

2013

# Ordinances of the Town of Steuben, Maine

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# BUILDING PERMIT ORDINANCE FOR THE TOWN OF STEUBEN

## 1. **PURPOSE**

The purpose of this Ordinance is to set forth the requirements for obtaining a building permit whereby the effect of a new building or structure will not have any unreasonably adverse affect upon the abutting land owners; the general health, safety and welfare of the Town; and the natural environment.

## 2. **AUTHORITY AND ADMINISTRATION**

- A. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII, part 2 of the Constitution of the State of Maine and Title 30-A MRSA 300.
- B. The Planning Board shall administer this Ordinance

## 3. **OTHER ORDINANCES AND LAWS** (Please see 7<sup>th</sup> Amendment)

Where there is a conflict between the provisions of this Ordinance and other applicable federal, state or local law, the more restrictive shall apply.

## 4. **PERMIT REQUIRED** (Please see 1<sup>st</sup> & 5<sup>th</sup> Amendments)

A permit approved by the Planning Board and on a form approved by the Planning Board shall be required prior to the construction or moving of any building or structure of 144 square feet or more in area, whether it is attached to an existing building or unattached.

The same permit is also required for any structure that extends more than 25 feet in height above ground level if unattached, or above the structure to which it is attached.

The same permit is required for any substantial grade change other than that required for the construction or moving of a permitted building or structure.

Within the above limits and taking into account other Ordinances and Laws as set forth in paragraph 3 above, any building may be maintained, repaired and improved without a building permit.

No permit is required for a non-residential building without wastewater, which is intended to be removed within a 9-month period of time.

## **5. LOT SIZE**

Construction requiring a permit shall be done on a lot or site of one (1) acre or more. A single lot of record, which, at the effective date of adoption or amendment of this Ordinance is less than one (1) acre, may be built upon if it meets the requirements of paragraph 10 or 11 of this Ordinance or conforms to the minimum lot size law Title 12 MRSA 4807.

## **6. APPLICATION REQUIREMENTS**

The application shall be written on the approved form and include all applicable information as follows:

- A. Name of owner of lot and structures
- B. Name of holder of equitable interest if different from owner
- C. Copy of deed and/or document of equitable interest, if requested by Planning Board
- D. Plan of property, approximately to scale, showing:
  - a. Property line location, length and direction, tax map and lot number
  - b. Total acreage
  - c. North arrow
  - d. Adjacent roads and ways
  - e. Names and location of abutting land owners
  - f. Location and size of existing buildings
  - g. Location of any natural water or wetlands within 250 ft of property line
  - h. Proposed or existing location of wastewater system and privy
  - i. Proposed or existing location of well
  - j. Proposed location of construction
  - k. Reasonable estimate of cost of construction
- E. Plan of proposed construction
- F. Intended use of construction
- G. Permit for wastewater system
- H. If the application involves a manufactured home as defined in Title 30-A MRSA 4553 (3), then appropriate proof of compliance with subsection 3 thereof regarding sales tax

## **7. CONSTRUCTION**

- A. Any single-family residence shall have a State approved wastewater disposal system together with a permit for the same issued by a local plumbing inspector.
- B. Any building constructed or substantially altered with the intention of public use or visitation, rental, multiple family use or employment of people other than domestic help, shall be constructed in compliance with Title 25

MRSA 2357 for minimizing risk of fire and shall have a State approved wastewater disposal system together with a plumbing permit issued by a local plumbing inspector pursuant to Title 30-A MRSA 4201-4223 and the State plumbing code.

8.       **STANDARDS** (Please see 4<sup>th</sup> Amendment)

The following standards shall apply to all construction requiring the permit:

- A. Set back of structures is to be 25' from all public roadways and property lines
- B. The proposed structure shall not be hazardous to the health, safety or welfare of the community
- C. Removal or runoff of surface waters shall not adversely affect adjoining properties, downstream water quality or public storm drainage systems
- D. All exterior lighting shall be designed to minimize adverse impact on surrounding properties
- E. The proposed use will not result in air pollution exceeding State Department of Environmental Protection standards or air quality
- F. The proposed use will not have an undue adverse effect on the scenic or natural beauty of the area or on historic sites or rare and irreplaceable natural areas and shall not create an adverse environmental impact upon the proposed site and its immediate area
- G. The total height of any structure shall not exceed 50' above the ground level of its base, excluding whip aerials

9.       **APPROVAL**

Application for construction shall be accompanied with the approved building permit form completed in all applicable categories as set forth in the Ordinance. If more information is needed, the Board will have 31 days to review and request additional information unless more time is needed, in which case the Board will so notify the applicant

The Planning Board may hold a public hearing on the application within 31 days of having declared the application complete. Notice of such hearing shall be posted on the Town bulletin board and three other public places and copies thereof sent to the applicant and to all abutting owners by mailing the notice to their last known address according to the records of the Town. The notice will state the purpose of the hearing, the name of the applicant, the location of the land and the time and place of the hearing.

When all information needed is presented and upon completion of a public hearing, if any, the Planning Board will review the application within 31 days and either approve or disapprove.

## **10. NON-CONFORMANCE**

- A. A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or width requirements, or both, may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership and that all other provisions of this Ordinance shall be met. If two or more contiguous lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single parcel for the purpose of this Ordinance.
- B. A building lawful at the time of adoption or subsequent amendment to this Ordinance may continue although it does not conform to the provisions of this Ordinance. No substantial alteration will be made which increases the nonconformance.

## **11. VARIANCE**

The Planning Board may nullify or waive any of the standards as set forth in paragraph 8 of this Ordinance where owing to conditions peculiar to the property, a literal enforcement of the ordinance would result in undue hardship to the applicant. The crucial points of variances are undue hardship and unique circumstances applying to the property. In granting a variance, the Planning Board may prescribe such additional conditions as are necessary to meet the intent of this ordinance. A variance shall not have any unreasonably adverse affect upon the abutting landowners, the general health and welfare of the Town and the natural environment.

## **12. APPEAL**

The applicant or any other person may make written appeal within 60 days of issuance of a building permit or any decision of the Planning Board regarding a building permit to the Board of Appeals of the Town of Steuben in accordance with Title 30-A MRSA 2691 (4).

Notice of an appeal shall be posted on the Town bulletin board and three other public places and copies thereof sent to the applicant and to all abutting owners by mailing the notice to their last known address according to the records of the Town.

The Board of Appeals shall hear and decide specific cases where it is alleged there is an error in any order, requirement, decision or determination by the Planning Board.

Any appeal from the Board of Appeals must be taken within 30 days after any decision is rendered by the Board of Appeals by any party to Superior Court in accordance with Title 30-A MRSA 2691 (3) (G).

### **13. DEFINITIONS**

- A. CONSTRUCTION – As applied to this Ordinance, construction is the act of installing materials of any nature to create a separate structure, or to create an addition to an existing structure or to substantially change the existing grade of the land.
- B. SUBSTANTIAL GRADE CHANGE – For the purpose of this Ordinance, a substantial grade change is defined as the relocation of more than 100 cubic yards of rock, gravel or soil.
- C. STRUCUTRE – As applied to this Ordinance, a structure is anything constructed, erected or placed, except a boundary wall fence or whip aerial, the use of which requires location on the ground or attachment to something on the ground, including, but not limited to buildings, mobile homes, recreational vehicles used as a permanent residence, piers and floats.
- D. SUBSTANTIAL ALTERATION – As applied to this Ordinance, a substantial alteration is one, which increases the volume or floor area of a building by 25% or more.

### **14. VIOLATION** (Replaced by 3<sup>rd</sup> Amendment)

In accordance with Title 30-A MRSA 4506 (3), any person who violates any provision of this Ordinance after receiving notice of such violation shall be guilty of a civil offense, subject to a minimum fine of \$100,000 or up to a maximum fine of \$2,500 for each violation. Each day's violation shall constitute a separate offense. Nothing herein contained shall be deemed to bar any legal or equitable action to restrain or enjoin any act in violation of this Ordinance.

### **15. ENFORCEMENT**

It shall be the duty of the Selectmen or their authorized agent to enforce the provisions of this ordinance. If the Selectmen or their authorized agent finds that any provision of the Ordinance is being violated, they shall notify in writing the person responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of buildings, structures or construction, removal of illegal buildings, structures and abatement of the conditions. A copy of such notices shall be maintained as a permanent record.

When the above action does not result in the correction or abatement of the violating or nuisance condition, the Selectmen or their authorized agent is hereby authorized and directed to institute any and all actions and proceedings that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

16. **FEE** (Replaced by 6<sup>th</sup> & 11<sup>th</sup> Amendments)

The Selectmen may charge a fee of \$10.00 for a single-family residential application. For applications other than those applying to single-family residences, the fee shall be \$1.00 for 1000 cubic feet of the planned structure.

17. **SEVERABILITY**

Should any section or provisions of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

17a. Please see 2<sup>nd</sup> Amendment

18. **EFFECTIVE DATE**

The effective date of this Ordinance is September 6, 1989.

**AMENDMENTS TO THE BUILDING PERMIT ORDINANCE FOR  
THE TOWN OF STEUBEN**

1<sup>ST</sup> AMENDMENT

In addition to those permits required under paragraph 4 of this Ordinance, a permit is required prior to rental to the public of one or more apartments created within an existing building. For purposes of this amendment, an apartment is defined as separate living quarters for a person or persons. The following additional permits and reports are required where applicable: State approved waste water disposal system together with a plumbing permit issued by a local plumbing inspector pursuant to Title 30-A MRSA 2396, compliance with State Adopted Fire Safety Codes.

## 2<sup>ND</sup> AMENDMENT

Life of a permit. Any permit issued under this ordinance or amendments thereto will expire after a period of 36 months unless at least 50% of the work has been accomplished or an application for an extension is made and approved.

## 3<sup>RD</sup> AMENDMENT(Replace Section 14)

Any person, including but not limited to a landowner, a landowner's agent, or a contractor, who orders or conducts any activity in violation of this ordinance shall be penalized in accordance with Title 30-A MRSA subsection 4452.

## 4<sup>TH</sup> AMENDMENT

Amend Section 8 to add: New driveways for single homes shall face fifteen (15) foot wide useable surface, fifteen (15) foot height of clearance, minimum forty (40) foot inside radius of turn and a turnout every five hundred (500) feet of length.

## 5<sup>TH</sup> AMENDMENT

Amend Section 4, first paragraph to read: A permit approved by the Planning board or the Code Enforcement Officer and on a form approved by the Planning Board shall be required prior to the construction, installation, or relocation of any building or structure of one hundred forty four (144) square feet or more in area, whether it is attached to an existing building or unattached.

## 6<sup>TH</sup> AMENDMENT

Amend Section 16 to read: A fee of \$10.00 shall be charged for each permit approved. Commercial buildings will in addition be charged \$1.00 for each one thousand (1000) square feet or part thereof of building are in excess of the first one thousand (1000) square feet.

Passed at May 16, 1992 Special Town Meeting.

## 7<sup>TH</sup> AMENDMENT

In addition to the requirements of Section 7 and the first amendment of this Ordinance, and in accordance with Title 25 MRSA 2357 and 2396 and Title 30-A MRSA 4452, the Steuben Fire Chief may enter any property at reasonable house, or enter any building under repair or construction with the consent of the owner, occupant, or agent for the purpose of making fire safety inspections. He



may also give directions in writing to the owner or contractor concerning the construction and use of such buildings and property, so as to render the same safe from spreading and catching fire.

Passed June 6, 1994 Special Town Meeting.

#### 8<sup>TH</sup> AMENDMENT (Section 15, Paragraphs 1&2)

ENFORCEMENT – It shall be the duty of the Selectmen to authorize the Code Enforcement Officer to enforce the provisions of this Ordinance.

If the CEO finds that any provision of the Ordinance is being violated, he shall notify in writing the person responsible for such violation and ordering the action necessary to correct it, including discontinuance of buildings, structures or construction, removal of illegal buildings, structures and abatement of conditions. A copy of such notice shall be maintained as a permanent record.

When the above action does not result in the correction or abatement of the violation or nuisance condition, the CEO is hereby authorized and directed to institute any and all actions and proceedings that may be appropriate or necessary to enforce the provisions of this Ordinance and in conformance with the approved Building Permit.

#### 9<sup>TH</sup> AMENDMENT (Section 4, Paragraph 5)

A temporary permit is required for a non-residential building without waste water, which is intended to be removed within a nine (9) month period of time.

#### 10<sup>TH</sup> AMENDMENT

A fee of \$20.00 shall be charged for each permit approved. Commercial buildings will in addition be charged \$1.00 for each one thousand (1000) square feet or part thereof of building area in excess of the first one thousand (1000) square feet.

8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> Amendments Passed April 15, 2000 Special Town Meeting.

## 11<sup>TH</sup> AMENDMENT

Building permit fees shall be set at the following rates:

\$ .10 cents per sq. ft. living space for finished construction

\$ .05 cents per sq. ft. unfinished construction

\$ 60.00 for singlewide mobile homes

\$100.00 for doublewide mobile homes

\$150.00 per lot for subdivisions

\$ 20.00 minimum fee

11<sup>th</sup> Amendment passed by secret ballot vote, March 5, 2007. (212 Yes, 179 No)

**TOWN  
OF  
STEUBEN**

**FLOODPLAIN  
MANAGEMENT  
ORDINANCE**

# FLOODPLAIN MANAGEMENT ORDINANCE

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

Certain areas of the Town of Steuben, 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 Steuben, 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 Steuben, 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 Steuben 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 Steuben 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 Steuben, Maine.

The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled "Flood Hazard Boundary Map" - Town of Steuben, Maine, Washington County," dated July 15, 1992, which is 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 Town Planning Board. This permit shall be in addition to any other permits that may be required pursuant to the codes and ordinances of the Town of Steuben, Maine. *(Amended March 9, 2013)*

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

The application for a Flood Hazard Development Permit shall be submitted to the Town 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), or to a locally established datum, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
    - (a) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.J. and IX.D.;
    - (b) 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,
    - (c) 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, (03/09), 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; (*Amended March 9, 2013*)
  - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.K.2.a.;
  - 3. a certified statement that bridges will meet the standards of Article VI.L.;
  - 4. a certified statement that containment walls will meet the standards of Article VI.M.;
- 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 for all minor development and a fee for all new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application. The amount of the fee will be determined by the select board and the fee schedule will be maintained by the select board.

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 Town 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 data contained in the "Flood Hazard Boundary Map" - Town of Steuben, 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.; Article VI.J.; 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. (*Amended March 9, 2013*)
- 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; (*Amended March 9, 2013*)
- 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.,2., and 3. 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.I., 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 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.; Article V.B; or Article IX.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within 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.; Article V.B; or Article IX.D., or together with attendant utility and sanitary facilities shall:
1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article IX.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  3. be certified by a registered professional engineer or architect that the 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.
- H. **Manufactured Homes** - New or substantially improved manufactured homes located within Zone A shall:
1. be elevated 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.; Article V.B; or Article IX.D.;
  2. 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,

3. 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:
  - a. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - b. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - c. all components of the anchoring system described in Article VI.H.3.a.& b. shall be capable of carrying a force of 4800 pounds.

I. **Accessory Structures** - Accessory Structures, as defined in the Overview Ordinance and Article XIV, located within Zone A, 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.K.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.

J. **Floodways** - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is 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, 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:

1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
2. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

K. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zone A 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.

L. **Bridges** - New construction or substantial improvement of any bridge in Zone A 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 utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article IX.D.; 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.J.; 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.

**M. Containment Walls** - New construction or substantial improvement of any containment wall located within Zone A shall:

1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article IX.D.
2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

**N. Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A 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.

**O. Coastal Floodplains** -

1. All new construction located within Zone A shall be located landward of the reach of mean high tide except as provided in Article VI.O.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.J., and VI.K. 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 area 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 Steuben 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.J. 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.
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 Town Manager or Select Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board 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, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **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**

All definitions applicable to this ordinance are contained in Steuben's Land Use Overview Ordinance definitions listing.

## **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).

60.3 (b/coastal)

**EFFECTIVE DATE**

The effective date of this ordinance shall be November 8, 2011.

A True Copy

Attest: \_\_\_\_\_  
Julie A. Ginn, Town Clerk

## **AMENDMENT 1 (Repealed & Replaced by Amendment 2 March 9, 2013)**

## **AMENDMENT 2**

### **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 Hazard Boundary Map 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.

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

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

**Elevation Certificate** - An official form (FEMA Form 81-31, 03/09, 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 Hazard Boundary Map (FHBM)** - means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the base flood have been designated.

**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.

**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**.

**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.K. 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" or "Flood Hazard Boundary 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.I., 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 earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

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

**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. in Zone A riverine areas, the floodway 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.

*Amendment 2 passed and effective as of March 9, 2013*

**Julie A. Ginn**  
**Town Clerk**

# **TOWN OF STEUBEN**

## **ORDINANCE TO REGULATE AUTOMOBILE GRAVEYARDS, JUNKYARD AND AUTOMOBILE RECYCLING BUSINESS**

### **Section 1. Purpose**

The purpose of this ordinance is to provide adequate controls to ensure that automobile graveyards, junkyards and automobile recycling businesses do not have a deleterious impact on the public health, safety, and general welfare.

### **Section 2. Authority**

This ordinance is enacted pursuant to 30-A M.R.S.A. §3001 et seq. and §3751 et seq.

### **Section 3. Applicability**

This ordinance shall apply to all automobile graveyards, junkyards and automobile recycling businesses as defined in 30-A M.R.S.A. §3752.

### **Section 4. Permit Required**

No person may establish, operate or maintain an automobile graveyard, junkyard or automobile recycling business without first obtaining a nontransferable permit from the municipal officers.

### **Section 5. Administration**

5.1. This ordinance shall be administered by the municipal officers. No automobile graveyard, junkyard or automobile recycling business permit shall be issued unless the provisions of this ordinance are met.

5.2. Upon receipt of an application, the municipal officers shall provide notice and hold a hearing in accordance with 30-A M.R.S.A. §3754.

5.3. Permits issued to an automobile graveyard or junkyard are valid until the first day of October of the following year. Permits issued to an automobile recycling business shall be valid for 5 years from the date of issuance and are renewable as provided in 30-A M.R.S.A. §3753. The municipal officers shall annually inspect, or cause to be inspected, the site to ensure that the provisions of this ordinance and state law are complied with.

5.4. A fee of \$50.00 shall be submitted with the permit application.

## **Section 6. Submission Requirements**

Any application for an automobile graveyard, junkyard or automobile recycling business permit shall contain the following information:

6.1. The property owner's name and address and the name and address of the person or entity who will operate the site.

6.2. A site plan drawn to a scale not to exceed 1"-100', on which is shown:

- a. the boundary lines of the property
- b. the soils
- c. the location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist
- d. the location of any well that serves as a private or public water supply that is located within 300 feet of the proposed licensed site
- e. the location of any public building, public park, public playground, public bathing beach, school, church or cemetery located within 300 feet of the proposed licensed site
- f. the location of all roads within 1,000 feet of the proposed licensed site
- g. the location of any body of water or freshwater wetland within property boundaries of proposed licensed premises
- h. the boundaries of the 100-year flood plain

## **Section 7. Performance Standards**

The following performance standards are required of all automobile graveyards, junkyards and automobile recycling businesses, whether new or existing:

7.1 The site must be adequately screened, as provided by 30-A M.R.S.A. § 3754-A(1).

7.2 No automobile graveyard or junkyard may be located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery or within ordinary view from the same.

7.3 No automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste may be located within 300 feet of a well that serves as a public or private water supply, as provided by 30-A M.R.S.A. §3754-A(4).

7.4 A vehicle containing fluids may not be stored or dismantled within 100 feet of any body of water or freshwater wetland, as defined by 38 M.R.S.A. § 436-A(5)

7.5 A vehicle containing fluids may not be stored or dismantled within the 100-year floodplain.

7.6 A vehicle containing fluids may not be stored or dismantled over a mapped sand and gravel aquifer.

7.7 All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, battery acid, engine coolant, gasoline and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water.

7.8 No junk, scrap metal, vehicles or other solid wastes may be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be

washed into these waters.

### **Section 8. Enforcement**

The municipal officers or their agents shall enforce this ordinance in accordance with State law. Any violation of this ordinance shall also be deemed a nuisance within the meaning of 17 M.R.S.A. § 2802, or as littering under the Maine Litter Control Act, 17 M.R.S.A. § 2261, et. seq. Violations of this ordinance shall be subject to the provisions of 30-A M.R.S.A. § 3758-A.

### **Section 9. Effective Date and Amendment**

This ordinance shall become effective on the date of adoption, and may be amended by vote of the legislative body.

### **Section 10. Severability and Conflict**

In the event that any provision of this ordinance is ruled to be invalid by a Court of competent jurisdiction, the remaining provisions shall continue in full force and effect. In the event that any provision of this ordinance conflicts with State statute, the State statute shall govern.

*Adopted & Effective November 8, 2011*

*Julie A. Ginn, Town Clerk*

# SHELLFISH CONSERVATION ORDINANCE TOWN OF STEUBEN

Ordinance Adopted: June 7, 2003 – Special Town Meeting  
Amendments Adopted: Nov 8, 2011 – Special Referendum

1. **Authority:** This ordinance is enacted in accordance with 12 M.R.S.A Section 6671.
2. **Purpose:** To establish a shellfish conservation program for the Town of Steuben which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:
  - A. Licensing
  - B. Limiting the number of shellfish harvesters
  - C. Restricting the time and area where digging is permitted
  - D. Limiting the minimum size of clams taken
  - E. Limiting the amount of clams taken daily by a harvester
3. **Shellfish Conservation Committee:** The Shellfish Conservation Program for the Town of Steuben will be administered by the Shellfish Conservation Committee consisting of five members to be appointed by the Selectmen for terms of one year. The Committee's responsibilities include:
  - A. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.
  - B. Submitting to the Board of Selectmen proposals for shellfish conservation.
  - C. Keeping this ordinance under review and making recommendations for its amendments.
  - D. Recommending conservation closures and openings to the Board of Selectmen or Council in conjunction with the Area Biologists of the Department of Marine Resources.
  - E. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other committee activities.
4. **Definitions:**
  - A. **Resident:** The term "resident" refers to a person who has been domiciled in this municipality for at least three months next prior to the time his claim of such residence is made.
  - B. **Non-Resident:** The word "non-resident" means anyone not qualified as a resident under this ordinance.
  - C. **Shellfish, Clams and Intertidal shellfish resources:** When used in the context of this ordinance, the words "shellfish", "clams" and "intertidal shellfish resources" mean soft-shell clams, *Mya Arenaria*.
  - D. **Lot:** The word "lot" as used in this ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.

E. **Possess:** For the purpose of this section, "Possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.

F. **Municipality:** Refers to Town of Steuben, Maine.

5. **Licensing:** Municipal Shellfish Digging Licenses are required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this ordinance.

A. Designation, Scope and Qualifications:

1. Resident Commercial Shellfish License: The license is available to residents of the Town of Steuben and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.
2. Non-resident Commercial Shellfish License: The license is available to non-residents of this municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.
3. Resident Recreational Shellfish License: The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family.
4. Non-Resident Recreational Shellfish License: The license is available to non-residents and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family.
5. License must be signed: The licensee must sign the license to make it valid.

B. Application Procedure: Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by the municipality.

1. Contents of the Application: The application must be in the form of an affidavit and must contain the applicant's name, current address. Birth date, height, weight, signature and whatever information the municipality may require.
2. Misrepresentation: Any person who gives false information on a license application will cause said license to be invalid and void.

C. Fees: The fees for the licenses are as stated below and must accompany in full the application for this respective license. The Town Clerk shall pay all fees received to the Town Treasurer except for .25 cents for each license which will be retained by the clerk as payment for issuing the license. Fees received for shellfish licensing shall be used by the Town for shellfish management, conservation and enforcement.

- |                               |          |
|-------------------------------|----------|
| 1. Resident Commercial-       | \$100.00 |
| 2. Non-resident Commercial-   | \$200.00 |
| 3. Resident Recreational      | \$50.00  |
| 4. Non-resident Recreational- | \$100.00 |

D. Limitation of Diggers: Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and

management requirements consistent with good resource utilization. The following procedures will be followed to exercise the control:

1. Prior to March 1, the Town Shellfish Conservation Committee with the approval of the Commissioner of Marine Resources will establish the number of commercial and non-commercial licenses to be permitted following the requirement of 12 M.R.S.A, Section 6671 (3).
  2. The Shellfish Conservation Committee will notify the Town Clerk in writing prior to March 10 of the number of licenses to be issued.
  3. Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.
  4. All non-resident commercial and recreational applications will be a separate drawing by lottery as advertised. The Town Clerk will sell Resident Commercial Licenses from the first working day. 10% of all resident licenses sold will be made available to non-residents.
- E. License Expiration Date: Each license issued under authority of this ordinance expires at midnight on the 31<sup>st</sup> day of March next following date of issue.
- F. Reciprocal Harvesting Privileges: Licensees from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their licenses.
- G. Recreational shellfish license fees will be waived for residents and non-residents 65 years or older and 10 years or younger.
- H. Suspension: Any shellfish licensee having three convictions for a violation of this ordinance shall have his shellfish license automatically suspended for a period of thirty (30) days.
1. A licensee whose shellfish license has been suspended pursuant to this ordinance may reapply for a license only after the suspension period has expired.
  2. The suspension shall be effective from the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee.
  3. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee, before the Board of Selectmen/Town Council by filing a written request for Appeal with the Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.
  4. Opening and Closing of Flats: The Municipal Officers, upon the approval of the Commissioner of Marine Resources, may open and/or close areas for shellfish harvest. Upon recommendation of the Shellfish Conservation Committee and the concurrence of the Department of Marine Resources area biologist that the status of shellfish resource and other factors



bearing on sound management indicate that an area should be opened or closed, the Municipal Officers may call a public hearing on ten day's notice published in a newspaper having general circulation in the Town, stating the time, place, and subject matter of the hearing and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact.

5. **Minimum legal size of soft-shell clams:** It is unlawful for any person to possess soft shell clams within the town or township of Steuben, Washington County, which are less than two (2) inches in the longest diameter except as provided by subsection 6 of this section.
6. **Tolerance:** Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one peck or more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.
6. **Penalty:** Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. Section 6681 and/or Section 6671 (10).
7. **Effective Date:** This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.
8. **Period of Ordinance:** This ordinance shall remain in effect until amended, revoked or a new ordinance is adopted. Any amendments to the current ordinance or if a new ordinance is adopted, must receive prior approval by the Commissioner.
9. **Separability:** If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.
10. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the town and any provisions of any other town ordinance which is inconsistent with this ordinance is hereby repealed.

Originally attested by Rebecca J. Atwater, Town Clerk of Steuben, Maine.  
June 7, 2003

## AMENDMENTS

- Amendment 1. Section (3)(F). Shellfish Conservation Committee shall be responsible for determining dates, times and methods of Conservation to be required of diggers each licensing year.
- Amendment 2. Section (5)(A)(6). Licensing: 7 Day Recreational – A one (1) peck per day limit, available to residents and non-residents. Limited to one, 7 Day license per person per licensing year.
- Amendment 3. Section (5)(B)(3). Application must be accompanied by signed statement from the Shellfish Warden or the Shellfish Conservation Committee Chairman certifying the applicant has completed the 10 hours of required conservation time, being made up of 5 hours conservation activities and 5 hours of Shellfish Conservation Committee meeting time. If no conservation has been completed at the time of application, an increased license fee shall be applied as set forth in the license fee schedule approved by this ordinance. There shall be no license fee credit issued for partial completion of required conservation time.
- Amendment 4. Section (5)(C). Fees:
- |                                                     |          |
|-----------------------------------------------------|----------|
| 1. Resident Commercial with 10 hrs Conservation     | \$100.00 |
| 2. Resident Commercial without Conservation         | \$300.00 |
| 3. Non-Resident Commercial with 10 hrs Conservation | \$200.00 |
| 4. Non-Resident Commercial without Conservation     | \$400.00 |
| 5. Resident Recreational                            | \$ 50.00 |
| 6. Non-Resident Recreational                        | \$100.00 |
| 7. 7-Day Recreational                               | \$ 10.00 |
- Amendment 5. Section (5)(E). License Expiration Date: Each license issued under authority of this ordinance expires at midnight on the 30<sup>th</sup> day of June next following date of issue.

Amended Ordinance Attested:

Julie A. Ginn, Town Clerk  
November 8, 2011