafters and non-profits to sell items to the public in an outdoor venue. Over the years, the response from the public has been great. Who doesn't love a sale and to discover new local products? It has been a wonderful way to welcome in the new season and show off some new products and local groups have a chance to piggy back and make some money for their groups, and crafters can showcase their goods.

There is a small registration fee that is charged to those wanting to participate to cover our costs and we have donated any excess funds to a local Non Profit. Over the last years, the BHMA has given back to many local organizations.

As with any event, we tweak and make changes as we go to build on and make the experience better for all those participating. We are requesting that the merchants be allowed to utilize the space in front of their business as in previous years.

The BHMA is well aware of the town ordinance not allowing these tables and display items to be set up, but are asking you to permit this one day use to help us make the event successful and fun for all. Having watched the event unfold over the preceding years, we certainly do not feel that this would be a detriment, safety hazard or obstacle to anyone.

We thank you for your support of this venture for 2016 and all previous years and look forward to hearing from you soon.

JH Holland

Jane Holland
Promotions Committee Chair Hub of Bar Harbor

VII.A

Town of Bar Harbor
Application for Special Amusement Permit

Permit Fee $129

Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.

Date: 4/10/16 Application Type: ☐ New ☑ Renewal Permit Number: 2015-010

Applicant: James Pike (Name) Applicant's Address: 32 Rodick St #4 (Mailing Address)

Business Name: The Lompoc Business Address: 36 Rodick St. (Physical Address in Bar Harbor)

Type of Business: Restaurant/Bar (Restaurant, Bar, Nightclub, etc.) Location to be used: Stage (Where on the premises will the amusement take place? Use back of page if necessary.)

Has a liquor license or special amusement permit for this business ever been denied or revoked? ☐ Yes ☑ No
If yes, describe the circumstances in the space below:

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony? ☐ Yes ☑ No
If yes, describe the circumstances in the space below:

RECEIVED
APR 12 2016

The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.

Application is hereby made for a Special Amusement Permit for one of the following:

Without Mechanical Amplification

- ☐ Class 1 – Single musician
- ☐ Class 2 – Two musicians
- ☐ Class 3 – Three or more musicians

With Mechanical Amplification

- ☐ Class 1a – Single musician
- ☐ Class 2a – Two musicians
- ☐ Class 3a – Three or more musicians

With Mechanical Amplification and Dancing

- ☐ Class 1ad – Single musician
- ☐ Class 2ad – Two musicians
- ☑ Class 3ad – Three or more musicians

Other Entertainment or Amusement

- ☐ Class 4 – any other type of entertainment, as provided by 28A MRSA 1054.1.C

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Applicant's Signature

The Municipal Officers of Bar Harbor hereby ☐ approve ☐ deny this application on _____ (Date)

Patricia A. Gray, Town Clerk

Revised 04/09/2015

VII. B

Town of Bar Harbor
Application for Special Amusement Permit

Permit Fee
$129

Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.

Date: 4/20/16 Application Type: ☐ New ☒ Renewal Permit Number: _____

Applicant: Amanda Gallant Dustin Gallant (Name) Applicant's Address: 20 Harding Way Trenton, ME 04605 (Mailing Address)

Business Name: THE Dog + Pony Tavern Business Address: 4 Rodick Place Bar Harbor (Physical Address in Bar Harbor)

Type of Business: Restaurant / Bar (Restaurant, Bar, Nightclub, etc.) Location to be used: 4 Rodick Place Bar Harbor (Where on the premises will the amusement take place? Use back of page if necessary.)

Has a liquor license or special amusement permit for this business ever been denied or revoked? ☐ Yes ☒ No
If yes, describe the circumstances in the space below:

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony? ☐ Yes ☒ No
If yes, describe the circumstances in the space below:

The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.

Application is hereby made for a Special Amusement Permit for one of the following:

Without Mechanical Amplification

- ☐ Class 1 – Single musician
- ☐ Class 2 – Two musicians
- ☐ Class 3 – Three or more musicians

With Mechanical Amplification

- ☐ Class 1a – Single musician
- ☐ Class 2a – Two musicians
- ☐ Class 3a – Three or more musicians

With Mechanical Amplification and Dancing

- ☐ Class 1ad – Single musician
- ☐ Class 2ad – Two musicians
- ☐ Class 3ad – Three or more musicians

Other Entertainment or Amusement

- ☒ Class 4 – any other type of entertainment, as provided by 28A MRSA 1054.1.C

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Dustin Gallant
Applicant's Signature

The Municipal Officers of Bar Harbor hereby ☐ approve ☐ deny this application on _____ (Date)

_____
Patricia A. Gray, Town Clerk

Revised 04/09/2015

VIII. A

TOWN OF BAR HARBOR
Code Enforcement Division

93 Cottage Street, Suite I
Bar Harbor, Maine 04609-1400
Tele. 207-288-3329 Fax 207-288-3032
E-Mail: ceo@barharbormaine.gov

Angela M Chamberlain

Code Enforcement Officer
Building Inspector
Electrical Inspector
Plumbing Inspector

MEMORANDUM

To: Cornell Knight, Town Manager
From: Angela Chamberlain, Code Enforcement Officer AC
Date: April 27, 2016
Subject: Floodplain Management Ordinance

I would like to request the Town Council's consideration to hold a public hearing and amend chapter 90 of the Bar Harbor Town Code, Floodplain Management as proposed in the attached 26-page document.

Bar Harbor's floodplain management ordinance was adopted on May 2, 1991 and last amended in 2005. I have attached an overview of the 2015 and 2016 updates to the model floodplain management ordinance but some changes worth noting are:

1) The map references are amended to reflect the new county wide Flood Insurance Study and the Digital Flood Insurance Rate Map panels.
2) All references to the State Planning Office were removed.
3) New definitions were added for North American Vertical Datum (NAVD), Containment Wall, Digital Flood Insurance Rate Map (FIRM), and Special Flood Hazard Area.
4) Other definitions were amended.
5) The addition of LiMWA regulations and a definition.

The Floodplain Management Program is funded primarily by FEMA (with some matching state funding) and is considered by FEMA to be the liaison between them and Maine communities. There is a state floodplain program in every state and their primary function is to provide technical assistance to those involved with the National Flood Insurance Program (NFIP), including local officials, lenders, insurance agents, surveyors, engineers, architects and homeowners. They work closely with communities to provide guidance when adopting, interpreting, and enforcing the regulations.

I have sent the attached draft language to Sue Baker at the Floodplain Management Program and she has reviewed and approved it. The new changes are shown as underlined and the language removed is shown as a strike through.

If the Council chooses to hold a public hearing and approves this amendment, they may set the effective date of this ordinance to coincide with the day the new maps become effective which is July 20, 2016.

Chapter 90. Floodplain Management

[HISTORY: Adopted by the Town Council of the Town of Bar Harbor 10-2-1990 as § 04.03 of the 1990 Code; amended in its entirety 4-5-2005 by Ord. No. 2005-02, effective 5-5-2005. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 36.
Land use — See Ch. 125.

§ 90-1. Purpose; establishment.

A. Certain areas of the Town of Bar Harbor, 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 Bar Harbor, 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 Chapter.

(1) It is the intent of the Town of Bar Harbor, 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.

(2) The Town of Bar Harbor has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., §§ 3001 through 3007, 4352 and 4401 through 4407, Title 38 M.R.S.A, Section 440.

(3) The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Bar Harbor 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 Town of Bar Harbor, Maine.

B. The areas of special flood hazard, Zones A, AE, and VE~~,~~ for the Town of Bar Harbor, Hancock County, Maine, ~~are~~ identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - ~~Town of Bar Harbor~~ Hancock County, Maine," ~~Hancock County," dated May 2, 1991,~~ dated July 20, 2016 with accompanying Flood Insurance Rate Map, dated ~~May 2, 1991~~ July 20, 2016 with panels 967D, 968D, 969D, 978D, 979D, 983D, 984D, 986D, 987D, 988D, 989D, 991D, 992D, 995D, 1003D, 1004D, 1011D, 1013D, 1014D, 1018D, 1181D, 1182D, 1202D, 1206D, 1210D, 1227D, 1229D, 1230D, 1231D, 1232D, 1233D, 1237D, and 1241D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Hancock County, Maine," ~~which~~ are hereby adopted by reference and declared to be a part of this ~~chapter~~ ordinance.

§ 90-2. Permit required.

Before any construction or other development (as defined in § 90-12), including the placement of manufactured homes, begins within any areas of special flood hazard established in § 90-1, a flood hazard development permit shall be obtained from the Code Enforcement Officer, except as provided in § 90-7. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Bar Harbor, Maine.

§ 90-3. Application for permit.

The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer and shall include (Subsections H through K(3) apply only to new construction and substantial improvements.):

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 the 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;

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 AE and VE from data contained in the Flood Insurance Study – Hancock County, ~~Town of Bar Harbor~~, Maine, as described in § 90-1; 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 §§ 90-6K and 90-9D;

[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, in the absence of all other data,

[3] ~~In the absence of all other data,~~ 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; and

(4) 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 § 90-6;

J. A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevations and grade elevations shown on the application are accurate;

K. The following certifications as required in § 90-6 by a registered professional engineer or architect:

(1) A floodproofing certificate (FEMA Form 81-65, ~~08/99,~~ as amended), to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of §§ 90-3H(4), 90-6G and other applicable standards in § 90-6;

(2) A V-Zone certificate to verify that the construction in coastal high hazard areas, Zone VE and Coastal AE Zone, will meet the criteria of § 90-6P; and other applicable standards in § 90-6;

(3) A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of § 90-6L(2)(a);

(4) A certified statement that bridges will meet the standards of § 90-6M;

(5) A certified statement that containment walls will meet the standards of § 90-6N;

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 or construction plans describing in detail how each applicable development standard in § 90-6 will be met.

§ 90-4. Application fee; expert's fees.

A. A nonrefundable application fee as set forth by the Town Council from time to time shall be paid to the Planning Department, and a copy of a receipt for the same shall accompany the application.

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

§ 90-5. 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 § 90-6 (Development standards) have been, or will be met;

B. Utilize, in the review of all flood hazard development permit applications:

(1) The base flood data contained in the Flood Insurance Study — Hancock County, ~~Town of Bar Harbor~~, Maine, as described in § 90-1;

(2) In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to §§ 90-3H(1)(b), 90-6K, and 90-9D, in order to administer § 90-6 of this chapter; and

(3) When the community establishes a base flood elevation in a Zone A by methods outlined in § 90-3H(1)(b), 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 § 90-1 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. Flood hazard development permits.

(1) 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) A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, as-built, for verifying compliance with the elevation requirements of § 90-6F, G, H, or P. 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) 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 § 90-6G(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) 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 § 90-6J, 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) For development that requires review and approval as a conditional use, as provided for in this ordinance ~~chapter~~, the flood hazard development permit application shall be acted upon by the Planning Board as required in § 90-7.

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 § 90-10 of this ordinance ~~chapter~~, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certificates of design standards required under the provisions of §§ 90-3, 90-6, and 90-8 of this chapter.

§ 90-6. Development standards.

All development 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.

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 discharge 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 watercourse.

F. 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 to at least two feet above the base flood elevation utilizing information obtained pursuant to §§ 90-3H(1)(b), 90-5B, or 90-9D.

(3) Zone VE and Coastal AE Zone (as defined) shall meet the requirements of § 90-6P.

G. Nonresidential. New construction or substantial improvement of any nonresidential 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

(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 § 90-3K, 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 to at least two feet above the base flood elevation utilizing information obtained pursuant to §§ 90-3H(1)(b), 90-5B, or 90-9D; ~~or, together with attendant utility and sanitary facilities, meet the floodproofing standards of § 90-6G(1).~~

(a) or, together with attendant utility and sanitary facilities, meet the floodproofing standards of § 90-6G(1).

(3) Zone VE and Coastal AE Zone (as defined) shall meet the requirements of § 90-6P.

H. 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.

[1] Methods of anchoring may include, but are not limited to:

[a] 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] 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] All components of the anchoring system described in § 90-6H(1)(c)[1][a] and [b] shall be capable of carrying a force of 4,800 pounds.

(2) Zone A shall:

(a) Be elevated on a permanent foundation, as described in § 90-6H(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 §§ 90-3H(1)(b), 90-5B, or 90-9D; and

(b) Meet the anchoring requirements of § 90-6H(1)(c).

(3) Zone VE <u>and Coastal AE Zone (as defined)</u> shall meet the requirements of § 90-6P.

I. Recreational vehicles. Recreational vehicles located within:

(1) Zone <u>A and</u> AE shall either:

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

(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 § 90-6H(1).

(2) Zone VE and Coastal AE Zone (as defined) shall meet the requirements of either § 90-6I(1)(a) or (b), or 90-6P.

J. Accessory structures. Accessory structures, as defined in § 90-12, located within Zones AE and A, shall be exempt from the elevation criteria required in § 90-6F and G above, if all other requirements of § 90-6 and all the following requirements are met. Accessory structures shall:

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

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

(2)~~(3)~~ Have hydraulic openings, as specified in § 90-6L(2), in at least two different walls of the accessory structure;

(3)~~(4)~~ Be located outside the floodway;

(4)~~(5)~~ When possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and

(5)~~(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.

(6) be located outside the Coastal AE Zone.

K. Floodways.

(1) In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvements, 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 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 § 90-6K(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. ~~Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/January 1995, as amended).~~

(3) In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other 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. Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of § 90-6, including the elevation requirements of § 90-6F, G or H, and is elevated on posts, columns, piers, piles, stilts, or crawl spaces 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 § 90-12;

(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. Bridges. New construction or substantial improvement of any bridge in Zones AE, A and VE 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 § 90-6K; 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. Containment walls. New construction or substantial improvement of any containment wall located within Zones AE, A, and VE shall:

(1) Have the containment wall elevated to at least two feet above the base flood elevation;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 90-3K.

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

(1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

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

P. Coastal floodplains.

(1) All new construction located within Zones AE, and VE shall be located landward of the reach of the mean high tide except as provided for in § 90-6P(6).

(2) 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 two feet above the base flood elevation;

[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 to enclose less than 300 square feet of area 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 § 90-6P(2).

(3) The use of fill for structural support in Zone VE and Coastal AE Zone (as defined) is prohibited.

(4) Human alteration of sand dunes within Zone VE and Coastal AE Zone (as defined) is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

(5) The enclosed areas may be used solely for parking vehicles, building access, and storage.

(6) Conditional use. Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in § 90-6G only if permitted as a conditional use following review and approval by the Planning Board, as provided in § 90-7, and if all the following requirements and those of §§ 90-6A and 90-6K and 90-6L 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 two feet above the base flood elevation.

(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.

§ 90-7. 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 satisfies 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 ordinance ~~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 Chairman 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. ~~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.~~

(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.

§ 90-8. 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 § 90-6F, G, H, or P; and

(2) For structures in Zone VE and Coastal AE Zone (as defined), certification by a registered professional engineer or architect that the ~~designated~~ design and methods of construction used are in compliance with § 90-6P(2).

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.

§ 90-9. Review of subdivisions 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 § 90-6 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 a 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.

§ 90-10. Appeals and variances.

The Board of Appeals of the Town of Bar Harbor 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 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

(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) Other criteria of this § 90-10 and § 90-6K 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 § 90-10A though D 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. Any applicant who meets the criteria of § 90-10A through E, shall be notified by the Board of Appeals, in writing, over the signature of the Chairman of the Board of Appeals that:

(1) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

(2) Such construction below the base flood level increases risks to life and property; and

(3) The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that 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. 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 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 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.

§ 90-11. Enforcement and penalties.

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

B. The penalties contained in 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 a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

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

(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.

§ 90-12. Definitions.

~~A.~~ Unless specifically defined below, words and phrases used in this ~~chapter~~ ordinance 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.

~~B. As used in this chapter, the following terms shall have the meanings indicated:~~

ACCESSORY STRUCTURE
A small detached structure that is incidental and subordinate to the principal structure.

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

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 § 90-1 of this chapter.

BASE FLOOD
The 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 building having its floor 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 are applied to development, new construction and substantial improvements in the Coastal AE Zone.

COASTAL HIGH HAZARD AREA - An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action (LiMWA)" on a Flood Insurance Rate Map (FIRM).

CODE ENFORCEMENT OFFICER
~~Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.~~ A person certified under Title 30-M.R.S.A., § 4451 (including exemptions in § 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

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 § 90-7.

CONTAINMENT WALL
A wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

DEVELOPMENT
A manmade ~~Any~~ change ~~caused by individuals or entities~~ to improved or unimproved real estate.~~,~~ ~~including~~ This includes, but is not limited to, ~~the construction of~~ buildings or other structures; ~~the construction of additions or substantial improvements 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.~~; public or private sewage disposal systems or water supply facilities.~~

DIGITAL FLOOD INSURANCE RATE MAP (FIRM)
See Flood Insurance Rate Map.

ELEVATED BUILDING
A nonbasement building:

(1) Built, in the case of a building in Zone AE or A, ~~to have~~ so that the top of the elevated floor, or in the case of a building in Zone 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, post, piers, or stilts; 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.

~~(3)~~ In the case of Zone AE or A, "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 § 90-6L. In the case of Zone VE or 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 § 90-6P(2)(b)[3].

ELEVATION CERTIFICATE
An official form (FEMA Form 81-31 ~~07-00~~, as amended) that:

a.~~(1)~~ Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

b.~~(2)~~ Is required for purchasing flood insurance.

FLOOD or FLOODING

(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.

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 definition of "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 ~~their~~ 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 shipbuilding and ship repair facilities but does not include long-term storage or related manufacturing facilities.

HISTORIC STRUCTURE
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 which 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:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) 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 standards 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.

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 nonelevation design requirements of § 90-6L of this ordinance. ~~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
When related to ~~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 are referenced.

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 § 90-6J, 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.

NATIONAL GEODETIC VERTICAL DATUM (NGVD)
The national vertical datum, ~~whose~~ a 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)."

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)
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 vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earths crust, glacial rebound, and subsidence and the increasing use of satellite technology.

ONE-HUNDRED-YEAR FLOOD
See "base flood."

RECREATIONAL VEHICLE
A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection, not including slideouts;

(3) Designed to be self-propelled or permanently towable by a motor vehicle; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY

(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; and

(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 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 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 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.

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-damaged 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:

(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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure, and a variance is obtained from the Board of Appeals.

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

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

2015 & 2016 Updates to the State Model Floodplain Management Ordinance

Department of Agriculture, Conservation & Forestry/Floodplain Management Program
January 6, 2016

This document outlines the changes to the state model ordinance for communities that will be adopting Digital Flood Insurance Rate Maps. The cleanest way for communities to adopt is usually to repeal and replace your current ordinance. If your community chooses to make amendments only, you will need to review the model ordinance language section by section against your current ordinance to make sure that small wording changes, punctuation, and minor errors will be corrected.

The 2015 updates to the state model ordinance are as follows:

- All references to the State Planning Office have been deleted.
- All dates for FEMA forms and publications (for example, the Elevation Certificate, Floodproofing Certificate, Coastal Construction Manual) have been removed as the forms always have an expiration date and publications are updated occasionally.
- A definition for North American Vertical Datum (NAVD) has been added as the elevations on all DFIRMS are now shown in this datum. They were previously shown in National Geodetic Vertical Datum (NGVD).

Article I: Purpose and Establishment

The last paragraph of Article I has been changed to reflect adoption of the countywide Flood Insurance Study and the Digital Flood Insurance Rate Map panels for your community only.

Article VI.K.: Floodways

Under Article VI.K.2.b.

The FEMA publication *Guidelines and Specifications for Study Contractors* is outdated. FEMA now has a web address with guidance documents, so instead of referencing a particular publication, it now says:

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

Please note for future reference: The FEMA web address for the guidelines is at www.fema.gov/guidelines-and-standards-flood-risk-analysis-and-mapping

Article VI.P. Coastal Floodplains
Under Article VI.P.2.b.(3) the following underlined language was added:

(3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

The regulatory side of the NFIP does not have a size limit, however, the flood insurance side of the Program assesses a higher premium for breakaway walls that enclose 300 square feet or greater. The larger the square footage of the enclosure, the higher the cost of insurance. For this reason, we thought it prudent to put this language in the local ordinance. This will prevent your community from

unintentionally allowing enclosures that can cause a major increase in flood insurance for the building's owner. It is not regulatory and can be deleted if a community chooses to do so.

The 2016 update to the state model ordinance is as follows:

Article VI.J.: Accessory Structures

After discussing this with FEMA, we have removed VI.J.1. which specified a 500 square foot limit and a $3,000 value limitation for accessory structures.

FEMA *Technical Bulletin TB-1 Openings in Foundation Walls and Walls of Enclosures* states that detached garages and detached storage buildings may be permitted without requiring them to be elevated if they comply with all of the requirements for enclosures (found under Article VI.L.) Garages and other accessory buildings must be used only for parking of vehicles and storage, utilities must be elevated, flood damage resistant materials must be used below the BFE, the requirements for flood openings must be satisfied, and they must be anchored to resist flotation, collapse, or lateral movement under flood conditions.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones AE, AO, AH, and A, shall be exempt from the elevation criteria required in Article VI.F. & G., if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

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

2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;

3. be located outside the floodway;

4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

5. 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.

Understanding the Limit of Moderate Wave Action (LiMWA)

Maine Department of Agriculture, Conservation & Forestry
Floodplain Management Program
January 2015

Background on the LiMWA

This document provides guidance to coastal municipalities on the **optional** changes needed to local floodplain zoning regulations or ordinances in order to incorporate the Limit of Moderate Wave Action (LiMWA) zone found on revised coastal Digital Flood Insurance Rate Map (DFIRM) panels. **The LiMWA zone depicts the Coastal AE Zone with wave heights between 1.5 feet and 3.0 feet where VE Zone floodplain construction standards can be enforced at the discretion of the community.** (See Figure 1 below.)

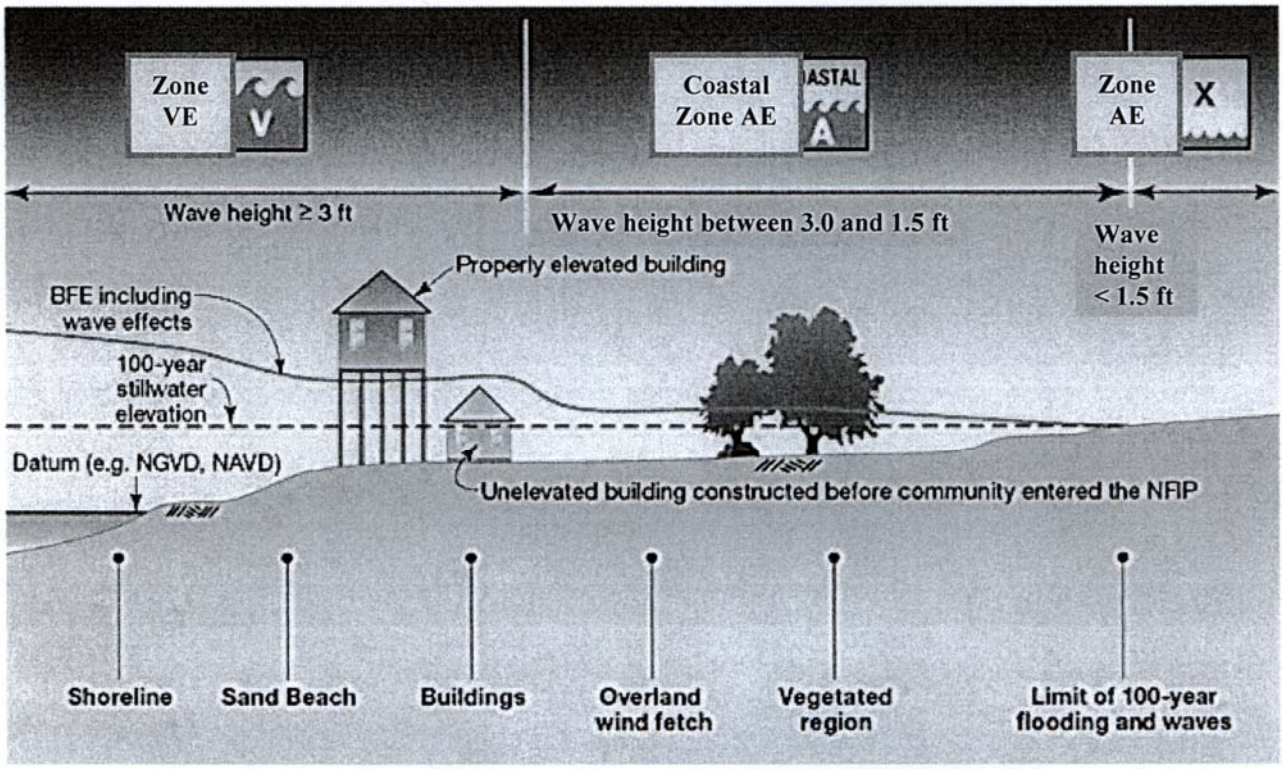


Figure 1: Depiction of VE Zone, Coastal AE Zone, and AE Zone with wave heights.

Currently in Maine, DFIRMs for coastal areas depict two types of flood zones: VE Zones where flood waters include wave heights of 3.0 feet or greater, and AE Zones where the wave height is less than 3.0 feet. VE Zones are also called Coastal High Hazard Areas, where traditionally high velocity wave action causes structural damage to building foundations and other building elements. It has long been recognized that waves less than 3.0 feet in height in the Coastal AE Zone can also cause major damage to shoreline structures. The Federal Emergency Management Agency (FEMA) has conducted laboratory tests and field investigations following hurricanes and storm events which confirm that severe damage is inflicted to structures located in Coastal AE Zones by waves as small as 1.5 feet in height. Typical AE Zone construction techniques (enclosed foundation with flood vents) are subject to damage when exposed to waves in this height range.

Previously, the Coastal AE Zone areas subject to wave heights between 1.5 feet and 3.0 feet were not differentiated from other AE Zones on DFIRMs. On December 3, 2008, FEMA issued Procedure Memorandum 50 which provided guidance on the identification and mapping of the landward limit of waves 1.5 feet in height, referred to as the Limit of Moderate Wave Action (LiMWA), and determined that all new coastal

studies will depict this boundary line on the DFIRMs. **Beginning in 2015, if there are LiMWA boundary lines for your community, they will appear on coastal DFIRM panels in Maine.** (See Figure 2 below)

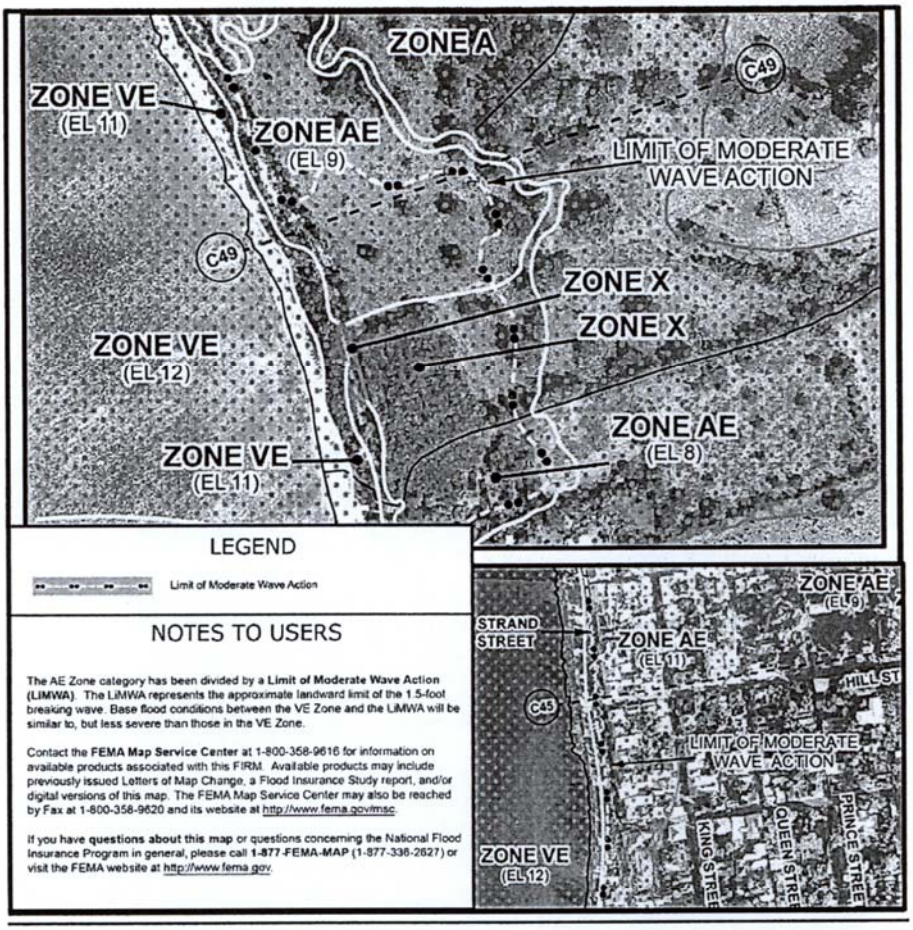


Figure 2: LiMWA as depicted on a Digital Flood Insurance Rate Map (DFIRM)

The DACF/Floodplain Management Program has developed model LiMWA language that is **optional** and can be included in the local floodplain management ordinance if the community chooses to regulate construction in the LiMWA area to VE Zone building standards. At this time, FEMA does not impose floodplain management requirements or special insurance ratings based on the LiMWA delineations. The LiMWA is provided by FEMA for informational purposes only. Because the 1.5 feet breaking wave can potentially cause foundation failure, FEMA and the MFMP are encouraging coastal communities to consider adopting VE Zone building standards for new construction and substantial improvements within the LiMWA zone.

Please note: If your community has adopted the state building code, then you must enforce the LiMWA line as this requirement is in the IBC/IRC. We will be working with you on amendments to your floodplain management ordinance.