

WISCASSET BOARD OF SELECTMEN,  
BOARD OF ASSESSORS AND OVERSEERS OF THE POOR  
MARCH 3, 2015

Preliminary Minutes

Tape recorded meeting

Present: Bill Barnes, Chair Pam Dunning, Tim Merry, Vice Chair Ben Rines, Jr., Jeff Slack and Town Manager Marian Anderson

1. Call to Order

Chair Pam Dunning called the meeting to order at 7 p.m.

2. Pledge of Allegiance to the Flag

3. Approval of Minutes

**Tim Merry moved to approve the minutes of February 17, 2015. Vote 4-0-1.**

4. Approval of Treasurer's Warrants

**Jeff Slack moved to approve the Payroll Warrants of February 20 and February 27, 2015. Vote 4-0-1.  
Tim Merry moved to approve the Accounts Payable Warrants of February 24 and March 3, 2015. Vote 4-0-1.**

5. Approval of Abatements and Supplemental – none

6. Special Presentations or Awards – none

7. Appointments – none

Pam Dunning announced the following vacancies which will be on the June 9, 2015 warrant: Two selectmen, two school board members, seven budget committee members and one Water District member.

8. Resignations – none

9. Public Comment – none

10. Department Head or Committee Chair Report

A. Flood Plain Management Ordinance: Jamel Torres, Town Planner, introduced the draft Flood Plain Management Ordinance, an update required by the Federal Emergency Management Agency (FEMA). Failure to adopt the ordinance by July 16, 2015 will result in the Town of Wiscasset being suspended from the National Flood Insurance Program, make flood insurance unavailable to those in the flood plain who have federally backed mortgages and would make the town ineligible for disaster funding and low interest loans should Lincoln County be declared a disaster area. Torres said the Planning Board had recommended a change in the fee section, allowing the selectmen to set the fee rather than having it included in the ordinance. He recommended setting a public hearing date as soon as possible so the

ordinance can appear on the June warrant. The chair recommended scheduling a public hearing on April 7 at 7 p.m.

Karl Olson said according to the Bristol Planning Board chair, some of the draft ordinance is unnecessary and he asked that the ORC be allowed to review the ordinance before the public hearing. He said he will be meeting with the Bristol board on March 17 and after review by the Ordinance Review Committee, the draft will be submitted to the selectmen for the public hearing.

In response to Ben Rines, Jr.'s question, Karl Olson said properties on the waterside of the flood plain zone are included in the flood plain. Any new structure in that area will need a federal flood plain permit.

Historic Preservation Ordinance: In response to Pam Dunning's concern regarding the definition of Material Change on Page 3, Karl Olson said the concern had been addressed; changes do not have to be made using original materials, but should be visually similar. On page 4, Dunning recommended that the last sentence of paragraph B be deleted. Section E on page 5 was changed to add "just" before "cause." On Page 6, Dunning recommended that changes be made regarding the approval by the Town Manager or staff for use of gifts, grants, funding, etc. and that the last line be changed to "Annual Town Meeting." The change to "Annual Town Meeting" should also be made on Page 7, Section 4.2A, next to last line and on Page 9, Section D, fourth line. In response to Dunning's request, Section 4.3 A will be changed to delete the last sentence and (1) through (4). In response to a question regarding removing a property from the Historic Preservation District, Olson said that properties cannot be removed from the district, once the district is approved. In response to a question on Page 12, Section 6.1E, Olson said MMA had recommended including both the de novo and appellate/administrative appeals in the ordinance. Page 16, Section 8.2 was changed to "The Board of Selectmen, the Planning Board, the Commission of the public itself through a Maine revised Statutes, Title 30-A process may initiate action ..." and the last line was changed to read at the Annual Town Meeting.

In response to Jeff Slack's question, Olson said the ordinance was business friendly but would require historic architecture. In response to other questions, Olson said homes that aren't historic do not have to be brought into conformance, Mason Station is not included in the historic preservation district, the Ledges building is in the new zone and the business zone was enlarged several years ago to include it. The ordinance will be brought back to the selectmen at the March 17 meeting.

County Regional Lincoln Planning Brownfield Assessment Program: Jamel Torres reported that the Lincoln County Regional Planning Commission has EPA funding to conduct Phase 1 and Phase 2 Environmental Assessments throughout the county to identify brownfields. Brownfield is property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of hazardous substances, pollutants or contaminants. He encouraged the board to participate in the program and suggested that the Wiscasset primary school would be a candidate for the program. Having the study done would be an advantage in marketing the property. The board discussed the advantages of the program and whether the primary school or Mason Station would be candidates. A motion to apply for the Brownfield Assessment Program failed.

B. Review of submitted Department Head reports: There were no questions or comments.

11. Unfinished Business

A. Cemetery Committee request: Policy for repurchase and transfer of ownership of burial lots: The board discussed the Cemetery Committee's recommendations together with the staff memo regarding the sale of lots. At the request of the staff, No. 9 in the Cemetery Regulations was amended to add "and domestic partners" after "spouses." The board was in favor of requiring sale of lots to only the Town so that deeds can be filed and accurate records kept. It did not agree with the ownership of lots defaulting to the Town after 75 years. The first sentence of No. 10B of the regulations was changed to read, "No grave may be dug and no burial may take place in a Wiscasset cemetery without the prior permission of the Town by filling out an Intent to Bury form."

## 12. New Business

A. Consider the name of Brook Lane for a driveway at 110 Hale Pond Road: Marian Anderson said that the E911 regulations allow a driveway of a certain length be named as a road. Tim Merry moved to approve the E911 designation of Brook Road. Vote 5-0-0.

B. Review of HM Payson Statement of Accounts: Marian Anderson said the Investment Committee will be working on a public presentation.

## 13. Town Manager's Report

Marian Anderson said Chris Johnson will be holding Citizen Hours at the Town Office on March 30 from 6 to 8 p.m.

Anderson reported that the budget is almost ready and she hoped the selectmen would be pleased with it.

## 14. Adjournment

**Ben Rines moved to adjourn the meeting. Vote 5-0-0.**



# Office of Town Clerk

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## **PUBLIC HEARING NOTICE**

Public hearing to be held by the Wiscasset Board of Selectmen  
to consider and take public comment on an application for a new liquor license

March 17, 2015 @ 7:00 p.m. in Municipal Building Hearing Room

1. **APPLICANT:** Tony Bickford  
**BUSINESS NAME:** Little Village Bistro  
**LOCATION:** 65 Gardiner Road, Wiscasset Me

**BUREAU OF ALCOHOLIC BEVERAGES  
DIVISION OF LIQUOR LICENSING & ENFORCEMENT  
3 STATE HOUSE STATION  
AUGUSTA, ME 04333-0008**

DEPARTMENT USE ONLY	
LICENSE NUMBER:	CLASS:
DEPOSIT DATE	
AMT. DEPOSITED:	BY:
CK/MO/CASH:	



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

PRESENT LICENSE EXPIRES \_\_\_\_\_

INDICATE TYPE OF PRIVILEGE:  MALT  SPIRITUOUS  VINOUS

INDICATE TYPE OF LICENSE:

- RESTAURANT (Class I,II,III,IV)  RESTAURANT/LOUNGE (Class XI)  
 HOTEL-OPTINONAL FOOD (Class I-A)  HOTEL (Class I,II,III,IV)  
 CLASS A LOUNGE (Class X)  CLUB-ON PREMISE CATERING (Class I)  
 CLUB (Class V)  GOLF CLUB (Class I,II,III,IV)  
 TAVERN (Class IV)  OTHER: \_\_\_\_\_

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) (Sole Proprietor, Corporation, Limited Liability Co., etc.)		2. Business Name (D/B/A)	
Tommy Bickford DOB: 8-23-83		LITTLE VILLAGE BISTRO	
DOB:		Location (Street Address)	
DOB:		65 GARDINER RD	
Address 107 FOWLE HILL RD		City/Town WISCASSET State ME Zip Code 04578	
City/Town WISCASSET State ME Zip Code 04578		Mailing Address	
Telephone Number 207 632 3704 Fax Number		City/Town WISCASSET State ME Zip Code 04578	
Federal I.D. # 47-2667380		Business Telephone Number 207 632 8232 Fax Number	
		Seller Certificate #	

3. If premises is a hotel, indicate number of rooms available for transient guests: \_\_\_\_\_  
 4. State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ \_\_\_\_\_ LIQUOR \$ \_\_\_\_\_

NO  Is applicant a corporation, limited liability company or limited partnership? YES  NO  YES .5  
If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES  NO   
7. If manager is to be employed, give name: TONY BICKFORD  
8. If business is NEW or under new ownership, indicate starting date: 4-15  
Requested inspection date: 4-1-15 Business hours: 11-2/5-9

9. Business records are located at: \_\_\_\_\_  
10. Is/are applicants(s) citizens of the United States? YES  NO   
Is/are applicant(s) residents of the State of Maine? YES  NO  (YES) 11

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
TONY BICKFORD	8-23-83	FT. BRAGG N.C.
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
WISCASSET ME		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO   
Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_  
Offense: \_\_\_\_\_ Location: \_\_\_\_\_  
Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?  
Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO   
16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: \_\_\_\_\_

MARK BUSCANERA 45 MAIN RD WESTPORT ME 04578  
17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) \_\_\_\_\_

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?  
YES  NO  Applied for: HEALTH INS. LICENSE

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? \_\_\_\_\_ Which of the above is nearest?  
20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO   
If YES, give details: COASTAL ENTERPRISES INC - BUSINESS LOAN OF \$25,000

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.  
NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: WISCASSET ME on FEB 24, 2015

*[Handwritten Signature]*  
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

TONY BICKFORD  
Print Name

Print Name

**NOTICE – SPECIAL ATTENTION**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

**THIS APPROVAL EXPIRES IN 60 DAYS.**

**FEE SCHEDULE**

Class I Spirituous, Vinous and Malt \$ 900.00

CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00

CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00

CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00

CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00

CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00

CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt – Class A Lounge \$2,200.00

CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt - Restaurant Lounge \$1,500.00  
CLASS XI: Restaurant/Lounge; and OTB.

FILING FEE \$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to the Treasurer of Maine. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 164 State House Station, Augusta ME 04333-0164. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

STATE OF MAINE

Dated at: \_\_\_\_\_, Maine \_\_\_\_\_ SS  
On: \_\_\_\_\_, \_\_\_\_\_ (County) \_\_\_\_\_  
Date

The undersigned being: \_\_\_\_\_ of the \_\_\_\_\_  
Municipal Officers County Commissioners  
City Town Plantation Unincorporated Place of: \_\_\_\_\_, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE - SPECIAL ATTENTION

- § 653. Hearings; bureau review; appeal
- Hearing. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
    - The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
    - The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
    - If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners as of the effective date of this paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]
  - Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
    - Conviction of the applicant of any Class A, Class B or Class C crime: [1987, c.45, Pt.A§4 (new).]
    - Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
    - Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]

- Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592, §3 (amd).]
  - A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
  - A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]
- [1993, c.730, §27 (amd).]
3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2. [1993, c.730, §27 (rp).]
  4. No license to person who moved to obtain a license. (REPEALED)
  5. (TEXT EFFECTIVE 3/15/01) Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

To the Wiscasset Board of Selectmen,

This letter is in response to the petition presented to the Board regarding the Wiscasset Rod Gun Club. At our October meeting a member informed the membership that one of our neighbors had a complaint regarding noise from the club. It was determined that the time of the complaint coincided with the dates that Weaponcraft LLC had rented the range to conduct tactical training. A discussion ensued and several members agreed that the training done by Weaponcraft LLC was more than the membership had expected. At our February 19<sup>th</sup> meeting the membership voted unanimously not to renew the agreement with Weaponcraft LLC.

The petition asks that the club refrain from the use of automatic firearms. Our rules do not allow automatic firearms at our range. The petition also asks that we establish regular hours for shooting. The established hours are and have been no shooting before 9am and not after 8pm.

It should be noted here that tactical shooting has been done by law enforcement and security agencies and individuals at the Wiscasset Rod and Gun Club for over thirty years. It is essential for law enforcement to train and qualify with their firearms. Their training often requires rapid fire drills. They train in small groups and do not create the noise level or duration that was heard during the period Weaponcraft LLC used the range. We are pleased to provide our range to help law enforcement qualify in the tactical use of firearms.

The Wiscasset Rod and Gun Club was established in the early 1960's and is more than just the range. Over the years the club has conducted fishing derbies, stocked local waterways with permits issued by the Inland Fisheries and Wildlife Service and purchased from the Soil Conservation District and, provided scholarships for students interested in outdoors study. Additionally, the club has conducted training in the safe use of firearms, held public shoots, provided a place for organizations to conduct meetings, donated to the local food pantries and many other activities in the public interest.

The Wiscasset Rod and Gun Club is always willing to address concerns from citizens of Wiscasset. After all, many of these citizens are our members.

Executive Board of the Wiscasset Rod and Gun Club on behalf of the membership.      March 9, 2015

## **WISCASSET ROD AND GUN CLUB RANGE RULES**

1. Range hours are from 9AM to 8PM daily.
2. The RED FLAG is to be hoisted at the club entrance when shooting.
3. CLOSE AND LOCK THE GATE WHEN ENTERING THE CLUB GROUNDS, except for public functions.
4. NO VEHICLES allowed downrange forward of the 100 yard firing position.
5. Keep muzzles pointed in a safe direction and downrange at all times
6. Keep all FIREARMS UNLOADED. All bolts and cylinders must be open and magazines removed until in position on the firing line and ready to fire. Keep fingers off the trigger until ready to fire.
7. Ear and eye protection must be worn when on the firing line of the big bore, plinking and skeet ranges.
8. When a cease fire is called, all shooters will unload their firearms and make them safe. Actions open, magazines empty or removed.
9. Only one firing line can be in use at one time. (100 yards or closer but not both at the same time.)
10. Fully automatic firearms, armor piercing, tracer, incendiary rounds or explosive targets are NEVER allowed to be used on club property.
11. No shooting at glass, cans or other non-approved objects at any time. Jacketed rifle bullets are not allowed for use with metal silhouette targets.
12. Targets must be positioned so that a proper backstop is provided and no higher than eye level. Never have bullets impact the ground in front of the berm. Bullets fired into the ground in front of the berm, as far back as 100 yards, can and will skip over the berm. Bullets fired into the berm above eye level can ricochet over the top of the berm.
13. Shoot only through the flake board. DO NOT shoot through the supporting timbers.
14. No rifles or pistols should ever be fired vertically.
15. Before proceeding downrange the line must be called safe.
16. Junior members must not use the range unless under the

supervision of a charter or associate member.

Guests may not use the range unless accompanied by a current member.

17. PERSONS USING ALCOHOL OR DRUGS SHALL NOT USE THE RANGE OR HANDLE FIREARMS WHILE ON CLUB PROPERTY.

18. Leave the range as you found it, clean. OBEY ALL POSTED SIGNS.

IN A MEDICAL EMERGENCY CALL 911 AND DIRECT EMT'S TO 794 GARDNER RD. If possible have someone meet EMT's at the gate to direct them to the site of the emergency.

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# Office of Planning & Codes

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**TO:** Wiscasset Board of Selectmen  
**FROM:** Karl Olson, Chair, Ordinance Review Committee and Jamel Torres,  
Town Planner  
**CC:** Marian Anderson, Town Manager  
**DATE:** March 17, 2015  
**SUBJECT:** Historic Preservation Ordinance

Three of the four Ordinance Review Committee (ORC) members met on March 9, 2015 to address the Selectmen's requested amendments to the proposed Historic Preservation Ordinance. While this was not an official ORC meeting because there was not a quorum, the three members who were present addressed the requested amendments. Please see the latest draft attached to this memo. The requested amendments are highlighted. The ORC would like to schedule a public hearing on the proposed Historic Preservation Ordinance at your April 7 meeting, with the ultimate goal of having the proposed ordinance on the June 2015 Town Meeting Warrant.

**ARTICLE 8  
HISTORIC PRESERVATION ORDINANCE**

**1. PURPOSE**

1.1 Purpose and Intent

The purpose of this Ordinance is to provide a framework within which the residents of the Town of Wiscasset can protect the historic, architectural and cultural heritage of significant areas, buildings, structures, landmarks and sites in the Town while accepting compatible new construction. The heritage and economic well-being of the Town will be strengthened by preserving its architectural and historic setting, conserving property values in unique areas, fostering civic beauty, and promoting the use of historic or architecturally significant buildings for the education and welfare of the citizens of the Town of Wiscasset. The intent of this Ordinance is to assist property owners in maintaining the architectural integrity of historic resources within the Town. Once destroyed, these historic resources cannot be replaced. To prevent such losses, the intent of this Ordinance is to:

- A. Protect, preserve and enhance the outward appearance and architectural features of structures within designated districts or designated sites or landmarks.
- B. Prevent, without prior review, the demolition or removal of significant historic buildings or structures within designated districts or designated sites or landmarks and other significant design elements.
- C. Preserve, protect and enhance the essential character of designated districts by protecting relationships of groups of buildings or structures.
- D. Accept new buildings and structures in designated districts that do not displace historic structures or sites, and that are designed and built in a manner which is compatible with the character of the district.
- E. Promote the educational, cultural, economic and general welfare of the people of the Town of Wiscasset.

**2. DEFINITIONS**

2.1 Terms Defined. As used in Ordinance, the following terms shall have the meanings indicated:

**ABUTTER:** The owner of a property sharing a common boundary with another property or within 100 feet of a given piece of property, whether or not these properties are separated by a public or private way. Owners shall be considered to be persons listed by the Tax Assessor of Wiscasset and/or the ones against whom taxes are assessed.

**ALTERATION:** A change in the external architectural or landscape features of any structure. This definition does not include change in color.

**APPROPRIATE:** Suitable or fitting for a particular purpose, person, or occasion.

**ARCHITECTURAL SIGNIFICANCE:** The embodiment of distinctive characteristics of a type, period or method of construction; represents the work of a master architect or builder; or possesses high artistic values.

**BUILDING:** Structures and historic places (i.e., cemeteries, parks, etc.) which are classified under this Historic Preservation Ordinance.

**CERTIFICATE OF APPROPRIATENESS:** A written approval following a prescribed review procedure granted by the Commission upon application of a person with sufficient right, title or interest in property, certifying that the proposed actions by an applicant are found to be acceptable in terms of the design criteria relating to the historic resource as set forth in this Ordinance.

**COMMISSION:** The Wiscasset Historic Preservation Commission, as established by this Ordinance.

**CONSTRUCTED:** Built, erected, altered, enlarged, reconstructed, moved upon, or any physical operations on the premises which are required for construction.

**CONTRIBUTING STRUCTURES (within districts):** A structure located within a designated historic district and identified as contributing to the historical or architectural significance of said district.

**DEMOLITION:** The permanent removal, dismantling or destruction of all or any portion of an existing designated historic resource.

**EXTERIOR ARCHITECTURAL FEATURE:** The architectural style and general arrangement of the exterior of a building or structure, including but not limited to:

- A. The roof shape and the kind and texture of the building materials;
- B. The type and style of all windows, doors, lights, dormers, gable cornices, porches, decorative trim, etc;
- C. The location and treatment of any vehicle access or parking space;
- D. The design of any sign; and
- E. The arrangement of any fencing.

**HISTORIC DISTRICT:** A geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures or landmarks united by events or aesthetically by plan or physical development and designated in accordance with the requirements of this

Ordinance as appropriate for historic preservation. Such historic districts may also comprise an individual historic landmark or historic site separated geographically, but linked by association or history.

**HISTORIC LANDMARK:** Any improvement, building or structure of particular historic architectural significance to the Town relating to its heritage, cultural, economic or political history, or which exemplifies historic personages or important events in local, state or national history as may be designated in accordance with this Ordinance.

**HISTORIC RESOURCE:** Any historic district, historic site or historic landmark.

**HISTORIC OVERLAY MAP:** A map of the Town of Wiscasset which identifies the location of a designated historic district, historic site, historic landmark or area of neighborhood significance. This map may be used to overlay other Town maps such as zoning, land use or property tax to demonstrate the designated historic resources locations.

**HISTORIC SIGNIFICANCE:** The embodiment of one or more of the five qualities in Section 4.1. Any building classified as noncontributing is not considered to possess historic significance.

**MATERIAL CHANGE:** A modification to the architectural style, general design and general arrangement of the exterior of a building or structure, including but not limited to the kind or texture of the building materials and the type and style of all windows, doors, light fixtures, other appurtenant fixtures and other features such as walks, walls, fences, signs, driveways and parking areas. In addition, all activities that affect the exterior of the building and require a building permit are also included in this definition.

**MINOR ALTERATIONS:** Incidental changes or additions to a building or site features which will neither result in substantial changes to any significant historic features nor obscure such features and are easily reversible. In no event shall any change be deemed minor when, in the determination of the Code Enforcement Officer, such change shall alter the historic character of the building or site.

**NEIGHBORHOOD SIGNIFICANCE:** A contribution to the creation of a physical setting representing a period important to the evolution of the Town. It is understood, in this case, that the physical setting, which is composed of buildings, landscape features and open space, and other architectural features, can transcend the sum of its parts in creating a sense of history. Some examples of situations in which a building would have neighborhood significance are: it is one of a group of similar buildings constructed and/or designed by an individual important in Wiscasset history; it is a compatible element in a group of buildings of similar or equally important significant architectural styles; its location (i.e., on a corner lot, on a rise of land, on a large parcel of land, as the first building to visually introduce an important group of buildings) makes it an important element in the neighborhood; its size gives it a dominant place in the neighborhood.

**RECONSTRUCTION:** The rebuilding of a building or a part of a building. The reconstruction may or may not be a return to the original design of the building.

**REHABILITATION:** The upgrading of a building, previously in a dilapidated or substandard condition. "Rehabilitation" does not necessarily retain the building's original architectural features.

**RESTORATION:** The replication or reconstruction of a building's original architectural features. "Restoration" usually describes the technique of preserving historic buildings.

**RHYTHM:** Characterized by the regular recurrence of strong or weak elements.

**STRUCTURE:** Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features, but excluding sidewalks, fences, driveways, parking lots and noncommercial swimming pools (whether aboveground or in-ground).

**VIOLATION:** Failure to comply with the plans and conditions as approved by the Historic Preservation Commission when it issued the certificate of appropriateness, and/or any activity listed in Section 5.1, Certificate of appropriateness, is carried on without first obtaining a certificate of appropriateness which permits the activity to proceed.

**VISUALLY COMPATIBLE:** A mix of styles, sizes, and other elements that blend together well and conform to the five criteria of Section 4.1 A - E.

### **3. HISTORIC PRESERVATION COMMISSION**

#### **3.1 Wiscasset Historic Preservation Commission**

A. Appointment. Members of the Historic Preservation Commission shall be appointed by the Board of Selectmen. Members may be residents, property owners or an appointed representative of a not for profit property. Members should have a demonstrated interest in historic preservation.

B. Regular members. The Commission shall consist of five regular members and two alternates. The regular members who are first appointed shall be designated to serve terms beginning July 1 and ending June 30 as follows: one for one year, two for two years and two for three years from the date of their appointment. Thereafter, Commission members shall be appointed for terms of three years, except in those instances in which the appointment is made to fill a vacancy, in which case the appointment shall be for the remainder of the unexpired term. The Board of Selectmen shall act within 60 days to fill a vacancy, including expired terms. Regular members may be reappointed. (Sentence Deleted) ✱

C. Alternate members. Alternate members who are first appointed shall serve terms beginning July 1 and ending June 30 as follows: one for one year and one for two years. Thereafter, alternate members shall be appointed for terms of three years, except to fill a vacancy, in which case it will be for the remainder of the unexpired term. They shall participate in all hearings and discussions. They shall vote only if appointed by the chairman to act in place of a regular member who is

absent, has resigned, or has been disqualified because of a conflict of interest. Alternate members may be reappointed.

D. Advisory members. In addition to regular and alternate members of the Commission, the Board of Selectmen may appoint other persons, not necessarily residents of the Town of Wiscasset, who shall serve on an advisory or consultant basis to assist the members of the Commission in the performance of their functions. Such members shall not be voting members of the Commission.

E. Removal. Any regular or alternate member may be removed by the Board of Selectmen for just cause upon written charges and after a public hearing. Three consecutive unexcused absences or four unexcused absences out of five consecutive meetings of the Commission shall be considered sufficient cause for removal of a regular member.

F. Officers. The Commission shall elect annually a Chairperson, Vice Chairperson and a Secretary from its membership. Three members shall constitute a quorum for the transaction of business, but if less than a quorum is present, then the meeting will be adjourned. The Secretary shall maintain a permanent record of the activities of the Commission, including but not limited to such items as the number and type of cases reviewed and their disposition, new designations of historic sites, landmarks and districts made, resumes of the Commission members, attendance records, appointments to the Commission, correspondence and minutes of all meetings.

G. Procedures. The Commission under normal conditions may apply Roberts Rules of Order or any other procedure which insures a fair and orderly meeting.

H. Meetings. All meetings of the Commission shall be publicly announced, open to the public except as provided by law, and have a previously available agenda. Public notice shall be provided before any special meeting of the Commission.

I. Duties. The duties of the Commission, at a minimum, shall be to:

- (1) Conduct or cause to be conducted a continuing survey of local historical and cultural resources, in accordance with the Maine Historical Preservation Commission guidelines;
- (2) Advise and inform owners and abutters of the requirements of this Ordinance.
- (3) Make recommendations to establish historic districts, sites or landmarks;
- (4) Review all proposed additions, reconstruction, alterations, construction, removal or demolition of properties designated under the jurisdiction of this Ordinance, except as exempted by Section 5.2 C.
- (5) Review all proposed National Register nominations for properties within the jurisdiction of the Historic Preservation Commission of the Town of Wiscasset;
- (6) Serve in advisory role to the Town officials regarding local historic and cultural resources and act as a liaison between local government and those persons and organizations concerned with historic preservation;

- (7) Advise and inform Town officials and owners on physical and financial aspects of preservation, renovation and rehabilitation of historic buildings, structures or sites;
- (8) Work to provide local residents with continuing education on historic preservation issues;
- (9) Undertake other duties as deemed necessary or desirable by its members to advance the purposes of this section;
- (10) Cooperate with federal, state and Town officials in the pursuit of the objectives of historic preservation; and
- (11) Participate in land use planning efforts of the Town, state and federal government.

J. Historic Preservation gifts, grants and funding. Gifts, grants and funding received within a fiscal year from entities other than the Town may be expended with Town Meeting approval solely for purposes of historic preservation in the Town of Wiscasset. A dedicated fund shall be established by the Town's Treasurer to receive any unused gifts and grants received in the current year. The Town Treasurer will also establish such operational accounts for the Commission as is deemed appropriate for the Commission to accomplish its duties, such as training, providing notices to the public, etc. These accounts will be funded through the normal budget process. (Sentence Deleted)

K. Administrative support. Administrative support to include processing applications, providing public notice of hearings and findings of the Commission, and retention of copies of the permanent records of the activities of the Commission shall be provided by the Planning and Codes Department.

#### **4. QUALIFICATIONS, ESTABLISHMENT, DESIGNATION, INCENTIVES, AND PERMITTED USES**

4.1 Qualifications of Historic Districts, Sites and Landmarks. The historic districts, historic sites or historic landmarks established in accordance with this Ordinance shall have one or more of the following characteristics and qualifications, without limitations as to cultural or chronological period:

A. History of Wiscasset. Structures, buildings or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of Wiscasset, the State of Maine or the Nation, including sites or buildings at which visitors may gain insight or see examples either of particular items or of larger patterns in the North American heritage;

B. Persons. Structures, buildings or sites associated with important personages;

C. Architecture. Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period, style or method of building construction, of

community organization and living, or landscaping, of a single notable structure or a single site representing the work of a master builder, master designer, architect or landscape architect;

D. Visual continuity. Structures or buildings contributing to the visual continuity of the historic district;

E. National register. Those sites or areas on or eligible for listing on the National Register of Historic Places or as a National Historic Landmark.

**4.2 Establishment of Historic Districts, Historic Sites and Historic Landmarks.** Historic districts, historic sites and historic landmarks, except for districts, sites and landmarks already established at the time of original adoption of this Ordinance, shall be designated in accordance with this section.

A. Preliminary procedures. The establishment of new historic districts, historic sites or historic landmarks shall be done by amendment to Section 4.4. No property will be included within a district nor become a historic site or historic landmark without the written consent of the property owner or owners. The Board of Selectmen, the Planning Board, the property owner(s) or the Commission itself may initiate action to amend Section 4.4. Subsequent action to add new districts, sites or landmarks, or expand existing historic district(s) shall be done in the same manner. Any person seeking to add or expand historic districts, sites or landmarks shall submit a request for the amendment in writing to the Commission. A request may include exercising any or a combination of the incentives in Section 4.3. Any proposal by the Board of Selectmen or Planning Board shall be referred to the Commission for comment before Selectmen action. The Commission's recommendations concerning the request shall be placed on the agenda of the Board of Selectmen for its action. Formal adoption of historic districts, sites or landmarks may only be achieved by vote of the governing body at the annual Town Meeting. Any application for designation of buildings, structures, sites and districts shall be in writing and include the following as appropriate:

(1) Designation of buildings, structures and sites for historic preservation shall include one or more of the following:

(a) A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the building, structure or site, including a consideration of scale, materials, workmanship and special qualities as relevant;

(b) A concise statement of how the building, structure or site meets the review criteria of 4.1 A – E;

(c) Exterior photographs of the building or structure illustrating significant details described in Subsection A(1)(a) above. In addition, the Commission may request photographs of interior articles of particular historic significance. These interior photographs may be provided by the applicant on a voluntary basis and are not required submissions; or

(d) Survey forms as generally used by and available from the Maine Historic Preservation Commission.

(2) Designation of districts for historic preservation shall include:

- (a) A concise statement of the physical elements which make this area a historic district and a description of building types and architectural styles and periods represented;
- (b) A concise statement of how the district meets the review criteria of 4.1 A - E;
- (c) An explanation of the boundaries of the district;
- (d) A definition of types of structures that do not contribute to the significance of the district and an estimate of the number of noncontributing structures;
- (e) An overlay map showing all district structures with an identification of contributing structures.

(3) Expansion of historic districts for historic preservation shall include:

- (a) A concise statement of the physical elements that justify an expansion of an existing district, an explanation detailing how the expansion is consistent with the character of the district and a description of building types and architectural styles and periods represented;
- (b) A concise statement of how the expansion of an existing district meets the review criteria of 4.1 A - E;
- (c) A justification of the expanded boundaries of the district; and
- (d) A map showing all district structures in the proposed expansion area with an identification of contributing structures.

B. Studies and recommendations. Before making its recommendation concerning the proposed establishment or expansion of a historic district, historic site or historic landmark, the Commission may conduct studies and research of the proposal. The Commission shall make and submit a draft report to the Board of Selectmen on every request received. Drafts of the report shall also be submitted to the Maine Historic Preservation Commission in Augusta.

C. Public hearing and final report. Before the final report is made to the Board of Selectmen, the Historic Preservation Commission shall hold a public hearing on the request, after due notice is provided at least seven days before the hearing in a newspaper of general local circulation. Written notice of the proposal shall be given to the applicant, owners of all property to be included within the proposed designation, and owners of abutting property. Not later than 30 days after the public hearing, the Commission shall submit a final report including recommendations to the Board of Selectmen.

D. Action by the Board of Selectmen. After receipt of the Commission's recommendations, as provided above, the Board of Selectmen shall consider the proposed designation and approve or disapprove the request to be placed on the ballot. Formal adoption of historic districts, historic

sites or historic landmarks may only be achieved by vote of the governing body at the annual Town Meeting. The owner of each property so designated shall be given written notice by the Planning and Codes Department within 30 days after the designation of any historic district, historic site or historic landmark.

E. Applicability of this Ordinance. After the historic resources have been approved at any Town Meeting they are subject to the requirements of this Ordinance.

#### 4.3 Incentives

A. The Historic Preservation Commission may make recommendations to the Board of Selectmen concerning the use of incentives for the purposes of promoting and ensuring the preservation of historic resources in the Town. (Sentence Deleted)  
(All Incentives Deleted)

B. Funding for incentives shall be established in accordance with the provisions of 3.1 J.

4.4 Designated Historic Districts, Historic Sites and Historic Landmarks. This Ordinance may be amended only by vote of the governing body at the annual Town Meeting. Upon adoption and amendment of this Ordinance, the following lands, buildings or structures, or areas of the Town are designated as historic resources and shall be shown on the Historic Overlay Map.

A. Wiscasset Historic District. For the purposed of this ordinance the Wiscasset Historic District is defined by the boundary of the zoning districts of Village I, Village II, and Village Waterfront District.

B. Historic Sites

C. Historic Landmarks

4.5 Permitted Uses. Uses permitted for historic resources shall be those set forth in Article VI, Zoning, of the Town of Wiscasset Ordinances, for the zone in which such district, site or landmark is located.

### 5. **CERTIFICATE OF APPROPRIATENESS AND APPLICATION FOR CERTIFICATE OF APPROPRIATENESS**

#### 5.1 Certificate of Appropriateness

A. A certificate of appropriateness issued by the Historic Preservation Commission is required for any of the following:

(1) New construction of a principal or accessory building visible from a public street where such building will be located in a historic district or upon a historic site;

(2) Demolition of any landmark, building or portion of any building, including the removal of architectural features from a historic landmark or a contributing building in a historic district;

- (3) Moving of a historic landmark or any building located in a historic district;
- (4) Additions, alterations or reconstruction, including porches and steps of existing buildings within a historic district, or a historic site;
- (5) New signs placed in a historic district or on a historic site or landmark;
- (6) New construction of walls, fences and parking lots in a historic district that are visible from a public way; and
- (7) Sandblasting of brick or stone buildings within a historic district, site or landmark.

B. A building permit for work described in Subsection A above shall be issued only after the required certificate of appropriateness is issued by the Historic Preservation Commission.

### 5.2 Application for Certificate of Appropriateness

A. Application forms and fees. An application for a certificate of appropriateness shall be obtained from the Planning and Codes Department. A fee established in the Town of Wiscasset Fee Schedule by the Board of Selectmen shall be paid at the time of submission of the application.

B. Application procedure. A completed application for a certificate of appropriateness shall be submitted to the Planning and Codes Department who shall date the application and transmit the application to the Historic Preservation Commission. The Commission shall consider each application and, within 30 days of the date of submittal, hold a public meeting and approve, approve with conditions or deny the application. Upon mutual written consent of the Commission and the applicant, the review period may be extended. Notice of all decisions shall be sent to the applicant, Planning Board and Code Enforcement Officer within ten days of the decision.

C. Alternative procedure for review of installation or alteration of any exterior sign; minor alteration and temporary alterations. In order to process certificates of appropriateness more efficiently, applications for minor alterations shall be reviewed by the Code Enforcement Officer and by the Historic Preservation Commission. The Code Enforcement Officer will review the application to the standards of this Ordinance and shall approve the application, approve the application with modifications or deny the application. No public meetings are required for applications reviewed under this procedure by the Code Enforcement Officer. The Historic Preservation Commission members shall receive a copy of all decisions. If the Code Enforcement Officer has not acted within 10 working days, the applicant may seek approval from the Historic Preservation Commission, rather than from the Code Enforcement Officer. Inaction by the Code Enforcement Officer does not constitute approval or disapproval of the application.

(1) If the applicant is not satisfied with the determination of the Code Enforcement Officer, the applicant shall be permitted to have the application reviewed by the Commission. The Code Enforcement Officer can, for any reason, forward any minor alteration to the Commission for review. The Code Enforcement Officer shall provide the Commission with written notice of any

action. Where the Commission conducts a review of an application where the Code Enforcement Officer has made a determination under this subsection, the Commission shall conduct a de novo review of the application and make its own decision and findings on whether the application meets the requirements of this Ordinance. The Commission shall conduct its review under the procedures set forth in Section 6.1 of this Ordinance.

(2) For purposes of this section only, "temporary" is defined as either a one-time occurrence that does not exceed 30 days or as an annual occurrence that does not exceed one 30-day period each year.

D. Application contents. The application shall state the location, use and nature of the matter for which such application is sought and shall contain at least the information or documentation outlined below. The Commission may waive any application requirement if it determines that it is not necessary to the application.

- (1) The applicant's name, address and interest in the subject property;
- (2) The owner's name and address, if different from the applicant's, and the owner's signature;
- (3) The address, tax map and lot number of the subject property;
- (4) The present use and zoning classification of the subject property;
- (5) A brief description of the new construction, reconstruction, alteration, maintenance, demolition or removal requiring the issuance of the certificate of appropriateness;
- (6) A drawing or drawings, preferably scaled, of the exterior architectural features indicating the design, texture, and location of any proposed alteration, reconstruction, maintenance or new construction for which the certificate of appropriateness is being applied. As used herein, "drawings" shall mean plans or exterior elevations drawn, preferably to scale, with sufficient detail to show as far as they relate to exterior appearances, the architectural design of the building(s), including materials and textures and samples of exterior materials. Drawings shall be clear, complete and specific;
- (7) Photographs of the buildings may be used to show the information required in Subsection E(6) above if the Code Enforcement Officer and Commission deem them appropriate. They should include the buildings involved and adjacent buildings; and
- (8) A site plan indicating improvements affecting appearance such as walls, walks, terraces, planting, accessory buildings, signs, lights and other relevant elements.

## 6. ADMINISTRATIVE PROCEDURES

### 6.1 Administrative Procedures

A. Notice to applicant, property owner and abutters. Before consideration of a certificate of appropriateness, the Town shall inform the applicant and property owner of the date, time and location of meeting at which the application shall be reviewed. Failure of any person to receive notice shall not necessitate another hearing or invalidate any action of the Commission.

B. Hearing. The Commission will hold a public meeting on each application before it. Applications under 5.2 C, Alternate procedure for review of installation or alteration of any exterior sign, minor alteration and temporary alterations, do not require a public meeting if reviewed by the Code Enforcement Officer. A notice of the public meeting will be posted at Town Hall at least five days before the public meeting and on the Town's website. In the case of an application for a new building or the demolition of any building, a hearing notice shall be placed in a newspaper of general circulation.

C. Approval. A vote to approve a certificate of appropriateness must receive the affirmative votes of three of the members seated. If the Commission determines that the proposed construction, reconstruction, alteration, moving or demolition meets the standards of this Ordinance and is therefore appropriate, it shall approve a certificate of appropriateness and the Commission shall notify the applicant and Code Enforcement Officer in writing of the determination and any conditions of approval. All decisions shall include the Commission's findings and conclusions. Notify abutters?

D. Disapproval. If the Commission determines that a certificate of appropriateness should not be issued, it shall make findings describing how the application does not meet the standards of this Ordinance. The Commission shall notify the applicant and the Code Enforcement Officer within 10 days of the final determination. All decisions shall include the Commission's findings and conclusions.

E. Appeals. An appeal from the final decision of the Commission as to any matter over which it has final authority may be taken by any party or person aggrieved, within 30 days from the date of the final decision, to the Zoning Board of Appeals. Where an appeal is from a decision of the Historic Preservation Commission, the review by the Board of Appeals shall be appellate in nature and shall be limited to a review of the record developed before the Historic Preservation Commission. The person submitting the appeal and any opponents to the position of that person may make written and/or oral presentations to the Board of Appeals about why they feel the decision of the Historic Preservation Commission was correct or incorrect, but they shall not be allowed to present any evidence that was not presented to the Historic Preservation Commission. The Board of Appeals shall only reverse the decision of the Historic Preservation Commission if it determines that the decision contained a procedural error or was clearly contrary to the provisions of this Ordinance, or was not supported by the facts.

**7. STANDARDS OF EVALUATION, ORDINARY MAINTENANCE AND EXEMPTION FOR SUBSTANTIAL HARDSHIP**

7.1 Standards of Evaluation. The standards and requirements contained in this section and in the U.S. Department of the Interior's Standards for the Treatment of Historic Properties, dated 1995, or its most recent revision, a copy of which is on file in the Planning and Codes Department, shall be used in review of applications for Certificates of Appropriateness and specifically as to the

procedures before demolition or removal can take place. Design consideration and structural factors related to maintaining historic structures in good condition shall be the Commission's primary area of focus.

A. The following standards shall be followed to provide a consistent appearance for new or renovated buildings, structures and yards in the historic preservation district, or to maintain the integrity of existing buildings, structures or grounds. The following standards apply:

- (1) The distinguishing original qualities of character of a building, structure or site shall not be destroyed. The removal or alteration of any historical material or distinctive architectural features shall be avoided when reasonably possible.
- (2) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis should be avoided when reasonably possible.
- (3) Changes which may have taken place in the course of time are evidence of this history and the development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
- (4) Distinctively stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
- (5) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material shall match the material being replaced in design, texture and visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or availability of different architectural elements from other buildings or structures.
- (6) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic materials shall not be undertaken.

B. Visual compatibility factors. Within the historic districts and on historic sites, new construction, additions to existing buildings or structures and appurtenances thereof which are moved, reconstructed, materially altered, repaired or changed through exterior surfaces shall be visually related generally in terms of the following factors:

- (1) Height. Height shall comply with the height standards of Article II, Building Laws, Section 3.2 of the Town of Wiscasset Ordinances.
- (2) Width.
- (3) Windows and doors.
- (4) Relations of solids to voids in front facades.

- (5) Rhythm of spacing of buildings on streets.
- (6) Rhythm of entrance and/or porch projection.
- (7) Relationship of materials and texture.
- (8) Roof shapes.
- (9) Scale of buildings.
- (10) Directional expression of front elevation.

C. Construction of new buildings and structures in historic districts. In addition to the standards above, the construction of a new building or structure or an addition to an existing building or structure within a historic district or on a historic site shall be generally of such design, form, proportion, mass, configuration, building material, texture and location on a lot as will be compatible with other buildings in the historic district and with streets and open spaces to which it is visually related and in keeping with the area.

D. Signs. General: Signs shall be governed by the standards of Article III, Signs, of the Town of Wiscasset Ordinances, and this section. If there is any conflict, the stricter standards shall apply. All signs either new or upon alteration, require a certificate of appropriateness. Contemporary signage needs shall be met with signs designed to be consistent with the architectural style of a building, respectful of neighboring buildings, and carefully designed to fit the facade in the case of attached signs. The design shall take into account the scale, character and design of the building, the traditional location of signage on area buildings, the location of existing sign boards, lower cornices, lintels and other architectural elements, and the opportunity to use signage as an element to enhance the appearance of building entrances. Materials and workmanship shall convey a sense of permanence and durability.

- (1) Location. Wall signs shall be generally located no higher than the window sill line of the second story. The use of a continuous sign-band extending over adjacent shops within the same building is encouraged as a unifying element. Where signage is proposed on street level windows, such signage should not substantially obscure visibility through the window.
- (2) Design. The size of signs and letters shall be at an appropriate scale for pedestrians and slow-moving traffic. Typefaces which are simple, easy to read and scaled appropriately for both the sign and the building shall be used. Pictographs (such as a projecting sign in the shape of a key for a key shop) can be an appropriate feature if consistent with the standards of this Ordinance.
- (3) Illumination. Generally, signs, if illuminated, shall be illuminated from a shielded, exterior source. The light source should be concealed from direct view. However, the Historic Preservation Commission (but not the Code Enforcement Officer) may approve certain special illuminated signs. Special situations such as marquees or special uses such as cultural events or public activities may be appropriate exceptions where sensitively designed.
- (4) Additional guidelines for special categories of signs.

(a) Awnings, canopies and marquees. The shape and size of these devices shall correspond to the shape, character and size of the opening over which they will be installed and fully fill the width of the individual window or door opening. Besides the signs standards of this Ordinance, these sign types and all advertising signs must comply with all other historic design standards.

(b) Painted wall signs. Painted wall signs such as business names may be appropriate if designed in conformance with this Ordinance.

(c) Outdoor murals. Painted walls such as murals scenes shall be used only to enhance the streetscape, not for advertising purposes.

#### E. Demolition or removal.

(1) Scope. The following provisions apply to any proposal involving demolition, moving or removal of any historic landmark, or any building or structure or any appurtenance thereto, in a historic district. The purpose of this subsection is to further the purposes of this Ordinance by preserving historic buildings which are important to the education, culture, traditions and the economic value of the Town, and to afford the Town, interested persons, historical societies or organizations the opportunity to acquire or to arrange for the preservation of such buildings.

(2) Procedure. An historic resource or any building or structure in an historic district, or any appurtenance thereto, shall not be demolished or moved and a certificate of appropriateness shall not be approved until either:

(a) The building or structure has been identified by the Commission as incompatible or non-contributing with the historic district in which it is located; or

(b) The building or structure, or important portions and features thereof, has been determined by the Code Enforcement Officer to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures.

7.2 Ordinary Maintenance and Repair. Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature or change in color in a historic district or any historic landmark which does not involve a change in the design, material or outward appearance thereof.

#### 7.3 Exemption for Substantial Hardship (See Alternate option attached)

A. If a certificate of appropriateness is denied, the property owner may apply for an exemption based on the substantial hardship of maintaining the property according to the design guidelines (Standards of Evaluation, Section 7.1) for historic resources. Substantial hardship is to be considered by the Historic Preservation Commission where one or more of the following unusual and compelling circumstances exist:

- (1) The resource cannot reasonably be maintained in the manner dictated by the ordinance;
- (2) There are no other reasonable means of saving the resource from deterioration or collapse; or
- (3) It is not feasible to maintain the property appropriately.

## 8. CONFLICTS, AMENDMENTS AND VIOLATIONS

8.1 Conflicts with other Ordinances. This Ordinance shall not repeal, annul or in any way impair or remove the necessity of compliance with any other ordinance, law regulation or bylaw. Where this Ordinance imposes a higher and/or stricter standard, the provisions of this Ordinance shall prevail.

8.2 Amendments. The Board of Selectmen, the Planning Board, the Commission or the public itself through a Maine revised Statutes Title 30-A may initiate action to amend this Ordinance. The request to amend shall be referred to the Ordinance Review Committee and the Commission for a report within 90 days thereof. The Commission shall hold a joint public hearing with the Planning Board at least 10 days before the report is made to the Board of Selectmen. Notice of the hearing shall be made by notice in a newspaper of general local circulation at least two times, with the date of the first publication at least 12 days before the public hearing and the date of the second at least seven days before the public hearing. The notice of the proposed amendment shall be posted in the Town Hall at least 13 days before the public hearing. This Ordinance shall be amended only by vote of the governing body at the annual Town Meeting. ✕

8.3 Violations. It shall be deemed a violation of this Ordinance if an applicant and/or property owner fails to comply with the plans and conditions as approved by the Historic Preservation Commission when it issued the certificate of appropriateness, and/or any activity listed in Section 5.1 is carried on without first obtaining a certificate of appropriateness which permits the activity to proceed. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer determines that any provision of this Ordinance has been violated, he shall send a written notice to the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Code Enforcement Officer shall order the removal of illegal buildings or structures or of additions, alterations or structural changes thereto; order the discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance or state law to ensure compliance with or to prevent a violation of this Ordinance. When violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer shall notify the Board of Selectmen, who shall initiate any and all actions to be brought in the name of the Town. The fines and penalties set forth in 30-A M.R.S.A. § 4452 shall apply to violations of this Ordinance.

9. Severability. If any portion of this ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.



# Office of Planning & Codes

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**TO:** Wiscasset Board of Selectmen  
**FROM:** Karl Olson, Chair, Ordinance Review Committee and Jamel Torres, Town Planner  
**CC:** Marian Anderson, Town Manager  
**DATE:** March 17, 2015  
**SUBJECT:** Update to Article X. Section 4. Flood Plains Ordinance

Three of four Ordinance Review Committee (ORC) members met on March 9, 2015 to discuss the model Floodplain Management Ordinance. While this was not an official ORC meeting because there was not a quorum, the three members who were present approved the adoption of the model ordinance. Two amendments have been requested. Please see the model Floodplain Management Ordinance attached to this memo. The requested amendments are highlighted. The ORC would like to schedule a public hearing on the model Floodplain Management Ordinance at your April 7 meeting, with the ultimate goal of having the ordinance on the June 2015 Town Meeting Warrant.

# FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF WISCASSET, MAINE

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ENACTED:

\_\_\_\_\_   
Date

EFFECTIVE:

\_\_\_\_\_   
Date

CERTIFIED BY:

\_\_\_\_\_   
Signature

CERTIFIED BY:

\_\_\_\_\_   
Print Name

\_\_\_\_\_   
Title

Affix Seal

# FLOODPLAIN MANAGEMENT ORDINANCE

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

Certain areas of the Town of Wiscasset, 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 Wiscasset, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Wiscasset, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

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

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

The areas of special flood hazard, Zones A and AE, for the Town of Wiscasset, Lincoln County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Lincoln County, Maine," dated July 16, 2015 with accompanying "Flood Insurance Rate Map" dated July 16, 2015 with panels: 229D, 235D, 240D, 243D, 244D, 245D, 265D, 326D, 327D, 328D, 329D, 331D, 333D, 336D, 337D derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Lincoln County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

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

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

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

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones AE, from data contained in the "Flood Insurance Study - Lincoln County, Maine," as described in Article I; 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), including information obtained pursuant to Article VI.K. and IX.D.;
      - (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) 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 non-residential 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 Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

- K. The following certifications as required in Article VI by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VLL.2.a.;
  3. a certified statement that bridges will meet the standards of Article VLM.;
  4. a certified statement that containment walls will meet the standards of Article VIN.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee as established in the Town Fee Schedule as revised from time to time by the Selectboard and payable by check to the Town of Wiscasset, Maine with a note indicating the specific purpose of the fee shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board 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 Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study - Lincoln County, Maine," as described in Article I;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and

floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
  - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
  - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
  - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
    1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an 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 Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
    2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
    3. 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 Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

## **ARTICLE VI - DEVELOPMENT STANDARDS**

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

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and,
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
  - a. be floodproofed to at least one foot 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 Article III.K. 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 one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D., or
  - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

**H. Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zones AE shall:
  - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
  - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
    - (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

**I. Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and 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 Article VI.H.1.

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

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. 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.

**K. Floodways** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones A and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
    - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
    - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
  3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIV;
  2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. be engineered and certified by a registered professional engineer or architect; or,
    - b. meet or exceed the following minimum criteria:
      - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
      - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
      - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
  3. The enclosed area shall not be used for human habitation; and,
  4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot 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 Article VI.K.; 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:

1. Zones A and AE shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

**O. Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water and 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 A and AE shall be located landward of the reach of mean high tide except as provided in Article VI.P.2.
2. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. 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 one foot 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.

## **ARTICLE VII - CONDITIONAL USE REVIEW**

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Planning Board 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 Ordinance 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 thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, 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 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

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 Ordinance.

**ARTICLE VIII - 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 an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  1. review the Elevation Certificate and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

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

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, 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 Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction

requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Wiscasset may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance 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 sub-section 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 Article X and Article VI.K. 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 Article X, paragraphs A. through D. above; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that 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 thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board. A variance request shall be treated as an appeal *de novo*. All other appeals shall be an appellate review.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

## **ARTICLE XI - ENFORCEMENT AND PENALTIES**

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

## **ARTICLE XII - VALIDITY AND SEVERABILITY**

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

## **ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

## **ARTICLE XIV - DEFINITIONS**

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - means a small detached structure that is incidental and subordinate to the principal structure.

**Adjacent Grade** - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

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

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

**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 Ordinance.

**Code Enforcement Officer** - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Conditional Use** - means 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 Article VII.

**Development** - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**Digital Flood Insurance Rate Map (FIRM)** - see **Flood Insurance Rate Map**

**Elevated Building** - means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VII..

**Elevation Certificate** - An official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - means 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** - means any land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means 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** - means 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** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

**Floodway Encroachment Lines** - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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

**Historic Structure** - means any structure that is:

- a. 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;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this ordinance.

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

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

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

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** -

- a. means the channel of a river or other water course 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
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - means 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** - means 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** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

## **ARTICLE XV - ABROGATION**

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

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