FLOODPLAIN DEVELOPMENT ORDINANCE

TOWN OF ORFORD, NEW HAMPSHIRE

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Orford Floodplain Development Ordinance. If any provision of this ordinance differs or appears to conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 8, 2024, together with the associated Flood Insurance Rate Maps Panels 33009C0570F, 33009C0590F, 33009C0760F, and 33009C0780F dated February 8, 2024 and 33009C0545E, 33009C0555E, 33009C0560E, 33009C0565E, 33009C0735E, and 33009C0755E dated February 20, 2008 which are declared to be a part of this ordinance and are hereby incorporated by reference.

Item I PURPOSE SECTION:

Certain areas of the Town of Orford, New Hampshire 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 Orford, New Hampshire 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 detailed in this Floodplain Management Ordinance.

This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Orford, New Hampshire. The review will be performed by the Board of Selectmen or their designee. Completed applications on the most current Town approved form shall be submitted to the Board of Selectmen. Per NH RSA 676:13, the Board shall approve or deny a complete application within 30 days of submittal.

Item II DEFINITION OF TERMS: The following definitions shall apply only to this Floodplain Development Ordinance and shall not be affected by the provisions of any other ordinance of the Town of Orford.

"Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year. Formerly called the 100-year flood.

"Base Flood Elevation" means the water surface elevation having a one percent possibility of being equaled or exceeded in any given year.

"Basement" means any area of a building having its floor subgrade on all sides.

"Building" – see "structure."

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

"Elevation Certificate" is used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance rate premium rate, or to support a request for a Letter of Map Change (LOMC). The elevations will most likely be determined by a State licensed surveyor or engineer though other documentation may be allowed.

"FEMA" means the Federal Emergency Management Agency.

"Flood" or "Flooding" means 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.

"Flood Insurance Rate Map" (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Orford.

"Flood Insurance Study" means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide of flood-related erosion hazards. The most recent FIS for Orford was published on February 20, 2008 for all of Grafton County.

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Flood proofing" 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 sanitation facilities, structures and their contents.

"Floodway" – see "Regulatory Floodway."

"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 and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the Secretary of the Interior, or
    b. Directly by the Secretary of the Interior in states without approved programs.

"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 an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements 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 attached to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

"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 the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction" means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"Recreational vehicles" means a vehicle which is:

a. built on a single chassis;
b. 400 square feet or less when measured at the largest horizontal projection;
c. designed to be self-propelled or permanently towable by a light duty truck; and

d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. For streams and other watercourses where FEMA has provided Base Flood Elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur, or identify the need to adopt a floodway if adequate information is available. Orford does not have a FEMA designated floodway.

"Special flood hazard area" is the land in the floodplain within the Town of Orford subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the Flood Insurance Rate Map (FIRM) as zones A and AE.

"Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"Start of construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on 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 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 a 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 part of the main structure.

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

"Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should equal:

1. the appraised value prior to the start of the initial repair or improvement, or
2. in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to

assure safe living conditions or any alterations of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

"Zone A" means areas subject to the "Base Flood" and determined by approximate methods with no hydraulic analyses performed. No Base Flood Elevations (BFEs) are shown on the "Flood Insurance Rate Map." Mandatory flood insurance purchase requirements and floodplain management standards apply.

"Zone AE" means areas subject to the "Base Flood" with base flood elevations determined by detailed methods. BFEs are shown in the "Flood Insurance Study" and on the "Flood Insurance Rate Map." Mandatory flood insurance purchase requirements and floodplain management standards apply.

Item III PERMIT REQUIRED

All proposed development in any special flood hazard areas shall require a permit from the Board of Selectmen. The applicant shall complete and submit the most current Town adopted permit application form to the Board of Selectmen. A permit shall be obtained prior to any development and final Planning Board approvals for related development.

Item IV APPLICATION REVIEW

The Board of Selectmen or their designee shall review all permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

a. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
b. be constructed with materials resistant to flood damage,
c. be constructed by methods and practices that minimize flood damage,
d. be constructed with 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 conditions of flooding.

Item V WATER AND SEWER SYSTEMS

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area, the applicant shall provide the Board of Selectmen or their designee with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Item VI REQUIRED INFORMATION AFTER PERMITTED DEVELOPMENT

For all new or substantially improved structures located in Zones A or AE, the applicant shall furnish the following information to the Board of Selectmen or their designee within 10 days of permitted construction completion:

a. the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement,
b. if the structure has been flood proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood proofed,
c. and certification of flood proofing

The Board of Selectmen shall maintain this information permanently for public inspection, and shall furnish such information upon request.

Item VII FEDERAL AND STATE PERMITS

The Board of Selectmen shall not grant a permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Item VIII WATER COURSE AND FLOODWAY IMPACT

1. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Board of Selectmen or their designee, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the board of Selectmen or their designee, including notice of all scheduled hearings before the Wetlands Bureau.

2. The applicant shall submit to the Board of Selectmen or their designee, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. The Board of Selectmen or their designee shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

> "No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

4. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Item IX DETERMINATION OF FLOOD ELEVATION

1. In special flood hazard areas, the Board of Selectmen or their designee shall determine the base flood elevation in the following order of precedence according to the data available:

    a. In Zone AE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
    b. In Zone A, the Board of Selectmen or their designee shall obtain, review and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
    c. In Zone A where the base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade or the highest flood event, whichever is greater.

2. The Board of Selectmen or their designee's base flood elevation determination will be used as criteria for requiring in zones A and AE that:
    a. all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation;
    b. that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood level; or together with attendant utility and sanitary facilities, shall:
        (i) be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(iii) 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;

c. all manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

d. Recreational vehicles placed on sites within Zones A and AE shall either: (i) be on the site for fewer than 180 consecutive days; (ii) be fully licensed and ready for highway use; or (iii) meet all standards of Item III and the elevation and anchoring requirements for "manufactured homes" in Item IX(2)(c).

e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

Item X. VARIANCES AND APPEALS

1. Pursuant to RSA Chapter 673, a five-member Board of Adjustment shall be appointed by the Board of Selectmen for the purpose of hearing appeals for variances from the requirements of this ordinance.

2. Any order, requirement, decision or determination of the Board of Selectmen or their designee made under this ordinance may be appealed to the Board of Adjustment as set forth in RSA 676:5.

3. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
   (a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
   (b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
   (c) that the variance is the minimum necessary, considering the flood hazard to afford relief.

4. The Board of Adjustment shall notify the applicant in writing that: (1) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

5. The community shall (1) maintain a record of all variance actions, including their justification for their issuance, and (2) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

Item XI SEVERABILITY SECTION

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

Item XII ENFORCEMENT SECTION

It shall be the duty of the Board of Selectmen (or their designee) to enforce and administer the provisions of this Ordinance in accordance with RSA 676.

Additional Information Required
To be Completed by Selectboard or its Designee

The applicant must submit the documents checked below before the application can be processed.

☐ A Site Plan showing the location of all existing and proposed structures, water bodies, adjacent roads, lot dimensions, 100-year floodplain boundary, and floodway boundary, if applicable, and proposed development.

☐ Development plans, drawn to scale, including where applicable: details for anchoring structures, types of flood damage-resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, and details of enclosures below the first floor.

☐ A certified and completed Elevation Certificate that includes the proposed elevation of lowest floor (including basement). Applicant must submit the Elevation Certificate before construction (based on construction drawings), when building is under construction (before lowest floor is completed), and when construction is finished (as-built elevations).

☐ A certified and completed Floodproofing Certificate for floodproofed non-residential structures.

☐ For substantial improvements of structures, the actual costs of construction (include all applicable costs including volunteer labor and donated supplies) and Pre-Improvement/Damage Market Value of only the structure (market appraisal or adjusted assessed value before improvement or, if damaged, before the damage occurred).

☐ Subdivision or other development plans. (If the subdivision is greater than 50 lots or 5 acres, whichever is lesser, the applicant must provide the Base Flood Elevation in the plans).

☐ Plans showing the extent of watercourse relocation and/or landform alteration.

☐ Certification from a registered engineer that the proposed activity in Zone AE with no designated regulatory floodway will not result in an increase of more than one foot in the height of the Base Flood Elevation. A copy of all data and hydraulic/hydrologic calculations supporting this finding must also be submitted.

☐ Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the Base Flood Elevation. A copy of all data and hydraulic/hydrologic calculations supporting this finding must also be submitted.

☐ Other:_____

Permit Issued: ☐ Yes ☐ No

Permit Issued By:_____ Date:_____

Pursuant to RSA 674:57, by resolution of the Board of Selectmen, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 8, 2024, together with the associated Flood Insurance Rate Maps Panels 33009C0570F, 33009C0590F, 33009C0760F, and 33009C0780F dated February 8, 2024 and 33009C0545E, 33009C0555E, 33009C0560E, 33009C0565E, 33009C0735E, and 33009C0755E dated February 20, 2008, are declared to be part of the Town of Orford Floodplain Development Ordinance and are hereby incorporated by reference.

John Adams, Selectboard Chair

Kevin Follensbee, Selectboard Member

P. Chase Kling, Selectboard Member

Officially adopted at the December 27, 2023 Selectboard meeting