

Discovery Report Appendix F

Community Ordinances

Lake Erie – Headwaters to the Buffalo-Eighteenmile Watershed

HUC 04120103

Erie, Genesee, and Wyoming Counties, New York

June 2016



FEMA

Federal Emergency Management Agency
Department of Homeland Security
26 Federal Plaza
New York, NY

Buffalo Eighteenmile Watershed County Ordinances

County	Community	Program Status	Ordinance Level	Ordinance Available in Appendix F	Page #
Erie	Alden, Town of	Regular	D	Yes	3
	Angola, Village of	Regular	D	Yes	20
	Aurora, Town of	Regular	D	Yes	44
	Blasdell, Town of	Regular	D	Yes	58
	Boston, Town of	Regular	D	Yes	78
	Brant, Town of	Regular	D	Yes	99
	Buffalo, City of	Regular	D	Yes	107
	Cheektowaga, Town of	Regular	D	Yes	139
	Colden, Town of	Regular	D	Yes	148
	Collins, Town of	Regular	D	Yes	170
	Concord, Town of	Regular	D	Yes	196
	Depew, Village of	Regular	D	Yes	206
	East Aurora, Village of	Regular	D	Yes	228
	Eden, Town of	Regular	D	Yes	262
	Elma, Town of	Regular	D	Yes	278
	Evens, Town of	Regular	D	Yes	303
	Farnham, Village of	Regular	A	No	*
	Gowanda, Village of	Regular	D	Yes	334
	Hamburg, Town of	Regular	D	Yes	356
	Hamburg, Village of	Regular	D	Yes	388
	Holland, Town of	Regular	D	Yes	406
	Lackawanna, City of	Regular	D	Yes	436
	Lancaster, Town of	Regular	D	Yes	448
	Lancaster, Village of	Regular	D	Yes	466
	Marilla, Town of	Regular	D	Yes	492
	North Collins, Town of	Not Participating	-	No	-
	North Collins, Village of	Not Participating	-	No	-
	Orchard Park, Town of	Regular	D	Yes	509
	Orchard Park, Village of	Regular	D	Yes	534
	Sardinia, Town of	Regular	D	Yes	552
	Springville, Village of	Regular	D	Yes	585
	Sloan, Village of	Regular	A	No	*
	Wales, Town of	Regular	D	Yes	602
	West Seneca, Town of	Regular	D	Yes	625
Genesee	Darien, Town of	Regular	D	Yes	656
Wyoming	Arcade, Town of	Regular	D	Yes	673
	Arcade, Village of	Regular	D	Yes	691
	Bennington, Town of	Regular	D	Yes	720
	Java, Town of	Regular	D	Yes	740
	Sheldon, Town of	Regular	D	Yes	749

*File Not Available

TOWN OF ALDEN
Erie County, New York
Local Law No. 1 of the Year 1991
Flood Damage Prevention Law

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation law, Article 36.,

Be it enacted by the Alden Town Board of the Town of Alden, County of Erie, New York as follows:

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1. Findings

The Alden Town Board of the Town of Alden finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Alden and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.1.1 The Chapter 12 of the Code of the Town of Alden, Titled "Flood Damage Prevention Law" being Local Law No. 1 of the Year 1987 as amended by Local Law #2 of the Year 1989 is hereby repealed in its entirety.

1.1.2 This Local Law shall be known and cited as the "Flood Damage Prevention Law" and shall become part of the Code of the Town of Alden.

1.2 FINDINGS

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accomodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist; where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-30, A99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure".

"Cellar" has the same meaning as "Basement".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest Floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections,

which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year flood" has the same meaning as "Base Flood".

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, including a gas or liquid

storage tank, that is principally above ground, as well as a manufactured home.

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the TOWN OF ALDEN

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified by the Federal Emergency Management Agency as follows:

- (1) Flood Insurance Rate Maps (multiple panels) enumerated on Map Index No. 360225, dated February 6, 1991.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Town of Alden, New York, Erie County" dated February 6, 1991 with Flood Insurance Rate Map/Maps enumerated on Map Index No. 360225 dated February 6, 1991 and where applicable Flood boundary-Floodway Map/Maps enumerated on Map Index No. 360225 dated February 6, 1991.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at Alden Town Hall, 11901 Broadway, Alden, New York 14004-0180.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion

of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the TOWN OF ALDEN from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the TOWN OF ALDEN any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The BUILDING INSPECTOR is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permits in accordance with its provisions.

4.2 ESTABLISHMENT OF THE DEVELOPMENT PERMIT

A Floodplain Development Permit shall be obtained before the start of construction or any other development, including the placement or replacement of manufactured homes or recreational vehicles, within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 FEES

All applications for a floodplain development permit shall be

accompanied by an application fee of \$ 50.00. In addition the
TOWN of ALDEN reserves the right to
recover from the permittee all reasonable costs necessary for
review, approval, and inspection of this project.

4.2-2

APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
- (c) when required, a certificate from a licensed professional engineer or architect that the utility flood proofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential floodproofed structure will meet the flood proofing criteria in Section 5.2-3; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-3 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review of all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review of all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review of all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent and other properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit

shall be granted consistent with the provisions of this local law.

(ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

(4) Review of all development permits for compliance with the provisions of Section 5.1-5, ENCROACHMENTS.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

(1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.

(2) For all new or substantially improved floodproofed structures:

(i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

(ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.

(3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted, and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

(1) The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

(2) Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the areas of special flood hazard.

(3) The Local Administrator shall use flood information from any other authoritative source, including historical

data, to establish flood elevations within the areas of special flood hazard when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without a development permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) All floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of the development permit and/or any variance provisions.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) All other development occurring within the designated areas of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazard the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated in accordance with Section 5.2-2.

Methods of anchoring may include, but are not to be 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.

- (3) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated and anchored to resist flotation, collapse or lateral movement. Recreational vehicles shall be elevated in accordance with Section 5.2-2.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine areas where no flood elevation data are available (unnumbered A Zones) shall be reviewed as set forth in Section 4.3-1(3), Permit Review, to determine the effects of the encroachment on the flood carrying capacity of the stream. The Local

Administrator may require submission of additional technical analyses and data necessary to complete the determination.

- (2) In all areas of special flood hazard in which base flood elevation data are available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data are provided or available pursuant to Section 4.3-2, the requirements of Section 5.3, FLOODWAYS, shall apply except as provided in Section 5.1-5 (4).
- (4) Notwithstanding any other provisions of this local law, certain development in zones A1-30, AE and AH may be permitted to increase the water surface elevation of the base flood (e.g. dams, levees, etc.) provided that the ALDEN TOWN BOARD endorses application to the Federal Emergency Management Agency (FEMA), the permit applicant provides all necessary data and analyses and pays all fees, and FEMA approval is received.
- (5) The Local Administrator shall require within zones AH and AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of residential structures shall:

- (1) in zones A1-30, AE and AH, have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) in all areas of special flood hazard, have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- (3) within any AO zone, have the lowest floor (including

basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- (4) within any A zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.

5.2-2

MANUFACTURED HOMES AND RECREATIONAL VEHICLES

- (1) A manufactured home that is placed or substantially improved on a site in an A1-30, AE or AH zone that is either:
 - (i) outside of a manufactured home park or subdivision;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (2) A manufactured home to be placed or substantially improved on a site located in a A1-30, AE, or AH zone, in a manufactured home park or subdivision, as herein defined, that is not subject to the provisions of Section 5.2-2(1) shall be elevated so that either:
 - (i) the lowest floor of the manufactured home is at or above the base flood elevation, or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system.
- (3) New construction or substantial improvements of manufactured homes in zone A, where no base flood elevation data are available, shall be elevated at least three feet above the highest adjacent grade.
- (4) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated in accordance with Sections 5.2-2(1), 5.2-2(2) or 5.2-2(3).
- (5) Manufactured homes and recreational vehicles, on-site for longer than 180 consecutive days, with fully enclosed areas below the lowest floor, must meet the requirements of Section 5.2-1(2)

5.2-3

NON-RESIDENTIAL CONSTRUCTION

- (1) In zones A1-30, AE and AH, new construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either:

- (i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) In an AO zone, all new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (3) In an A zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.
- (4) If the structure is to be elevated, fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically (without human intervention) equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- (5) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.2-3(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (6) The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 or when applicable, Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any

increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1. APPEALS BOARD

- (1) The ZONING BOARD OF APPEALS as established by the ALDEN TOWN BOARD shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The ZONING BOARD OF APPEALS shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the ZONING BOARD OF APPEALS may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the ZONING BOARD OF APPEALS, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems

and streets and bridges.

- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the ZONING BOARD OF APPEALS may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

SECTION 7.0
EFFECTIVE DATE

7.1 WHEN EFFECTIVE

This local law shall take effect immediately upon being filed in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

EXHIBIT A

PROPOSED LOCAL LAW NO. 2 FOR THE YEAR 2002

Repealing Chapter 38 of the Angola Village Code and Adopting
Chapter 38 entitled:

CHAPTER 38

FLOOD DAMAGE PREVENTION

ARTICLE I

STATUTORY AUTHORIZATION AND PURPOSE

38.11 FINDINGS

The Village Board of the Village of Angola finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Angola and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damage and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

38.12 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

38.13 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In

the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of

the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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. such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;

- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 38.44-2 of this Law.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

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

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

ARTICLE III
GENERAL PROVISIONS

38.31 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Angola, Erie County, New York.

38.32 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map (single panel) No. 3609820002 C, whose effective date is August 6, 2002.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Village of Angola, New York, Erie County" dated August 6, 2002.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: Angola Village Hall, 41 Commercial Street, Angola, NY

38.33 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

38.34 SEVERABILITY

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

38.35 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village

Angola from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

38.36 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Angola, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

ARTICLE IV ADMINISTRATION

38.41 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Village of Angola Code Enforcement ^{Officer} is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

38.42 THE FLOODPLAIN DEVELOPMENT PERMIT

38.42-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section

38.52, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

38.42-2 FEES

- (1) All applications for a floodplain development permit shall be accompanied by an application fee of \$50. In addition, the applicant shall be responsible for reimbursing the Village of Angola for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

38.43 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 38.52-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 38.54, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by

the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 38.32 when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

38.44 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

38.44-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 38.43 APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 38.5 CONSTRUCTION STANDARDS and, in particular, sub-section 38.51-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of ARTICLE 38.5, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to

include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

38.44-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 38.43 (7) as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

38.44-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

38.44-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180

consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

38.44-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

38.44-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 38.35 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 38.35 of this local law.

38.44-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 38.32 it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 38.44-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

38.44-8 . INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 38.44 (1) and 38.44 (2) and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 38.44 (1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to ARTICLE VI VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 38.44 -3 ALTERATION OF WATERCOURSES.

ARTICLE V CONSTRUCTION STANDARDS

38.5-1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 38.32.

38.51-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

38.51-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(ii) the Village of Angola agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Angola for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Angola for all costs related to the final map revision.

- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 38.32 no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Village of Angola agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Angola for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Angola for all costs related to the final map revisions.

38.52 STANDARDS FOR ALL STRUCTURES

38.52-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

38.52-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (i) 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; and

- (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

38.52-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

38.53 RESIDENTIAL STRUCTURES

38.53-1 ELEVATION

The following standards, in addition to the standards in sub-sections 38.51-2 SUBDIVISION PROPOSALS, and 38.51-2 ENCROACHMENTS, and Section 38.52 STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above *one foot above* the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as *one foot more than* the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 38.32 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

38.54 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 38.51-1 SUBDIVISION PROPOSALS, and 38.51-2 ENCROACHMENTS, and Section 38.52 STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential

structure, together with attendant utility and sanitary facilities, shall either:

(i) have the lowest floor, including basement or cellar, elevated to or above *one foot* above the base flood elevation; or

(ii) be floodproofed so that the structure is watertight below *one foot above* the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as *one foot more than* the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 38.54 (1) (ii)

(3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 38.54(1)(ii) including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

(5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

38.55 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 38.51 GENERAL STANDARDS, and Section 38.52 STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 38.55(2), (4), and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:
 - (i) outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
 - (i) elevated in a manner such as required in paragraph 38.55 (2), or
 - (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as *one foot more than* the depth number specified on the Flood Insurance Rate Map enumerated in Section 38.32 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

ARTICLE VI
VARIANCE PROCEDURE

38.61 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Village of Angola Board of Trustees shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- (5) Upon consideration of the factors of Section 38.61(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

38.62 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 38.61(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this _____ day of _____, 19____ by the

Board of Trustees _____ of the Village of _____
Angola _____ County,
New York, to be effective _____

SEAL

ATTEST _____ CLERK



(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFD 60.3(d)) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

#3 1987

NOV 20 1987

CHAPTER 17.
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Aurora finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Aurora and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

passed by T.B. and recorded in the ordinance book (flood prep)

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE, or VI-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home", and Mobile Home as defined in Chapter 116-4.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Town of Aurora.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Aurora, of Erie County, New York", dated October, 19 78, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at the Town Hall, 5 South Grove Street, East Aurora, New York 14052.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Aurora from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Aurora, any officer or employee thereof, or the Federal EMergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2.

Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and

certified by same. When flood-proofing is utilized for a particular building. The floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

(ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.

(3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.

- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

! GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2 the requirements of Section 5.3, Floodways, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;

- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor

including basement elevated to or above the base flood elevation as may be determined in Section 4.3-(2) or 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 and Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Aurora shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant

factors, standards specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic

Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this _____ day of _____, 19 ____ by the
_____ of _____ of
_____ County, New York, to be effective
_____.

SEAL

ATTEST. _____ CLERK

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~XXXXXX~~
~~XXXXXX~~ of BLASDELL
~~XXXXXX~~
Village
Local Law No. 2 of the year 19 89

A local law amending Chapter 14
(Insert title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~XXXXXX~~
~~XXXXXX~~ of BLASDELL as follows:
~~XXXXXX~~
Village Chapter 14 of the Village Ordinances is hereby amended as follows:

Chapter 14 entitled "Flood Damage Prevention" Section 3 entitled "General Provisions" Item 2 "Basis For Establishing The Areas Of Special Flood Hazard" is hereby amended by adding the following paragraph:

3.2 The areas of special flood hazard have been identified by the Federal Emergency Management Agency on Flood Insurance Rate Map No. 361489A I-01-02 Dated July 25, 1976.

(If additional space is needed, please attach sheets of the same size as this and number each)

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. ... 2 ... of 19 89
of the ~~XXXXXX~~ ~~CITY~~ ~~TOWN~~ ~~Village~~ of .. BLASDELL..... was duly passed by theBOARD OF TRUSTEES.....
(Name of Legislative Body)
onMARCH 15... 19 ..89... in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19, in accordance with the applicable
annual provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of 19
in accordance with the applicable provisions of law.

FILED

MAR 6 1989

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

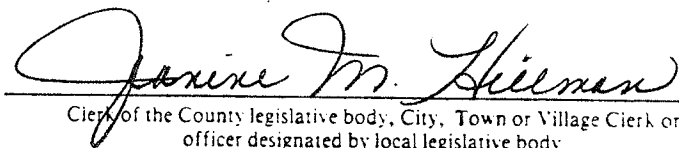
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of §³⁶₃₇ of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special}_{general} election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.


Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: MARCH 15, 1989

Jeanine M. Hillman, C.M.C.
Village Administrator
Village Clerk & Treasurer


(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OFERIE.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

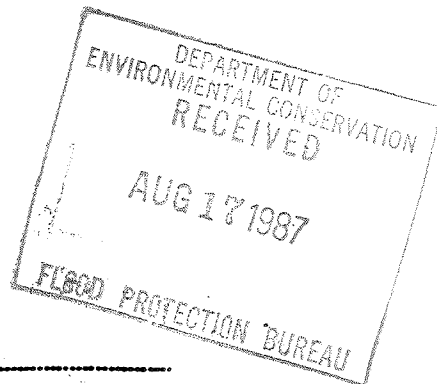

.....
Signature
Thomas Ansuini, Esq.
.....
Village Attorney
.....
Title

Date: MARCH 15, 1989

XXXXXX
XXXXXX ofBlasdell.....
XXXXXX
Village

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.



County

City

of

Town

Village

Local Law No.

3

of the year 19

87

A local law for FLOOD DAMAGE PREVENTION

(Insert title)

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the VILLAGE OF BLASDELL - BOARD OF TRUSTEES of the
(Name of Legislative Body)

County

City

of

Town

Village

ERIE

County, N.Y. as follows:

(If additional space is needed, please attach sheets of the same size as this and number each)

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFR 60.3[b] & [c]) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The BOARD OF TRUSTEES of the VILLAGE of BLASDELL finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the VILLAGE of BLASDELL and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (6) qualify and maintain participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, Al-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM) means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement or cellar 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" - has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of VILLAGE OF
BLASDELL.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

- ~~(1) The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the~~
~~_____ of _____, of~~
~~_____ County, New York", dated~~
~~_____, 19____, with accompanying Flood Insurance~~
~~Rate Maps is hereby adopted and declared to be a part of this~~
~~Local Law. The Flood Insurance Study and FIRM are on file at~~
~~_____.~~

(OR)

- (2) The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHRM), or Flood Insurance Rate Map (FIRM) No. H01-02
dated JUNE 25, 1976 is hereby adopted and
declared to be a part of this Local Law. The FHRM or FIRM is
on file at VILLAGE OF BLASDELL.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the VILLAGE OF BLASDELL

from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the VILLAGE of BARDONA, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The zoning Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE.

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved

structures, and whether or not the structure contains a basement or cellar.

- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances, when granted, and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FHRM, FIRM OR FBFM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of this Local Law.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of either the Development Permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certificates shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2, the requirements of Section 5.3 FLOODWAYS, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2(1) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in

relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 ~~ZONING BOARD OF~~ APPEALS BOARD

- (1) The Zoning Board of Appeals as established by Village Board shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Bd. of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing item (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this local law.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) 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.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Be it enacted this 19th day of August, 1987 by the
BOARD OF TRUSTEES of VILLAGE OF BRADDELL of
ERIE County, New York, to be effective
AUGUST 19, 1987.

Suzanne Kelly
James H. Baker
Leonard J. Rusch
David Grasso (Jr)
Donald Fitzpatrick (Jr)

SEAL

Janice M. Redman

ATTEST.

Village

CLERK & Treasurer

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
of the City of BLASDELL was duly passed by the BOARD OF TRUSTEES
Town (Name of Legislative Body)
Village
on AUGUST 19 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
of the City of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19_____ and was approved not disapproved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19_____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
of the City of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19_____ and was approved not disapproved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19_____. Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19_____, in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
of the City of _____ was duly passed by the _____ on
Town (Name of Legislative Body)
Village
_____ 19_____ and was approved not disapproved by the _____ on
repassed after disapproval Elective Chief Executive Officer *
_____ 19_____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19_____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of ~~§ 36~~ ^{§ 37} of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.



Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: 8/19/87

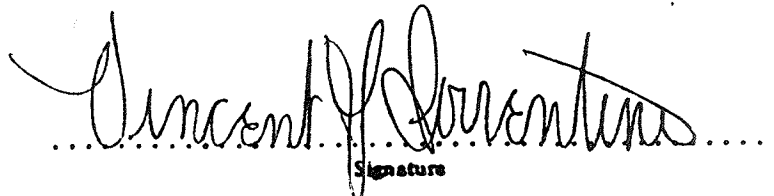
(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



..... Village Attorney
Title

Date: 8/19/87

~~County~~
~~City~~ of Blasdell
~~Town~~
Village

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

RECEIVED

MAR 12 1990

County
City
(Town) of BOSTON
Village

Local Law No. 1 of the year 19 90

A local law Entitled An Amendment to Local Law Number 1 of the year 1987 - Flood
Plain Regulations (Insert title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City
(Town) of Boston as follows:
Village

(If additional space is needed, please attach sheets of the same size as this and number each)

5. (City local law concerning Charter revision proposed by petition.)

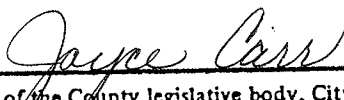
I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.


Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: March 2, 1990


(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OFERIE.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


.....
Signature
.....
Town Attorney
.....
Title

Date: March 2, 1990

County
City of Boston
(Town)
Village

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
(Town) of BOSTON
Village

Local Law No.1..... of the year 19 .89.....

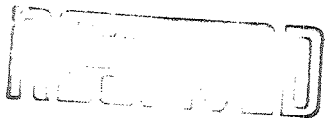
A local law An Amendment to Local Law Number 1 of the Year 1987 - Flood Plain Regulations
(Insert title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City
(Town) of Boston as follows:
Village

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Town of Boston, New York, Erie County" dated March 30, 1981 with Flood Insurance Rate Maps enumerated on Map Index No. 360228 0001-0009 dated September 30, 1981 and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 360228 0001 dated September 30, 1981.

The above documents are, hereby, adopted and declared to be a part of this local law and are filed at the Boston Town Hall, 8500 Boston State Road, Boston, New York.



MAR 24 1989

(If additional space is needed, please attach sheets of the same size as this and number each)

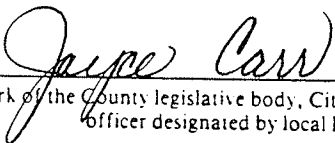
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of §36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph1..... above.


Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

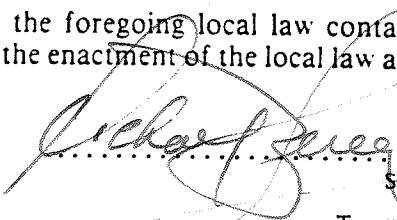
Date: March 20, 1989

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ...ERIE.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature
Town Attorney
Title

Date: March 20, 1989

County
City
(Town) of Boston
Village

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

County
City
(Town) of Boston
Village
Local Law No. 2 of the year 19 87

A local law of Flood Damage Prevention Requiring Development Activity Involving any
(Insert title)
Man-Made Change to Improved or Unimproved Structures, Dredging, Fitting, Grading,
Paving, Excavation and Drilling Within the Areas Designated as Special Flood Hazard
Areas Within the Town of Boston.

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City
(Town) of Boston as follows:
Village

DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
RECEIVED
APR 13 1987
FLOOD PROTECTION BUREAU

TOWN OF BOSTON
ERIE COUNTY, NEW YORK
LOCAL LAW NO. 2 OF THE YEAR 1987

A LOCAL LAW OF FLOOD DAMAGE PREVENTION REQUIRING DEVELOPMENT ACTIVITY INVOLVING ANY MAN-MADE CHANGE TO IMPROVED OR UNIMPROVED REAL ESTATE, INCLUDING BUT NOT LIMITED TO BUILDINGS OR OTHER STRUCTURES, DREDGING, FILLING, GRADING, PAVING, EXCAVATION AND DRILLING, WITHIN THE AREAS DESIGNATED AS SPECIAL FLOOD HAZARD AREAS WITHIN THE TOWN OF BOSTON.

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Boston, Erie County, New York finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Boston and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alternation of natural floodplains, stream channels, and natural protective barriers which are involved in the accomodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3. OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE, or VI-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Town of Boston.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Boston, of Erie County, New York", dated March 4, 1981, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at the Boston Town Hall, 8500 Boston State Road.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Boston from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Boston, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and

certified by same. When flood-proofing is utilized for a particular building. The floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

(ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.

- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.

- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2 the requirements of Section 5.3, Floodways, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;

- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor

including basement elevated to or above the base flood elevation as may be determined in Section 4.3-(2) or 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 and Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Boston shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant

factors, standards specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic

Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and;
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

6.3 REPEAL OF PRIOR FLOOD PLAIN LAW

The objective of this local law shall supercede, in full, the provisions of a prior local law designated as Local Law Number 1 of 1981.

Be it enacted this 18th day of March, 1987 by the Town Board of the Town of Boston of Erie County, New York, and shall take effect immediately upon filing in the office of the Secretary of State.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 1987.
of the ~~County~~
~~City~~ / Town of Boston was duly passed by the Town Board
~~Village~~ (Name of Legislative Body)
on March 18, 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____.
of the ~~County~~
~~City~~ / Town of _____ was duly passed by the _____
~~Village~~ (Name of Legislative Body)
on _____ 19_____ and was not disapproved
approved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19_____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____.
of the ~~County~~
~~City~~ / Town of _____ was duly passed by the _____
~~Village~~ (Name of Legislative Body)
on _____ 19_____ and was not disapproved
approved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19_____. Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19_____, in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____.
of the ~~County~~
~~City~~ / Town of _____ was duly passed by the _____ on _____
~~Village~~ (Name of Legislative Body)
_____ 19_____ and was not disapproved
approved by the _____ on _____
repassed after disapproval Elective Chief Executive Officer *
_____ 19_____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19_____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

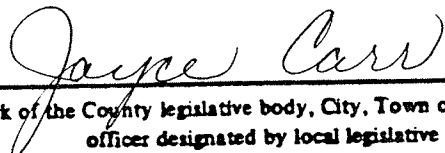
I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} general election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph1..... above.


Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: March 20, 1987

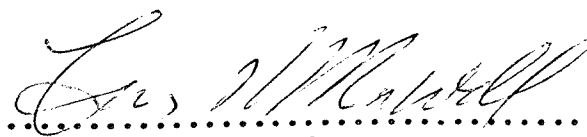
(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


.....
Signature
..... Town Attorney
.....
Title

Date: March 20, 1987

Country
City of Boston
Town
Village

LOCAL LAW NO. 1 FOR THE YEAR 1987
AMENDING LOCAL LAW NO. 2 FOR THE YEAR 1983
TOWN OF BRANT

A Local Law amending Local Law No. 2 for the year 1983 of the Town of Brant entitled "Flood Damage Prevention Law".

BE IT ENACTED, by the Town Board of the Town of Brant, as follows:

SECTION 1. Amending Paragraph 2 of the Flood Damage Prevention Law of the Town of Brant.

That Paragraph 2 is hereby amended to read as follows:

2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD -- The area of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 360229B dated January 6, 1984, is hereby adopted and declared to be a part of this Local Law. This FHBM or FIRM is on file at the Brant Town Hall.

SECTION 2. Amending Paragraph 3(A) of the Town of Brant Flood Damage Prevention Law.

That Paragraph 3(A) is hereby amended to read as follows:

3(A) "Area of Special Flood Hazard" is the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A - 99, V, VO, VE, or VL-30. It is also commonly referred to as the base flood plain or 100-year flood plain.

SECTION 3. Amending Paragraph 3 of the Town of Brant Flood Damage Prevention Law.

That Paragraph 3 is hereby amended by addition of additional terms to read as follows:

3(F) "building" means any structure built for support, shelter, or enclosure for occupancy or storage.

3(G) "Structure" means any walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

3(H) "Flood Insurance Rate Map (FIRM)" means any official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

SECTION 4. Amending Paragraph 4(A)(1) of the Town of Brant Flood Damage Prevention Law.

That Paragraph 4 (A)(1) is hereby amended to read as follows:

4(A)(1) Outdoor recreation including parks, picnic groves, hiking and bicycle paths, and other recreational uses, excluding buildings and other structures, as approved by the Town.

SECTION 5. This Local Law shall take effect immediately upon adoption, publication and posting, or personal service of a certified copy thereof, as provided by Law.

LOCAL LAW #2 FOR THE YEAR 1983
TOWN OF BRANT

FLOOD DAMAGE PREVENTION LAW

for the
Town of Brant

1. Land to which this Local Law Applies

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Town of Brant.

2. Basis for Establishing the Areas of Special Flood Hazard

The area of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM) No. 360224, dated November 30, 1979, and revisions thereto, are hereby adopted by reference and declared to be a part of this local law. FHBM is on file at the Town Hall.

3. Definitions

A) "Area of Special Flood Hazard" means the land in the flood plan within a community subject to a one per cent or greater chance of flooding in any given year.

B) "Base Flood" means the flood having a one per cent chance of being equalled or exceeded in any given year.

C) "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 or drilling operations located within the area of special flood hazard.

D) "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored, before the damage occurred.

E) For the purpose 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.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic places or a State Inventory of Historic Places.

BRANT (T)

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED APR 22 1987

[Signature]
Secretary of State

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of BRANT
Town
Village

Local Law No. 1 of the year 1987

providing to amend Local law No. 2 for the year 1983 entitled
A local law Flood Damage Prevention Law
(Insert title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City of BRANT as follows:
Town
Village SEE ATTACHED

LOCAL LAW NO. 1 FOR THE YEAR 1987
AMENDING LOCAL LAW NO. 2 FOR THE YEAR 1983
TOWN OF BRANT

A Local Law amending Local Law No. 2 for the year 1983 of the Town of Brant entitled "Flood Damage Prevention Law".

BE IT ENACTED, by the Town Board of the Town of Brant, as follows:

SECTION 1. Amending Paragraph 2 of the Flood Damage Prevention Law of the Town of Brant.

That Paragraph 2 is hereby amended to read as follows:

2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD -- The area of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 360229B dated January 6, 1984, is hereby adopted and declared to be a part of this Local Law. This FHBM or FIRM is on file at the Brant Town Hall.

SECTION 2. Amending Paragraph 3(A) of the Town of Brant Flood Damage Prevention Law.

That Paragraph 3(A) is hereby amended to read as follows:

3(A) "Area of Special Flood Hazard" is the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A - 99, V, VO, VE, or VL-30. It is also commonly referred to as the base flood plain or 100-year flood plain.

SECTION 3. Amending Paragraph 3 of the Town of Brant Flood Damage Prevention Law.

That Paragraph 3 is hereby amended by addition of additional terms to read as follows:

3(F) "building" means any structure built for support, shelter, or enclosure for occupancy or storage.

3(G) "Structure" means any walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

3(H) "Flood Insurance Rate Map (FIRM)" means any official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

SECTION 4. Amending Paragraph 4(A)(1) of the Town of Brant Flood Damage Prevention Law.

That Paragraph 4 (A)(1) is hereby amended to read as follows:

4(A)(1) Outdoor recreation including parks, picnic groves, hiking and bicycle paths, and other recreational uses, excluding buildings and other structures, as approved by the Town.

SECTION 5. This Local Law shall take effect immediately upon adoption, publication and posting, or personal service of a certified copy thereof, as provided by Law.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 87.
County
of the ~~City~~ of BRANT was duly passed by the TOWN BOARD
Town
Village (Name of Legislative Body)
on April 14 19 87 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer, * or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____.
County
of the ~~City~~ of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19 _____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____.
County
of the ~~City~~ of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19 _____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19 _____. Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____.
County
of the ~~City~~ of _____ was duly passed by the _____ on _____
Town (Name of Legislative Body)
Village
_____ 19 _____ not disapproved
and was approved by the _____ on _____
repassed after disapproval Elective Chief Executive Officer *
_____ 19 _____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19 _____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.



Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: April 19, 1987

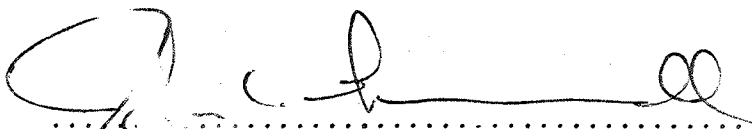
(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Town ATTORNEY

Title

Date: April 19, 1987

County
City
Town
Village
e

BRANT

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE

41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City of -----Buffalo-----

Town

Village

Local Law No.-----7----- of the year 2008----

A local law amending Chapter 28 of the Charter of the City of Buffalo in relation to areas of special flood hazard within the jurisdiction of the City of Buffalo, Erie County

(Insert Title)

Be It enacted by the -----Common Council----- of the

(Name of Legislative Body)

County

City of -----Buffalo----- as follows:

Town

Village

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF BUFFALO AS FOLLOWS:

Section 1: That Article 31 of the Charter of the City of Buffalo, adopted pursuant to law, is hereby amended as follows:

§ 31-3. General Provisions.

3.1 Lands to which this Local Law Applies

This local law shall apply to all areas of special flood hazard within the jurisdiction of the City of Buffalo, Erie County.

3.2 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard for the City of Buffalo, Community Number 360230, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map (multiple panels) 0010 and 0020, whose effective date is August 23, 1999,

(2) A scientific and engineering report entitled "Flood Insurance Study, City of Buffalo, New York, Erie County" dated August 23, 1999 containing information pertaining to the panels identified above,

(3) Flood Insurance Rate Map Panels for Erie County, Numbers:

36029C0326G, 36029C0327G, 36029C0331G, 36029C0333G, whose effective date is September 26, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction, and

(4) A scientific and engineering report entitled "Flood Insurance Study, Erie County, New York, All Jurisdictions" dated September 26, 2008.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: The Department of Public Works, Parks and Streets,

(1)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____ in accordance with the applicable provisions of law.
(Same of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No _____-7-_____ of 2008 of the (City) of _____-Buffalo-_____ was duly passed by the _____-Common Council-_____ on --- 09/02/2008 ---, and was (approved)
(Name of Legislative Body)
by the _____-Mayor-_____ and was deemed duly adopted on --- 09/22/2008 ---,
(Elective Chief Executive Officer-)
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 20 _____ of the (City) of _____-Buffalo-_____ was duly passed by the _____-Common Council-_____ on _____ 20_____, and was (approved)
(Name of Legislative Body)
after disapproval) by the _____-Mayor-_____ on _____ 20_____. Such local law was
(Elective Chief Executive Officer-)
submitted to the people by reason of a (mandatory) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) election held on _____ 20_____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 20_____
of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20_____, and was (approved)(not
(Name of Legislative Body)
approved)(repassed after disapproval) by the _____ on _____ 20_____
(Elective Chief Executive Officer-)
Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____ in accordance with the applicable provisions of law.

Elective Chief Executive Officer means or Includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**City Clerk's Department
BUFFALO**

September 5, 2008

HON. BYRON W. BROWN
MAYOR OF BUFFALO

DEAR SIR:

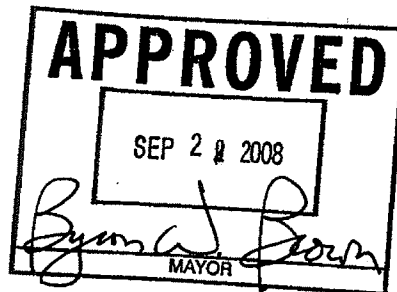
Pursuant to the provisions of Section 3-19 of the Charter, I present
herewith the attached resolution item.

No. 129

PASSED September 2, 2008

LL Intro # 6 Amend City Charter in Relation to Areas of Special Flood Hazard

Gerald A Chwalinski
City Clerk



The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: The Department of Public Works, Parks and Streets, Division of Engineering, 65 Niagara Square, Room 605, Buffalo, New York.

3.3 Interpretation and Conflict with Other Laws

This Local Law includes all revisions to the National Flood Insurance Program through [November 1, 1989] October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

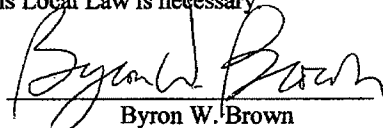
In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

Section 2: Insofar as the provisions of this local law are inconsistent with the provisions of any other local law or act, the provisions of this local law shall be controlling.

Section 3: This local law shall take effect immediately.

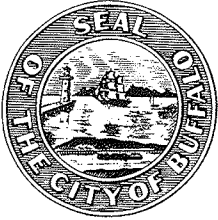
Section 4: IT IS HEREBY CERTIFIED, pursuant to Section 3-17 of the Charter of the City of Buffalo, that the immediate passage of this Local Law is necessary


Byron W. Brown
Mayor



NOTE: Matter underlined is new,
matter in brackets is to be deleted.

PASSED



MAYOR
ANTHONY M. MASIELLO

CORPORATION COUNSEL
MICHAEL B. RISMAN

CITY OF BUFFALO

DEPARTMENT OF LAW

65 NIAGARA SQUARE - 1100 CITY HALL
BUFFALO, NEW YORK 14202-3379

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ROBERT E. PEARMAN
JENNIFER C. PERSICO
JEFFERY E. REED
RICHARD E. STANTON
JOY C. TROTTER
SUSAN P. WHEATLEY

October 25, 1999

New York State Department of
Environmental Conservation
Flood Protection Bureau
50 Wolf Road - Room 388
Albany, New York 12233-3507

Attn: William Nechamen

RE: City of Buffalo Flood Damage
Prevention Local Law Amendment

Dear Mr. Nechamen:

Enclosed please find a certified copy of various amendments to the City of Buffalo's Flood Damage Prevention legislation. These changes were made pursuant to the instructions in your letter dated August 20, 1999. The amendments were passed by the Common Council on October 5, 1999 and signed by the Mayor on October 20, 1999.

I have also enclosed a copy of the acknowledgement letter received from the New York State Department of State regarding the original local law.

Thank you for your attention.

Very truly yours,

Michael B. Risman
Corporation Counsel

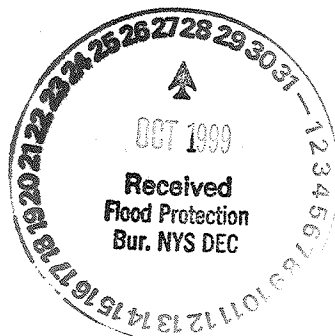
Darryl McPherson

By: Darryl McPherson
Assistant Corporation Counsel

Enc.

MBR:DMcP

T:\WP60\DMCP\LETTERS\FLOODAM1.WPD



(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

City of Buffalo

~~Town~~

~~Village~~

~~XXXXXX~~

12

99

Local Law No. of the year 19

A local law amending Article 23-A of the Charter of the City of Buffalo in
(Insert Title)
relation to Flood Damage Prevention.

Be it enacted by the Common Council of the

~~County~~

City of Buffalo as follows:

~~Town~~

~~Village~~

Section 1. That Article 23-A of the Charter of the City of Buffalo, adopted pursuant to law, is hereby amended as follows:

(a) By amending sections 5.3-1(1), 5.4(1)(i), and 5.4(1)(ii) to read as follows:

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION.

The following standards, in addition to the standards in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to above or one foot above the base flood level.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, AND 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A-30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, (If additional space is needed, attach pages the same size as this sheet, and number each.)

shall either:

- (i) have the lowest floor, including basement or cellar, elevated to or above one foot above the base flood elevation; or
- (ii) be floodproofed so that the structure is watertight below one foot above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

Section 2. This local law shall take effect immediately.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ 12 of 1999 of the (County)(City)(Town)(Village) of _____ Buffalo was duly passed by the _____ Common Council on 10/5 19 99, and was (approved)(not approved)(repassed after disapproval) by the Mayor and was deemed duly adopted on 10/20 19 99, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

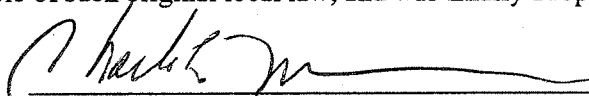
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 2_____, above.


Clerk of the County of _____, City, _____
~~XXXXXX XXXXXXXX XXXXXXXX XXXXXXXX~~


Date: 10/20/99

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Corporation Counsel

Title

~~XCounty~~
City of Buffalo
~~XTown~~
~~XVillage~~

Date: October 20, 1999



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

August 23, 1999

CHARLES L. MICHAUX, III
ROOM 1308
CITY HALL
BUFFALO, NY 14202

RE: City of Buffalo, Local Law 10, 1999, filed 08/16/99

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

A handwritten signature in cursive script that reads "Janice G. Durfee".

Janice G. Durfee
Principal File Clerk
Bureau of State Records
(518) 474-2755

JGD:ml

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City of Buffalo

Town of

Village

Local Law No. 10 of the year 19 99

A local law amending Article 23-A of the Charter of the City of Buffalo in relation
to Flood Damage Prevention.

Be it enacted by the Common Council of the

County

City

Town of

Village

Buffalo

as follows:

Section 1. That Article 23-A of the Charter of the City of Buffalo, adopted pursuant to law, is hereby amended as follows:

(a) By enacting a new article to read as follows:

ARTICLE 23-A

FLOOD DAMAGE PREVENTION

SECTION 1.0

STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Common Council of the City of Buffalo finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Buffalo and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0

DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building", see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities,

the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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 such as a docking or port facility necessary for the loading and unloading of cargo or

passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle".

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the Community and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

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

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the City of Buffalo.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map (multiple panels) Index No. 360230 0001-0020, whose effective date is August 23, 1999.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Buffalo, New York, Erie County," dated August 23, 1999.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: The Department of Public Works, Division of Engineering, 65 Niagara Square, Room 605, Buffalo, New York.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City of Buffalo from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the City of Buffalo, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0

ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Commissioner of Public Works is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

- (1) All applications for a floodplain development permit shall be accompanied by an application fee of \$26.25. In addition, the applicant shall be responsible for reimbursing the City of Buffalo for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.

- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property

(e.g., stream bank erosion and increased flood velocities).

The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those government agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available; upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a

licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring

requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0

CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (3) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the City of Buffalo agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Buffalo for all fees

and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Buffalo for all costs related to the final map revision.

- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
- (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the City of Buffalo agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Buffalo for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Buffalo for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and, also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the

following minimum criteria:

(i) 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 flooding; and

(ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards, in addition to the standards in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2

STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to ~~of~~ one foot above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor

(including basement) elevated at least three feet above the highest adjacent grade.

- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or *above* one foot above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight ~~one foot below~~ *one foot above* the base flood level with walls substantially impermeable to the passage of water. All structural components located ~~one foot below~~ the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet, the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting

the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5. 1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (4) and (5).A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:
 - (i) outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;shall be elevated on a permanent foundation such that the lowest floor is elevated to ^{above} or one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
 - (i) elevated in a manner such as required in paragraph 5.5(2), or
 - (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as one foot more than the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 6.0

VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Flood Hazard Review Board as established by the City of Buffalo shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Flood Hazard Review Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Flood Hazard Review Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Flood Hazard Review Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Flood Hazard Review Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (4) Variances may be issued for the repair or rehabilitation of historic

structures upon determination that:

(i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".

(ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;

(ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief

- (6) Variances shall only be issued upon receiving written justification of:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Section 2. This local law shall take effect immediately.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 10 of 1999 of the ~~(County)~~(City)~~(Town)~~(Village) of Buffalo was duly passed by the Common Council on 7/27 1999, and was (approved)(not approved)(repassed after ~~disapproval~~) by the Mayor and was deemed duly adopted on 8/13 1999, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

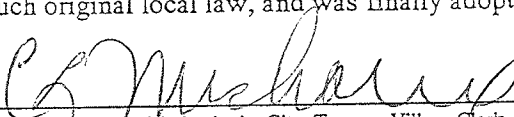
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph-----2-----, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

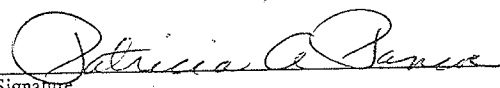
Date: _____ 8/13/99 _____

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature
Senior Deputy
Corporation Counsel

Title

~~COUNTY~~
City of Buffalo
~~TOWN~~
~~VILLAGE~~

Date: _____ 8/13/99 _____

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Cheektowaga

Local Law No. 6 of the year 2001

A local law To Repeal the Current FLOOD DAMAGE PREVENTION Local Law and to Adopt a New FLOOD DAMAGE PREVENTION Local Law in the Town of Cheektowaga.

Be it enacted by the Town Board of the Town of Cheektowaga, Erie County, N.Y. as follows:

REPEAL OF CURRENT FLOOD DAMAGE PREVENTION LOCAL LAW

Local Law No. 1 of the Year 1987 (Chapter of the Code of the Town of Cheektowaga) is hereby repealed in its entirety and a new Flood Damage Prevention Law, as hereinafter listed, is hereby adopted.

**SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE**

1.1 FINDINGS

The Town Board of the Town of Cheektowaga finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Cheektowaga and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Town Engineer's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

"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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Cheektowaga, exclusive of the Villages of Sloan and Depew.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) A scientific and engineering report entitled "Flood Insurance Study, Town of Cheektowaga, New York, Erie County", dated March 15, 1984; including Flood Profile 12P for Scajaquada Creek issued by LOMR effective January 26, 2002.
- (2) Flood Insurance Rate Map 360231-0010F, whose effective date is March 15, 1984.
- (3) Flood Boundary and Floodway Map 360231-0010, whose effective date is March 15, 1984; and
- (4) Flood Insurance Rate Map 360231-0005E, whose effective date is April 8, 1983.
- (5) Flood Boundary and Floodway Map 360231-0005, whose effective date is April 8, 1983.
- (6) Flood Boundary and Floodway Map 360231, Panel 0001, 0002 & 0003, whose effective date is July 2, 1981.
- (7) Letter of Map Revision, effective January 26, 2002, as FEMA Case #00-02-013P which incorporates a revised hydraulic analysis of Scajaquada Creek Tributary T-1 affecting panel 360231-0005.
- (8) Letter of Map Revision, effective March 14, 1995, as FEMA Case #94-02-089P, which incorporates a revised hydraulic analysis of Scajaquada Creek affecting Panel 360231 0005.

The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the office of the Town Engineer.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through September 24, 1994, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Town Engineer the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Town Engineer the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Town Engineer, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Town Engineer, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE TOWN ENGINEER

Duties of the Town Engineer shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.

4.4-5 INSPECTIONS

The Town Engineer and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Town Engineer shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Town Engineer shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Town Engineer stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Town Engineer upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Town Engineer shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. **Enclosed areas sub-grade on all sides are considered basements and are not permitted.**

5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

- (i) be on site fewer than 180 consecutive days,
- (ii) be fully licensed and ready for highway use, or
- (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:

- (i) outside of an existing manufactured home park or subdivision as herein defined;
- (ii) in a new manufactured home park or subdivision as herein defined;
- (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
- (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated **TWO FEET OR MORE** above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (i) elevated in a manner such as required in paragraph 5.5(2), or
- (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than

- (5) Upon consideration of the factors of Section 6.l(4) and the purposes of this local law, the Zoning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Town Engineer shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.l(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a **"Historic structure"**.
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that: ***(i) the issuance of a variance to construct a structure 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 (ii) such construction below the base flood level increases risks to life and to property. Such notification shall be maintained with a record of all variance actions and provided to the Federal Emergency Management Agency and to the NYSDEC upon request.

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Colden
~~Town~~
~~Village~~

Local Law No. 3 of the year 1989

A local law to establish the areas of special flood hazard, and to provide a procedure for obtaining a ^(insert title) Variance by amending Chapter 52 of the Code of the Town of Colden.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Colden as follows:
~~Town~~
~~Village~~

BE IT enacted by the Town Board of the Town of Colden that Chapter 52 of the Code of the Town of Colden is hereby amended as follows:

SECTION I:

Section 52-4 - BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

SECTION 52-4 A. The areas of special flood hazard have been identified by the Federal Emergency Management agency in a scientific and engineering report entitled "Flood Insurance Study Town of Colden, New York, Erie County" dated January, 1979 with Flood Insurance Rate Maps enumerated on Map Index No. 360233 0001-00012 dated July 2, 1979 and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 360233 0001-00012 dated July 2, 1979.

The above documents are, hereby adopted and declared to be a part of this local law and are filed at the office of the Town Clerk, Town of Colden, S 8812 State Road, Colden, New York 14033.

(If additional space is needed, please attach sheets of the same size as this and number each)

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No.³... of 19⁸⁹...
County
City-
of the Town of Colden was duly passed by the Colden Town Board
Village- (Name of Legislative Body)
on November 9, 19⁸⁹ in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive
general
thereon at the special election held on 19, in accordance with the applicable
annual
provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of 19,
in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

SECTION II:

SECTION 52-10 of the existing Code is hereby amended
to read as follows:

SECTION 52.10 - VARIANCE PROCEDURE

Section 52-10(A) APPEALS BOARD

(1) The Zoning Board of Appeals as established by the Town of Colden shall hear and decide appeals and requests for variances from the requirements of this local law.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.

(3) Those aggrieved by the decision of the Zoning Board of Appeals, may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4). In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards, specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
- (ii). the danger to life and property due to flooding or erosion damage;
- (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) the importance of the services provided by the proposed facility to the community;
- (v) the necessity to the facility of a waterfront location, where applicable;
- (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) the compatibility of the proposed use with existing and anticipated development;

- (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) the costs to local governments and the dangers associated with conducting search and rescue operations during period of flooding;
- (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose of this local law.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

52.10(B) CONDITIONS FOR VARIANCES

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been duly considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic places or the State Inventory of Historic Places, without regard to the

contributing structures procedures set forth in the remainder of this section.

(3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) the criteria of subparagraphs 1, 4, 5, and 6, of this section are met;
- (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall only be issued upon receiving written justification:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

SECTION III: This Local Law shall take effect immediately.

Be it enacted this 9th day of November, 1989 by the Town Board of the Town of Colden, Erie County, New York, and the Town Clerk is hereby directed to file this Local Law with the Secretary Of State and to forward a copy of the same to the General Code Publishers to be made a part of the Code Book.

<u>Marilynn Calhoun</u>	<u>Voting</u>	Aye
<u>David Bower</u>	<u>Voting</u>	Aye
<u>Perry Christ</u>	<u>Voting</u>	Aye
<u>Philip Schueler</u>	<u>Voting</u>	Aye
<u>Edward Wohlhueter</u>	<u>Voting</u>	Aye
<u> </u>	<u> </u>	<u> </u>

SEAL

Town of Colden

ATTEST.

Deborah A. Gusch

CLERK

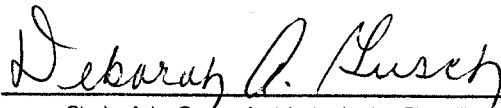
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of §³⁶₃₇ of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special}_{general} election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.



Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

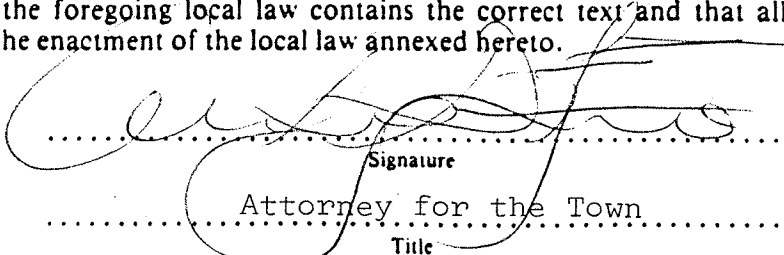
Date: November 13, 1989

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


.....
Signature
.....
Attorney for the Town
.....
Title

Date: November 13, 1989

County-
City- of Colden
Town
Village



NOV 20 1987

R/S
RJA -

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Colden
Town
Village
Local Law No. 1 of the year 19 87

A local law to amend the local law regarding flood hazard areas.
(Insert title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City of Colden as follows:
Town
Village

SECTION 1: The purpose of this Law is to modify specified sections of the Flood Hazard Areas Local Law now existing as a part of the Code of the Town of Colden under Chapter 52.

SECTION 2: Section 52-3 is amended to delete the definition of mobile home and add the definition of manufactured home as follows:

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

SECTION 3: Section 52-3 is amended to add the definition of "Start of Construction" as follows:

START OF CONSTRUCTION - means the initiation, excluding planning and design, of any phase of a project, physical alteration of property and shall include land preparation, such as clearing, grading and filling, installation of streets and/or walkways, excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

SECTION 52-11 (a) (5) shall be amended as follows:

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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
(If additional space is needed, please attach sheets of the same size as this and number each)

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 floodwaters.

SECTION 4: Section 52-4 is amended by adding the following:

The local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, as criteria for requiring that new construction, substantial improvements or other development in compliance with this Ordinance.

SECTION 5: Section 52-6 (A) (2) (b) (2)(c) is amended to replace the subsection with the following:

Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating with the components during conditions of flooding.

SECTION 6: Section 52-6 (A) (2) (b) (2) (d) is amended by adding the following:

Provide that wherever a non-residential structure is intended to be made water tight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in conformance with the accepted standards of practice for meeting applicable provisions of this Ordinance, and (ii) a record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are water proofed shall be maintained with the official designated by the community under this Ordinance.

SECTION 7: Section 52-6 (a) (2) (f) is amended by adding the new subsection as follows:

ANCHORING: All manufactured homes shall be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, 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.

SECTION 8: Section 52-8 (G) is amended by adding the new subsection as follows:

G. Construction stage -Upon the placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a Certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood-proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

SECTION 9: This Law shall take effect immediately upon its filing with the Secretary of State.

and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

SECTION 52-11 (a) (5) shall be amended as follows:

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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 the opening 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 floodwaters.

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SECTION 6: Section 52-6 (A) (2) (b) (d) is amended by adding the following:

Provide that wherever a non-residential structure is intended to be made water tight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are meeting applicable provisions of this Ordinance, and (ii) a record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are water proofed shall be maintained with the official designated by the community under this Ordinance.

SECTION 7: Section 52-6 (a) (2) (f) is amended by adding the new subsection as follows:

ANCHORING: All manufactured homes shall be placed within Zone A on a community's FHRM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, 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.

SECTION 8: Section 52-8 (G) is amended by adding new subsection as follows:

G. Construction stage - Upon the placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a Certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood-proofing certificate shall be prepared by or under the direct

TOWN OF COLDEN RESOLUTION

STATE OF NEW YORK }
COUNTY OF ERIE } SS.
TOWN OF COLDEN }

RESOLUTION NO. 3-1987
DATE: March 12, 1987

TO WHOM IT MAY CONCERN:

I Deborah A. Gusch, Town Clerk of the Town of Colden, Erie County, New York, do hereby certify that at an adjourned, regular, special meeting of the Town Board of the aforesaid town, on the 12th day of March, 1987, at the Colden Town Hall, Colden, New York the following resolution was adopted of which the following is a true copy.

RESOLVED that the Town Board of the Town of Colden hereby adopts Local Law No. 1 of 1987 to read as follows:

SECTION 1: The purpose of this Law is to modify specified sections of the Flood Hazard Areas Local Law now existing as a part of the Code of the Town of Colden under Chapter 52.

SECTION 2: Section 52-3 is amended to delete the definition of mobile home and add the definition of manufactured home as follows:

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

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START OF CONSTRUCTION- means the initiation, excluding planning and design, of any phase of a project, physical alteration of property and shall include land preparation, such as clearing, grading and filling, installation of street and/or walkways, excavation for a basement, footings, piers or foundations

VOTE AS FOLLOWS: Marilyn Calhoun, Supervisor Aye
David Bower, Councilman Aye
Ronald Darstein, Councilman Aye
Frederick Dittmar, Councilman Aye
Edward Wohlhueter, Councilman Aye

AYES 5
NOES 0
ABSENT 0

I do further certify that I have compared the foregoing with the original minutes of the adjourned, regular, special meeting of the Town Board of the said Town held on the 12th day of March, 1987, and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the said resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Colden this 16th day of March, 1987.

SEAL

Deborah A. Gusch
TOWN CLERK, TOWN OF COLDEN

FLOOD HAZARD AREAS

Chapter 52

FLOOD HAZARD AREAS

- § 52-1. Findings of fact.
- § 52-2. Statement of purpose.
- § 52-3. Word usage; definitions.
- § 52-4. Establishment of A-2 Zone.
- § 52-5. Applicability; effect on other provisions.
- § 52-6. Special permit required; construal of requirements.
- § 52-7. Warning and disclaimer of liability.
- § 52-8. Special permit procedure.
- § 52-9. Nonconforming uses.
- § 52-10. Variances.
- § 52-11. Standards for reducing flood hazard.

[HISTORY: Adopted by the Town Board of the Town of Colden 8-14-80.¹ Sections 52-5, 52-8E and 52-9B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 26.
Building Inspector and Enforcement Officer — See Ch. 28.
Unsafe buildings — See Ch. 31.
Environmental quality review — See Ch. 43.
Freshwater wetlands — See Ch. 55.
Subdivision of land — See Ch. 92.
Zoning — See Ch. 108.

¹ Editor's Note: This chapter was originally adopted 8-14-80 as Section 16 of the Zoning Ordinance. For zoning provisions, see Ch. 108, Zoning.

may be undertaken without full realization of the danger, through:

- (1) Regulating the manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life within such structures.
 - (2) Regulating the method of construction of water supply and sanitation systems so as to prevent disease, contamination and unsanitary conditions.
 - (3) Delineating and describing areas that could be inundated by floods so as to protect individuals from purchasing floodplain lands for purposes which are not in fact suitable.
- C. Protect the public from the burden of extraordinary financial expenditures for flood control and relief, through regulating all uses within the one-hundred-year floodplain so as to produce a method of construction and a pattern of development which will minimize the probability of damage to property and loss of life or injury to the inhabitants of the flood hazard areas.
- D. Protect the storage capacity of floodplains and to assure retention of sufficient floodway area to convey flood flows which can reasonably be expected to occur by:
- (1) Regulating filling, dumping, dredging and alteration of channels by deepening, widening or relocating.
 - (2) Prohibiting unnecessary encroachments.
 - (3) Encouraging uses such as recreation, parking and agriculture.

§ 52-3. Word usage; definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this chapter its most reasonable application.

flood hazard area. Said provisions may include, but are not limited to:

- (1) Anchorage to resist flotation and lateral movement.
- (2) Installation of watertight doors, bulkheads and shutters.
- (3) Reinforcement of walls to resist water pressures.
- (4) Use of paints, membranes or mortars to reduce seepage of water through walls.
- (5) Addition of mass or weight to structures to resist flotation.
- (6) Installation of pumps to lower water levels in structures.
- (7) Construction of water supply and waste treatment systems to prevent the entrance of floodwaters.
- (8) Pumping facilities for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures.
- (9) Construction to resist rupture or collapse caused by water pressure or floating debris.
- (10) Cutoff valves on existing sewer lines or the elimination of existing gravity flow basement drains, and installation of only nongravity flow sewer and drains in new basement construction.

FLOOD STAGE — The height or elevation of a flood as referred to some datum. For other purposes, it is commonly used to refer to the elevation at which a stream will overtop its normal stage banks.

FLOODWAY — 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 (1) foot.

HABITABLE FLOOR — Any floor usable for living, purposes, which include working, sleeping, eating, cooking or

foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages or sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing the manufactured home to its permanent site. [Added 3-12-87 by L.L. No. 1-1987]

STORAGE CAPACITY OF A FLOODPLAIN — The volume of space above an area of floodplain land that can be occupied by floodwater of a given stage at a given time, regardless of whether the water is moving. Storage capacity tends to reduce downstream flood peaks.

STRUCTURE — Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground; includes but is not limited to objects, such as buildings, factories, sheds and cabins.

STRUCTURE, PERMANENT — A structure which is built of such materials and in such a way that it would commonly be expected to last and remain useful for a substantial period of time.

STRUCTURE, TEMPORARY — A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life or is built for a purpose that would commonly be expected to be of relatively short-term.

TEN-YEAR FLOOD — One that has a frequency of occurrence on the average of once in ten (10) years determined from an analysis of floods on a particular watercourse and other watercourses in the same general region. It has about a ten-percent chance of occurring in any given year.

UPLAND — The area beyond the inundation limits of the one-hundred-year flood.

WATERCOURSE — A channel, natural depression, artificial channel, stream, creek, pond, reservoir or lake in which storm runoff and floodwater flows either regularly or infrequently. This includes major drainageways for carrying urban storm runoff.

§ 52-6. Special permit required; construal of requirements.

A. No land shall be used, filled, excavated, altered or occupied; and no structure shall be erected, altered, moved, extended or converted within the A-2 Zone unless and until a special permit is issued by the Town Board in the manner hereinafter set forth:

- (1) Minimum standards, floodway. The floodway as defined herein and shown on the Flood Boundary and Floodway Map of the Town of Colden and set forth in the Flood Insurance Study of the Town of Colden, prepared by the Federal Insurance Administration at Table 2 therein, is hereby established.
 - (a) Any alteration, occupation, excavation, filling, dumping or other disturbance or development of the floodway is prohibited.
 - (b) Notwithstanding Subsection A(1)(a) above, the removal of creek gravel may be permitted by the Town Board after a satisfactory showing by the applicant that said removal will not increase the flood level or flood hazard and upon presentation of permits from the appropriate agencies of New York State which are required by law.
- (2) Minimum standards, floodway fringe. "Floodway fringe" shall refer to the area between the floodway boundary and the one-hundred-year-flood boundary (boundary of A-2 Zone).
 - (a) Residential use. Any building to be constructed or addition or substantial alteration of an existing building which is used for a residence located within the floodway fringe shall have the lowest floor, including basement, elevated to or above the base flood level.
 - (b) Nonresidential use.
 - [1] Any building to be constructed or addition to an existing building or substantial alteration of an existing building which is not used for a residence shall:

certify that the design and methods of construction are in conformance with the accepted standards of practice for meeting applicable provisions of this chapter, and a record of such certification which includes the specific elevation, in relation to mean sea level, to which such structures are waterproofed shall be maintained with the official designated by the community under this chapter. [Added 3-12-87 by L.L. No. 1-1987]

- (c) Subdivisions. In the event that a proposed residential subdivision includes land within Zone A-2:
 - [1] No structures shall be permitted within Zone A-2;
 - [2] Adequate drainage shall be provided to reduce exposure to flood hazards; and
 - [3] Said subdivision shall be designed so as to minimize the increase of groundwater flow and soil erosion into the channel.
- (d) Mobile homes. No mobile home shall be located within Zone A-2.
- (e) Structures. All manner and kind of structures hereafter permitted and substantial improvements of existing structures shall be:
 - [1] Designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure.
 - [2] Constructed with materials and utility equipment resistant to flood damage.
 - [3] Constructed by methods and practices that minimize flood damage.
- (f) Anchoring. All manufactured homes which shall be placed within Zone A on the community's FHB or

sole discretion said Town Board may deem necessary or prudent to carry out the intent and purposes of this chapter.

§ 52-7. Warning and disclaimer of liability.

The degree of flood protection intended to be provided by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside floodplain zoning district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damages; nor shall this chapter create a liability on the part of or a cause of action against the Town of Colden or any officer or employee thereof for any flood damages that may result for reliance on this chapter.

§ 52-8. Special permit procedure.

A. Application. Application for a special permit required in § 52-6 above shall be made to the Town Board at the office of the Town Clerk. Said application shall contain:

- (1) Two (2) copies of an aerial photograph or a plan certified by a registered engineer, competent in open channel hydraulics, which accurately locates the floodplain proposal with respect to the district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property and survey of said property, fill limits and elevations, building floor elevations and floodproofing measures.
- (2) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all proposed structures and the elevation in relation to mean sea

to the Conservation Board, which said Board shall review the proposal and file a written report with the Town Board at the next Town Board meeting.

- (3) The Town Board shall hold a public hearing on said application upon receipt of the report of the Conservation Board.
 - (4) The Town Board shall require the presentation of all necessary permits from the federal or state agencies which must approve the project before approving the application.
- C. Determination. Within thirty-one (31) days of said public hearing, the Town Board shall approve or deny said application.
- (1) In the event that the application is approved, the Town Clerk shall issue the special permit forthwith, with all the requirements, conditions or restrictions endorsed thereon.
 - (2) In the event that the application is denied, the Town Board shall state the reason for said denial. The Town Board may make recommendations for revision of the project and allow leave to reapply or unconditionally deny said application.
- D. Mapping disputes. In the event that the applicant contests the location of the district boundary, said applicant shall be given a reasonable opportunity to present evidence to the Town Board on said issue. The Town Board shall resolve the dispute in its sole discretion.
- E. Certificate of compliance. The Town Board may require the applicant to submit a certification by a registered professional engineer or architect that all the requirements of this chapter and the conditions of the special permit were properly and completely accomplished. Said certification shall be furnished in all cases where a structure has been floodproofed. The Building Inspector shall, within ten (10) days after receipt of such certification, issue a certificate of compliance or a notification of noncompliance.

B. [Amended 12-29-84 by L.L. No. 1-1984] The existing lawful use of a structure or premises which is otherwise in conformity with this chapter, Chapter 28, Building Inspector and Enforcement Officer, and Chapter 108, Zoning, but not in conformity with the provisions of this chapter may be continued subject to the following conditions:

- (1) No such use shall be expanded or enlarged except in conformity with the provisions of this chapter, Chapter 28, Building Inspector and Enforcement Officer, and Chapter 108, Zoning.
- (2) No structural alteration, addition or repair to any nonconforming structure over the life of the structure shall exceed fifty percent (50%) of its assessed value at the time of its becoming a nonconforming use unless permanently changed to a conforming use.
- (3) If such use is discontinued for twelve (12) consecutive months, any future use of the building and premises shall conform to this chapter, Chapter 28, Building Inspector and Enforcement Officer, and Ch. 108, Zoning.

§ 52-10. Variances.

In addition to the terms and conditions of Chapter 108, Zoning, regarding variances (§ 108-5), the following additional standards are set forth which shall apply to all applications for a variance within Zone A-2:

- A. No variance shall be permitted which would cause an increase in flood levels.
- B. The Town Clerk shall notify the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance on said structure up to amounts as high as twenty-five dollars (\$25.) per one hundred dollars (\$100.) of insurance coverage and that said construction increases risk to life and property.

- (1) Any structure permitted in the one-hundred-floodplain should be designed, constructed and placed on the lot so as to offer minimum obstruction to the flow of floodwaters.
 - (a) Whenever possible, structures should be constructed with the longitudinal axis parallel to the direction of flow of floodwaters.
 - (b) So far as practicable, structures should be placed so their longitudinal axis are approximately on the same line as those of adjoining structures.
- (2) Any structure permitted in the special flood hazard area should be firmly anchored to prevent the structure from floating away and thus threatening to restrict bridge openings or other restricted sections of the streams.
- (3) Any structure permitted in the floodway fringe should be constructed so as not to be subject to appreciable damage by floodwaters.
- (4) Service facilities such as electrical and heating equipment should be located at or above the flood protection elevation for the particular area.
- (5) All roads, service connections, utility layout and design, sewage and water supply systems should be constructed with due regard to the existence of potential flood hazards and the existence of possible high water tables.
- (6) Any building site preparation, excavation, strip mining, quarrying, sand and gravel removal operation in the special flood hazard area should be conducted in a manner to prevent siltation of and sedimentation in the designated watercourses.

- (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one (1) foot above grade.
 - (c) Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- B. Protection of storage capacity of the one-hundred-year floodplain. No structure, temporary or permanent, fill, deposit, obstruction, excavation, strip mining, storage of materials or other uses should be permitted in the special flood hazard area which adversely affects the capacity of the floodplain to store water or which may diminish the storage and carrying capacity of the designated water-courses.
- C. Structural standards relating to protection of life and property. Structures which are accessory to uses permitted in the special flood hazard area should not be susceptible to flood damage and thereby dangerous to life or property in times of flood. They should be protected by floodproofing measures, for both the foundation and the superstructure, such as proper anchorage and underpinning, protection coverings, seepage control, utility adjustments and appliances and roadbed protection.

(Cont'd on page 5217)

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~-County-~~
~~-City-~~ of Collins
Town
~~-Village~~

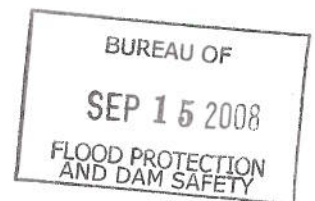
Local Law No. 1 of the year 20 08

A local law for Flood Damage Prevention as authorized by the New
(Insert Title)
York State Constitution, Article IX, Section 2, and
Environmental Conservation Law, Article 36

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~-County-~~
~~-City-~~ of Collins as follows:
Town
~~-Village~~

See Attached



(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 08 of the ~~(County)(City)(Town)(Village)~~ of Collins was duly passed by the Town Board on August 4 20 08, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.~~
~~(Name of Legislative Body)~~
~~(Elective Chief Executive Officer*)~~

3. (Final adoption by referendum.)

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.~~
~~(Name of Legislative Body)~~
~~(Elective Chief Executive Officer*)~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority ~~of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ~~one~~, above.

Becky Jo Summers
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body
Becky Jo Summers, Town Clerk
Date: August 21, 2008

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

James A. Musacchio
Signature James A. Musacchio
Attorney for the Town of Collins
Title

~~County~~ Collins
~~City of~~
Town
~~Village~~

Date: August 21, 2008

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Collins finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Collins and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard;
and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of

this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

“Cumulative Substantial Improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

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

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. 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, whether or not that alteration affects the external dimensions of the building.

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

"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 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. Substantial improvement also means "cumulative substantial improvement". The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Collins, Erie County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Collins, Community Number 360234, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Numbers:

36029C0638G, 36029C0639G, 36029C0643G, 36029C0644G, 36029C0645G, 36029C0665G, 36029C0670G, 36029C0752G, 36029C0756G, 36029C0757G, 36029C0758G, 36029C0759G, 36029C0776G, 36029C0777G, 36029C0780G, 36029C0785G,

whose effective date is September 26, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Erie County, New York, All Jurisdictions" dated September 26, 2008.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:
The Collins Town Hall Code Enforcement Office

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Collins from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Collins, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question;

existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$ 250.00. In addition, the applicant shall be responsible for reimbursing the Town of Collins for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other

proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to

establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Collins agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Collins for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Collins for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Collins agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Collins for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Collins for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating

within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Collins shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;

- (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
 - (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (i) the issuance of a variance to construct a structure 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
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

TOWN OF CONCORD
ERIE COUNTY
SPRINGVILLE, NEW YORK

INTRO NO. 11-B
RESOLUTION NO. 10

DATE June 11th, 1987

To Whom It May Concern:

I hereby certify that a meeting of the Town Board of the Town of Concord held at the Town Hall in the Town of Concord on the 8th Day of June 19 87, a resolution was adopted of which the following is a true copy:

Councilman Kaufmann moved the adoption of Resolution 10, seconded by Councilman Smith:

WHEREAS, A Public Hearing was duly held on Monday, June 8th, 1987, at the Concord Town Hall, to consider the adoption of Local Law No. 1 of 1987 Entitled "Flood Damage Prevention",

NOW, THEREFORE BE IT

RESOLVED, That the Town Board of the Town of Concord hereby adopts Local Law No. 1 of 1987 entitled "Flood Damage Prevention", effective immediately, and

BE IT FURTHER

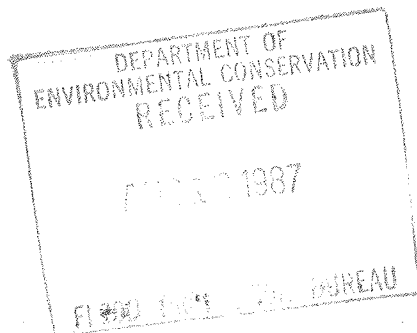
RESOLVED, That the Town Board of the Town of Concord thereafter repeals the existing Local Law #1 of the year 1986.

Voting as follows:

Supervisor Wendel	Aye
Councilman Kaufmann	Aye
Councilman Smith	Aye
Councilman Krezmien	Aye
Councilman Lux	Aye

Ronald H. Wendel
Supervisor

Attest: Mary E. Bolt
Town Clerk



(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Concord
~~Town~~
~~Village~~
Local Law No. 1 of the year 19 .. 87 ..

A local law Flood Damage Prevention
(Insert title)
as authorized by the New York State Constitution, Article IX,
Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Town of Concord Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Town of Concord as follows:
~~Town~~
~~Village~~

60.3(d)

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFD 60.3(d)) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town of Concord of the County of Eric finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Concord and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(If additional space is needed, please attach sheets of the same size as this and number each)

SECTION 2.0
DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AL-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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;

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Concord, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and

(ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.

- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2 the requirements of Section 5.3, Floodways, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;

including basement elevated to or above the base flood elevation as may be determined in Section 4.3-(2) or 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 and Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by Town of Concord shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals, may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant

Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 8th day of June, 1987 by the
Town Board of Town of
Concord Erie County, New York, to be effective
June 8th, 1987.

Ronald H. Wendt
Robert E. Smith
Joyce R. Smith
James M. Keenan
John H. Smith

SEAL

Mary E. Bolt
 ATTEST. Town CLERK

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No.1..... of 19.....87
~~County~~
of the ~~City~~ of Concord was duly passed by the Town Board
Town
~~Village~~
(Name of Legislative Body)
on June 8th, 19 87 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village
(Name of Legislative Body)
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village
(Name of Legislative Body)
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19....., in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the on
Village
(Name of Legislative Body)
..... 19..... not disapproved
and was approved by the on
repassed after disapproval Elective Chief Executive Officer *
..... 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
..... 19....., in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Depew
~~Town~~
Village

Local Law No. 1 of the year 1989

A local law Chapter 69 - Flood Damage Prevention Amendment
(Insert title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~County~~
~~City~~ of Depew
~~Town~~ as follows:
Village

CHAPTER 69 FLOOD DAMAGE PREVENTION
Amendment - Section 3.2

Basis for Establishing the Areas of Special Flood Hazard
The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Village of Depew, New York, Erie County" dated March 3, 1981 with Flood Insurance Rate Maps enumerated on Map Index No. 360236 0001-0005 dated August 3, 1981 and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 360236 0001 dated August 3, 1981.
The above documents are, hereby, adopted and declared to be a part of this local law and are filed at the Village Clerk's Office, 85 Manitou Street, Depew, New York.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of ~~§36~~ ~~§37~~ of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ~~special~~ ~~general~~ election held on 19..... became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph1..... above.

Darwin F. Wojtylak

Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: May 2, 1989

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF Erie.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]
.....
Signature

.....Village Attorney.....
Title

Date: May 2, 1989

~~x~~~~CORR~~~~x~~

~~x~~~~City~~~~x~~

~~x~~~~Town~~~~x~~

Village

of Depew.....

VILLAGE OF DEPEW

LOCAL LAW NO. OF THE YEAR 1987

A Local Law adding Chapter 31 entitled "Flood Damage Prevention" to the Village of Depew Municipal Code, as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36, and repealing Chapter 69 of said Municipal Code.

Be it enacted by the Board of Trustees of the Village of Depew, Erie County, New York as follows:

SECTION 1. ENACTMENT OF CHAPTER 31 ENTITLED "Flood Damage Prevention" OF THE VILLAGE OF DEPEW MUNICIPAL CODE.

A new Chapter is hereby added to the Village of Depew Municipal Code to read as follows:

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Depew
~~Town~~
Village

Local Law No.2..... of the year 19 .87....



A local lawChapter 31 Flood Damage Prevention..... Repeal Chapter 69.....
(Insert title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~County~~
~~City~~ of Depew as follows:
~~Town~~
Village

A Local Law adding Chapter 31 entitled "Flood Damage Prevention" to the Village of Depew Municipal Code, as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36, and repealing Chapter 69 of said Municipal Code.

SECTION 1. ENACTMENT OF CHAPTER 31 entitled Flood Damage Prevention of the Village of Depew Municipal Code to read as follows:

 (If additional space is needed, please attach sheets of the same size as this and number each) 

"CHAPTER 31

TITLE, STATUTORY AUTHORIZATION AND PURPOSE

§ 31.1 Title

This Chapter shall be known and may be cited as the "Village of Depew Flood Damage Prevention Law".

§ 31.2 Findings

The Board of Trustees of the Village of Depew finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Depew and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Chapter is adopted.

§ 31.3 Statement of purpose

It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging and other development which may increase erosion or flood damages;

5. Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;

6. Qualify and maintain for participation in the National Flood Insurance Program.

§ 31.4 Objectives

The objectives of this Chapter are:

1. To protect human life and health;

2. To minimize expenditure of public money for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

7. To provide that developers are notified that property is in an area of special flood hazard; and,

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II

DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Chapter or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, Al-99, V, VO, VE or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI-30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, ship-building, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Chapter.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Chapter.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood".

"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 as

determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 31.43(B) of this Chapter.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to commence 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. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure or contributing structure listed on the National Register of Historical Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this Chapter which permits construction or use in a manner that would otherwise be prohibited by this Chapter.

ARTICLE III

GENERAL PROVISIONS

§ 31.31 Lands to which this Chapter applies

This Chapter shall apply to all areas of special flood hazards

within the jurisdiction of the Village of Depew.

§ 31.32 Basis for establishing the areas of special flood hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Village of Depew, of Erie County, New York, Community No. 360236003D", dated August 3, 1981, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Chapter. The Flood Insurance Study and maps are on file at the Village Clerk's Office, 85 Manitou Street, Depew, New York 14043.

§ 31.33 Interpretation, conflict with other laws

This Chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, local laws or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 31.34 Severability

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

§ 31.35 Penalties for non-compliance

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Chapter and any other applicable regulations. Any infraction of the provisions of this Chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than Two Hundred Fifty Dollars (\$250.00) or imprisoned for not more than fifteen (15) days or both such fine or imprisonment. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Depew from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§ 31.36 Warning and disclaimer of liability

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Village of Depew, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

ARTICLE IV

ADMINISTRATION

§ 31.41 Designation of the Local Administrator

The Building Inspector is hereby appointed Local Administrator to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.

§ 31.42 Establishment of Development Permit

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 31.32. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

A. Application stage.

The following information is required where applicable:

1. Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
2. Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
3. When required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 31.51(C).
4. Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in § 31.52; and

5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 31.43 Duties and responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited to:

A. Permit application review.

1. Review all development permit applications to determine that the requirements of this Chapter have been satisfied.
2. Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
3. Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this Chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - i. If there is no adverse effect, then the permit shall be granted consistent with the provisions of this Chapter.
 - ii. If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
4. Review all development permits for compliance with the provisions of § 31.51(E), Encroachments.

B. Use of other base flood and floodway data.

When base flood elevation data has not been provided in accordance with § 31.32, Basis for Establishing the Areas of Special Flood Hazard, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data

available from a Federal, State or other source, including data developed pursuant to § 31.51(D), in order to administer § 31.52, Specific Standards and § 31.53, Floodways.

C. Information to be obtained and maintained.

1. Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
2. For all new or substantially improved floodproofed structures:
 - i. Obtain and record the actual elevation in relation to mean seal level, to which the structure has been floodproofed; and
 - ii. Maintain the floodproofing certifications required in §§ 31.51 and 31.52.
3. Maintain for public inspection all records pertaining to the provisions of this Chapter including variances when granted and Certificates of Compliance.

D. Alteration of watercourses.

1. Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to §§ 31.32 and 31.43(B), when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop work orders.

1. All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop

work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in § 31.35 of this Chapter.

2. All floodplain development found noncompliant with the provisions of this Chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in § 31.35 of this Chapter.

G. Inspections.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

H. Certificate of Compliance.

1. It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Chapter.
2. All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to § 31.43(G) and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 31.51 General standards

In all areas of special flood hazard the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes shall be installed using methods and

practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

1. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
2. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater

than either fifty (50) lots or five (5) acres.

E. Encroachments.

1. All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in § 31.43(A)[3], Permit Review. This may require the submission of additional technical data to assist in the determination.
2. In all areas of special flood hazard in which base flood elevation data is available pursuant to § 31.43(B) or § 31.51(D)[4] and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
3. In all areas of the special flood hazard where floodway data is provided or available pursuant to § 31.43(B) the requirements of § 31.53, Floodways, shall apply.

§ 31.52 Specific standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 31.32, Basis for Establishing the Areas of Special Flood Hazards, and § 31.43(B), Use of Other Base Flood Data, the following standards are required:

A. Residential Construction.

New construction and substantial improvements of any resident structure shall:

1. Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
2. Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - i. 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;
 - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - iii. Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction.

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

1. If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - i. 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;
 - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - iii. Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
2. If the structure is to be floodproofed:
 - i. A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyance; and
 - ii. A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this Section.

C. Construction Standards for Areas of Special Flood Hazards Without Base Flood Elevations.

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor

including basement elevated to or above the base flood elevation as may be determined in § 31.43(B) or two (2) feet above the highest adjacent grade where no elevation data is available.

1. New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
2. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - i. 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;
 - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - iii. Openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

§ 31.53 Floodways

Located within areas of special flood hazard are areas designated as floodways (see definitions, Article II). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 31.32 and 31.43(B), all encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

ARTICLE VI

VARIANCE PROCEDURE

§ 31.61 Appeals Board

- A. The Board of Appeals as established by the Village of Depew, shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- B. The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the

enforcement or administration of this Chapter.

- C. Those aggrieved by the decision of the Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Chapter and:
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - xi. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - xii. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of § 31.61(D) and the purposes of this Chapter, the Board of Appeals may attach

such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

- F. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 31.62 Conditions for variances

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in § 31.61(D) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this Section.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. The criteria of Subdivisions A, D, E and F of this Section are met;
 - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense,

create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

SECTION 2. REPEAL OF CHAPTER 69 entitled "Flood Damage Prevention".

Chapter 69 entitled "Flood Damage Prevention" of the Village of Depew Municipal Code be and hereby is repealed, but for purposes of construction, the enactment of new Chapter 31 above shall be construed to be a continuation of Chapter 69.

SECTION 3. EFFECTIVE DATE.

This local law shall take effect on April 1, 1987.

LOCAL LAW NO. 5 , 1989

A LOCAL LAW TO AMEND CHAPTER 57 OF THE CODE OF THE VILLAGE OF EAST AURORA, NEW YORK, ENTITLED "FLOOD DAMAGE PREVENTION".

BE IT ENACTED by the Board of Trustees of the Village of East Aurora, New York, as follows:

1. Chapter 57 of the Code of the Village of East Aurora, New York, entitled "FLOOD DAMAGE PREVENTION" is amended to read as follows:

NOTE: Material within brackets is eliminated.
The material underlined is added to and included in the Code of the Village of East Aurora, New York.

CHAPTER 57 - FLOOD DAMAGE PREVENTION

57-1 *****

57-2 *****

57-3 *****

57-4 **Basis for establishing areas of special flood hazard.**

[The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the Village of East Aurora," dated December 5, 1975, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps are hereby adopted by reference and declared to be a part of this local law. The Flood Insurance Study and Maps are on file at the

Village Hall, 571 Main Street, East Aurora, New York.]

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Village of East Aurora, New York, Erie County," dated September, 1972 with Flood Insurance Rate Maps enumerated on Map Index No. 365335 0005B dated June 29, 1979.

The above documents are hereby adopted and declared to be a part of this local law and are filed at the Village Hall, 571 Main Street, East Aurora, New York.

57-5 *****
57-6 *****
57-7 *****
57-8 *****
57-9 *****
57-10 *****
57-11 *****
57-12 *****

BY ORDER OF THE VILLAGE BOARD OF TRUSTEE
OF THE VILLAGE OF EAST AURORA, NEW YORK.



ROY W. DECKER
VILLAGE CLERK.

I, ROY W. DECKER, hereby CERTIFY that the above Local Law was duly enacted by the Village Board of Trustees of the Village of East Aurora, New York, at a regular meeting held on June 12th, 1989.



ROY W. DECKER
VILLAGE CLERK.

LOCAL LAW NO. 10, 1987

A LOCAL LAW TO AMEND CHAPTER 57 OF THE CODE OF THE VILLAGE OF EAST AURORA, NEW YORK, ENTITLED "FLOOD DAMAGE PREVENTION"

BE IT ENACTED by the Board of Trustees of the Village of East Aurora, New York, as follows:

1. Chapter 57 of the Code of the Village of East Aurora, New York, entitled "FLOOD DAMAGE PREVENTION" is amended to read as follows:

NOTE: Material within brackets is eliminated. The material underlined is added to and included in the Code of the Village of East Aurora, New York.

CHAPTER 57 - FLOOD DAMAGE PREVENTION

57-1 ****

57-1.1 FINDINGS

The Village Board of Trustees of the Village of East Aurora finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of East Aurora and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both public~~ally~~ly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Local Law is adopted.

57-1.2 STATEMENT OF PURPOSE

It is the purpose of this Local Law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to;

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

57-1.3 OBJECTIVES

The objectives of this Local Law are:

- (1) to protect human life and health;

- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

57-2 DEFINITIONS.

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application. The following words and phrases as used in this local law are defined as follows:

APPEAL

AREA OF SHALLOW FLOODING - a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable

and indeterminate, and where velocity flow may be evident.

[AREA OF SPECIAL FLOOD HAZARD - The land in the floodplain within the Village of East Aurora subject to a one-percent or greater chance of flooding in any given year.]

AREA OF SPECIAL FLOOD HAZARD - the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

BASE FLOOD

BASEMENT - means that portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING - means any structure built for support, shelter, or enclosure for occupancy or storage.

CELLAR - has the same meaning as "BASEMENT".

COASTAL HIGH HAZARD AREA - the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

DEVELOPMENT - 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 or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING - a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

FLOOD or FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) - an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM) - an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM)

[FLOOD INSURANCE STUDY - The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary - Floodway Map and the water surface elevation of the base flood.]

FLOOD INSURANCE STUDY - the official report provided by the Federal Management Agency. The report contains flood

profiles, as well as the flood Boundary Floodway Map and the water surface elevations of the base flood.

FLOOD PROOFING - 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 their contents.

[FLOODWAY - The channel of a creek 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 (1) foot.]

FLOODWAY - has the same meaning as "REGULATORY FLOODWAY".

FLOOR - the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

[HABITABLE FLOOR - Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".]

HIGHEST ADJACENT GRADE - the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

LOWEST FLOOR - lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Local Law.

MANUFACTURED HOME - a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, 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.

MOBILE HOME - has the same meaning as "MANUFACTURED HOME".

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

NEW CONSTRUCTION

PRINCIPALLY ABOVE GROUND - means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

100-YEAR FLOOD - has the same meaning as "BASE FLOOD".

REGULATORY FLOODWAY - 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

SAND DUNES - naturally occurring accumulations of sand in ridges or mounds landward of the beach.

[START OF CONSTRUCTION - The first placement of permanent construction of a structure, other than a mobile home, on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 basements, 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 as part of the main structure. For a structure, other than a mobile home, without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.]

START OF CONSTRUCTION - the initiation, excluding planning and design, of any phase of a project, physical, alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

[STRUCTURE - A walled and roofed building that is principally above ground, as well as a mobile home.]

STRUCTURE - a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to [occur] commence 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. The term does not, however, include:

- A. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.
- B. Any alteration of a structure or contributing structure listed on the National Register or Historic Places or the State Inventory of Historic Places.

[VARIANCE - A grant of relief to a person from the requirements of this local law which permits construction in a manner otherwise prohibited by this local law where specific enforcement would result in unnecessary hardship.]

VARIANCE - a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

57-3 APPLICABILITY. ****

57-4 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance administration through a scientific and engineering report entitled "The Flood Insurance Study for the Village of East Aurora", dated December 5, 1975, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps are hereby adopted by reference and declared to be a part of this local law. The Flood Insurance Study and maps are on file at the Village Hall, 571 Main Street, East Aurora, New York.

[57-5 - COMPLIANCE.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with

the terms of this local law and other applicable regulations.]

57-5 - PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250. or imprisoned for not more than 15 days or both. Each day of non-compliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of East Aurora from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 57-9 will be declared non-complaint and notification sent to the Federal Emergency Management Agency.

57-5.1 - INTERPRETATION, CONFLICT WITH OTHER LAWS.

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions

of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

57-5.2 - SEVERABILITY

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

57-5.3 - WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Local Law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Local Law shall not create liability on the part of the Village of east aurora, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Local Law or any administrative decision lawfully made thereunder.

57-6 - ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before the start of construction or any other development begins within any area of special flood hazard established in § 57-4. Application

for a development permit shall be made to the Building Inspector of the Village of East Aurora on forms furnished by him and may include but shall not be limited to the following plans, in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

[A. Elevation, in relation to mean sea level, of the lowest floor, including basement, and of the lowest habitable floor of all structures.]

A. Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.

B. ****

[C. Plans showing how any nonresidential floodproofed structure will meet the floodproofing criteria of § 57-11G.]

C. When required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 57-11.

D. ****

E. Certificate from a licensed professional engineer or architect that the non-residential flood- proofed structure will meet the flood-proofing criteria in Section 57-11 F.

57-6.1

57-6.2 - CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building. The floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

57-7.

57-8. - DUTIES AND RESPONSIBILITIES OF BUILDING INSPECTOR.

In connection with the administration of this local law, the Building Inspector of the Village of East Aurora shall:

A.

B.

[C. Review all development permits to determine if such proposed development is located within the floodway. If the proposed development is to be located in the floodway, a certification shall

be obtained in accordance with § 57-12A.

D. Verify and record the actual elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new or substantially improved structures.

E. For all new or substantially improved floodproofed structures:

(1) Verify and record the actual elevation in relation to mean sea level.

(2) Maintain the floodproofing certifications required in § 57-6C.

F. Maintain for public inspection all records pertaining to the provisions of this local law.

G. Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.

H. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.]

C. Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties.

An engineering study may be required of the applicant for this purpose.

(i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.

(ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

D. Review all development permits for compliance with the provisions of Section 57-11 E.

57-8.1 - USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 57.4, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 57-11 D in order to administer Section 57-11 F, SPECIFIC STANDARDS and Section 57-11 H, FLOODWAYS.

57-8.2 - INFORMATION TO BE OBTAINED AND MAINTAINED

(1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.

(2) For all new or substantially improved floodproofed structures:

(i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

(ii) maintain the floodproofing certifications required in Sections 57-11 and 57-11 F.

(3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

57-8.3 - ALTERATION OF WATERCOURSES

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, N.Y., 10278.

(2) Require that maintenance, is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

57-8.4 - INTERPRETATION OF FIRM BOUNDARIES

The Local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 57-4 and/or Section 57-8.2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source , including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

57-8.5 - STOP WORK ORDERS

(1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 57.5 of this Local Law.

(2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 57.5 of this Local Law.

57-8.6 - INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to

certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

57-8.7 - CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.
- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 57-8.6 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

57-9. VARIANCE PROCEDURE.

A. ****

B. ****

C. [Any person aggrieved by the decision of the said Zoning Board of Appeals may appeal such decision to the Supreme Court of the State of New York as provided in § 7-712 of the Village Law of the State of New York.]

C. Those aggrieved by the decision of the Zoning Board of Appeals of the Village of East Aurora may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Laws and Rules.

- | | |
|--------|------|
| D. (1) | **** |
| (2) | **** |
| (3) | **** |
| (4) | **** |
| (5) | **** |
| (6) | **** |
| (7) | **** |
| (8) | **** |
| (9) | **** |
| (10) | **** |
| (11) | **** |

[(12) Generally, variances may be issued for new construction or substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items listed in Subsection D (1) through (11) have been fully considered/ As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.]

E.

F.

The Village Building Inspector

shall maintain the records of all appeal actions and report any variances to the [Federal Insurance Administration] Federal Emergency Management Agency upon request.

57-10. CONDITIONS FOR VARIANCES.

A.

[B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.]

[C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.]

[D. Variances shall only be issued upon:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws.]

[E. Any applicant to whom a variance is granted shall be given written notice indicating the elevation below the base flood level, in feet, to which the

lowest floor of the structure will be built, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.]

- B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) in Section 57-9 D have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- C. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- D. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;

- (ii) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- E. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- F. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- G. Variances shall only be issued upon receiving written justification:

 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- H. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

57-11. PROVISIONS FOR FLOOD HAZARD REDUCTION.

A. ANCHORING. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement in the structure. All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

B. ****

C. Utilities ****

(1) **** \

(2) ****

(3) ****

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during condi-

tions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

D.

(1)

(2)

(3)

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

[E. Specific standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 57-4, Basis for establishing areas of special flood hazard, the specific standards set forth in Subsections F and G of this section shall be required.]

[F. Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.]

[G. Nonresidential construction. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to

the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in §57-8E.]

E. ENCROACHMENTS.

(1) All proposed development in riverine situations

where no flood elevation data is available

(unnumbered A Zones) shall be analyzed to

determine the effects on the flood carrying

capacity of the area of special flood hazards

set forth in Section 57-8, Permit FReview.

This may require the submission of additional

technical data to assist in the determination.

(2) In all areas of special flood hazard in which

base flood elevation data is available pursuant

to Section 57-8.1 or Section 57-11 D and no

floodway has been determined the cumulative

effects of any proposed development, when combined

with all, other existing and anticipated

development, shall not increase the water surface elevation of the base flood more than one foot at, any point.

3. In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 57-8.1 the requirements of Section 57-12, Floodways, shall apply.

F. SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 57-4 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 57-8.1, USE OF OTHER BASE FLOOD DATA, the following standards are required:

RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (A) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (B) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer

or architect or meet or exceed the following minimum criteria:

- (i) 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;
- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

G. NONRESIDENTIAL CONSTRUCTION. New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(1) If the structure is to be elevated, fully enclosed areas below the base flood elevation

shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- A. 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;
- B. the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- C. openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

(2) If the structure is to be floodproofed:

- A. a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight

with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- B. a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

H. CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD

HAZARDS WITHOUT BASE FLOOD ELEVATIONS. New construction or substantial improvements of structures including manufactured homes shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in Section 57-8.1 or 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.

- (2) Fully enclosed areas below the lowest floor

that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- A. 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;
- B. the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
- C. openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

[§ 57-12. FLOODWAYS.

Located within areas of special flood hazard established in § 57-4 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion essential, the following provisions apply:

- A. Encroachments, including fill, new construction,

substantial improvements and other developments, are prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- B. If § 57-12A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 57-11, Provisions for flood hazard reduction.]

57-12 - FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 57-2).
The floodway is an extremely hazardous area due to high velocity flood water carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 57-4 and Section 57-8.1, all encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

BY ORDER OF THE VILLAGE BOARD OF TRUSTEES
OF THE VILLAGE OF EAST AURORA, NEW YORK.



ROY W. DECKER, VILLAGE CLERK

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

County
City of Eden
Town
Village
Local Law No. 3 of the year 19 89..

A local law Flood Damage Prevention
(Insert title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City of Eden
Town
Village as follows:

LOCAL LAW NO. 3, 1989

TOWN OF EDEN

FLOOD DAMAGE PREVENTION

Local Law No. 3, 1989 of the Town of Eden,
New York to amend Local Law No. 1, 1987

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard have been identified by the Federal Emergency Management Agency on Flood Insurance Rate Maps enumerated on Map Index No. 360238 0001-0002 dated August 24, 1979.

The above documents are, hereby, adopted and declared to be a part of this local law and are filed at the Eden Town Hall, 2795 East Church Street, Eden, New York 14057.

Sec. 3.2 of Local Law No. 1, 1987 is hereby repealed.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. 3 of 1989
of the ~~County~~
~~City~~ of Eden was duly passed by Town Board
~~Town~~ (Name of Legislative Body)
~~Village~~
on August 9th 1989 in accordance with the applicable provisions of law.

(Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer or repassage after disapproval.)

2. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
of the ~~County~~
~~City~~ of _____ was duly passed by _____
~~Town~~ (Name of Legislative Body)
~~Village~~
on _____ 19____ and was approved ~~not disapproved~~ by the _____
~~repassed after disapproval~~ Elective Chief Executive Officer
and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
of the ~~County~~
~~City~~ of _____ was duly passed by the _____
~~Town~~ (Name of Legislative Body)
~~Village~~
on _____ 19____ and was approved ~~not disapproved~~ by the _____
~~repassed after disapproval~~ Elective Chief Executive Officer
on _____ 19____. Such local law was submitted to the people by reason of a
mandatory referendum and received the affirmative vote of a majority of the qualified electors voting
permissive ~~general~~
thereon at the special election held on _____ 19____, in accordance with the appli-
~~annual~~
cable provisions of law.

(Subject to permissive referendum and final adoption because no valid petition filed requesting referendum.)

4. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
of the ~~County~~
~~City~~ of _____ was duly passed by the _____ on
~~Town~~ (Name of Legislative Body)
~~Village~~
_____ 19____ and was approved ~~not disapproved~~ by the _____ on
~~repassed after disapproval~~ Elective Chief Executive Officer
_____ 19____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or if there be none the chairman of the board of supervisors, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

(City local law concerning Charter revision proposed by petition.)

5. I hereby certify that the local law annexed hereto, designated as local law No. of 19....
of the City of..... having been submitted to referendum pursuant to the
provisions of § 36
§ 37 of the Municipal Home Rule Law and having received the affirmative vote of a majority
of the qualified electors of such city voting thereon at the special
general election held on the
19..... became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office
and that the same is a correct transcript therefrom and of the whole of such original local law, and was
finally adopted in the manner indicated in paragraph1..... above.

Mary Louise Schwanz
Clerk of the Board of Supervisors, City, Town or Village Clerk or Officer
designated by Local Legislative Body
Mary Louise Schwanz

Date: August 15, 1989

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney
or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OFERIE.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all
proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Louis J. La Mantia
.....
(Title of Officer) Town Attorney
County Louis J. La Mantia
City ofEden.....
Town
-Village

Dated: August 15, 1989

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 1987....

~~County~~
of the ~~City~~ of Eden was duly passed by the Town Board
~~Town~~ (Name of Legislative Body)
~~Village~~
on June 24 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19.....

~~County~~
of the ~~City~~ of _____ was duly passed by the _____
~~Town~~ (Name of Legislative Body)
~~Village~~
on _____ 19..... and was approved not disapproved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19....., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19.....

~~County~~
of the ~~City~~ of _____ was duly passed by the _____
~~Town~~ (Name of Legislative Body)
~~Village~~
on _____ 19..... and was approved not disapproved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19....., in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19.....

~~County~~
of the ~~City~~ of _____ was duly passed by the _____ on _____
~~Town~~ (Name of Legislative Body)
~~Village~~
_____ 19..... and was approved not disapproved by the _____ on _____
repassed after disapproval Elective Chief Executive Officer *
_____ 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19....., in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
RECEIVED

JUL 6 1987

FLOOD PROTECTION BUREAU

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ~~special~~ general election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.

Mary Louise Schwantz
Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: *June 30, 1987*

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

..... *Louis J. LaMantia*
Signature
..... Town Attorney
Title

Date: June 29, 1987

County
City of Eden
Town
Village

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Eden County of Erie State of New York
~~Town~~
~~Village~~
Local Law No. 1 of the year 19 87

A local law for FLOOD DAMAGE PREVENTION
(Insert title)

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Eden Erie County, N.Y. as follows:
~~Town~~
~~Village~~

Attached hereto

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Eden finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Eden and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (6) qualify and maintain participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE, or VI-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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;

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" - has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

4.2-2 CONSTRUCTION STAGE.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of either the Development Permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certificates shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2, the requirements of Section 5.3 FLOODWAYS, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2(1) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in

relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by Town of Eden shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
- (ii) the danger to life and property due to flooding or erosion damage;
- (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) the importance of the services provided by the proposed facility to the community;
- (v) the necessity to the facility of a waterfront location, where applicable;
- (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) the compatibility of the proposed use with existing and anticipated development;
- (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing item (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this local law.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) 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.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Be it enacted this 24th day of June, 1987 by the
Town Board of The Town of Eden of
Erie County, New York, to be effective
immediately.

Gale A. Denn
Gale A. Denn, Supervisor
William A. Feasley
William A. Feasley, Councilman
Gerald B. Neifer
Gerald B. Neifer
William L. Robison
William L. Robison
George F. Zittel
George F. Zittel

Mary Louise Schwanz
MARY LOUISE SCHWANZ

SEAL

ATTEST.

Eden Town

CLERK



STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

July 20, 1998

ROSEMARY L. BAPST
ABENT & BAPST
2901 BOWEN RD, PO BOX C
ELMA, NY 14059-0256

RE: Town of Elma, Local Law 1, 1998, filed 07/06/98

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

A handwritten signature in cursive script that reads "Janice G. Durfee".

Janice G. Durfee
Principal File Clerk
Bureau of State Records
(518) 474-2755

JGD:ml

FLOOD DAMAGE PREVENTION

Chapter 82

FLOOD DAMAGE PREVENTION

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ARTICLE VII

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General References

Mobile home parks - See Ch. 97.
Site Plan review - See Ch. 117.
Subdivision of land - See Ch. 123.
Zoning - See Ch. 144.

Town
City of Town of Elma
Village

Local Law No. 1 Of the year 1998

A local law for Flood Damage Prevention
as authorized by the New York State Constitution, Article IX, Section 2, and
Environmental Conservation law, Article 36.

Be it enacted by the Town Board of the
Town
City of Town of Elma, Erie County, Village
N.Y. as follows:

SECTION 82
Statutory Authorization and Purpose

82-1. Findings.

The Town Board of the Town of Elma
finds that the potential and/or actual damages from flooding and erosion
may be a problem to the residents of the Town of Elma
and that such damages may include: destruction or loss of private and
public housing, damage to public facilities, both publicly and privately
owned, and injury to and loss of human life. In order to minimize the
threat of such damages and to achieve the purposes and objectives herein
after set forth, this Local Law is adopted.

82-2. Statement of Purpose.

It is the purpose of this Local Law to promote the public health, safety, and
general welfare, and to minimize public and private losses due to flood
conditions in specific areas by provision designed to :

- (1) Regulate uses which are dangerous to health, safety and property due
to water or erosion hazards, or which result in damaging increases in
erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve
such uses, be protected against flood damage at the time of initial
construction;

- (3) Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) Qualify and maintain for participation in the National Flood Insurance Program.

82-3. Objectives

The objectives of this Local Law are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and general undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in the areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To provide that developers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 82-4. Definitions

Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them the meaning they have in common usage and to give this Local Law its most reasonable application.

“Appeal” means a request for a review of the Local Administrators’s interpretation of any provision of this Local Law or a request for a variance.

“Area of shallow flooding” means a designated AO, AH or VO Zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of special flood hazard” is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base flood plain or 100-year flood plain.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Basement” means that portion of a building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Cellar” has the same meaning as “Basement”.

“Crawl space” means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, paving, excavating or drilling operations or storage of equipment or materials.

“Elevated building” means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, “Elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building”, even though the lower area is enclosed by means of break way walls that meet the federal standards.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the flood plain management regulations adopted by the community.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for Servicing the lot on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Federal Emergency Management Agency” means the Federal agency that administers the National Flood Insurance Program.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry 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” or “flooding” also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

“Flood Boundary and Floodway Map (FBFM)” means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community’s Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

“Flood Elevation Study” means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

“Flood Hazard Boundary Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency has delineated both the areas of special flood hazard has been designated as Zone A but no flood elevations are provided.

“Flood Insurance Study” see “Flood elevation study”.

“Flood plain” or **“Flood-prone area”** means any land area susceptible to being inundated by water from any source (see “Flooding”).

"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 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, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities, not including long-term storage, manufacturing, sales, or service 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 that have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been Certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior, or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this Local Law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or 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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" see **"Manufactured home"**.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the flood plain.

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or **"100-year flood"** see **"Base flood"**.

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and

- (4) not designed primarily for use as a permanent dwelling but as temporarily 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 cumulative increasing the water surface elevation more than a designated height as determined by the Federal Emergency Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

“Start of construction” includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of Temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the “actual start” means affixing of the manufactured home to its permanent site.

“Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“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 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. The term includes structures which have incurred “Substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a “Historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “Historic structure”.

“Variance” means a grant of relief from the requirements of this Local Law which permits construction or use in a manner that would otherwise be prohibited by this Local Law.

GENERAL PROVISIONS

82-5. Lands to which this Local Law applies.

This Local Law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Elma.

82-6. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map (multiple panels) Index No. 360239
0001- 0009, whose effective date is June 22, 1998.

(2) A scientific and engineering report entitled "Flood Insurance Study, TOWN OF ELMA, New York, ERIE County" dated June 22, 1998.

82-7. Interpretation and conflict with other laws.

This Local Law includes all revisions to the National Flood Insurance program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this Local Law shall be held to the minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Local Law are at variance with the requirements of lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

82-8. Severability.

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

82-9. Penalties for non-compliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the Provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for no more than 15 days or both. Each day of non-compliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Elma, from taking such other lawful actions as necessary to prevent or remedy an infraction. Any structure found not compliant with requirements with this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 82-17 will be declared non-

compliant and notification sent to the Federal Emergency Management Agency.

82-10. Warning and disclaimer of liability.

The degree of flood protection required by this Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Local Law does not imply that the land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Local Law shall not create liability in the part of the Town of Elma, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Local Law or any administrative decision lawfully made thereunder.

**SECTION 82-11
Administration**

82-11. Designation of the local administrator.

The Building Inspector is hereby appointed Local Administrator To administer and implement this Local Law by granting or denying floodplain development permits in accordance with its provisions.

**SECTION 82-12
The floodplain development permit**

82-12.1 Purpose.

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in section 82-6 without a valid floodplain development permit. Application for a permit may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

82-12.2 Fees.

All applications for a floodplain development permit shall be accompanied by an application fee of \$125.00. In addition, the applicant shall be responsible for reimbursing the Town of Elma

for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

82-12.3 Application for a permit.

The application shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to the mean sea level, to which any new or substantially improved non-residential structure will be flood proofed. Upon completion of the flood proofed portion of the structure, the permittee shall submit to the Local Administrator the as-built flood proofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility Flood proofing will meet the criteria in Section 82-15.3, Utilities.
- (4) A certificate from a licensed professional engineer or architect that any non-residential flood proofed structure will meet the Flood proofing criteria in Section 82-15.5, Non-residential structures.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations By a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 82-6 when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development To be located in an area of special flood hazard nay result in physical damage to any other property.

- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided any the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

82-13. Duties and responsibilities of the Local Administrator.

Duties of the Local Administrator shall include, but not be limited to the following:

82-13.1 Permit application review.

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 82-14, Application for a permit, and for compliance with the provisions and the standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 82-14, Construction standards, and in particular, Subsection 82-14.1, Subdivision proposals.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g. stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analysis and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 82-14, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal Law.

82-13.2 Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or Von the FIRM) nor identified a floodway, the Local Administrator shall obtain,

review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed in pursuant to paragraph 82-12.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood evaluations within the areas of special flood hazard, for the purposes of this law.

82-13.3 Alteration of watercourses.

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

82-13.4 Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of flood proofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood proofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

82-13.5 Inspections.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions

and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the flood plain development permit and/or any variance provisions.

82-13.6 Stop work orders.

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any flood plain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 82-9 of this Local Law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any flood plain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the Penalties described in Section 82-9 of this Local Law.

82-13.7 Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 82-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 82-13.4(1), Inspections, and/or any certified elevations, hydraulic data, flood proofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

82-13.8 Information to be retained.

The Local Administrator shall retain and make available for inspection copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Sub-sections 82-12.3 and 82-15.4 , and whether or not the structures contain a basement;
- (3) Flood proofing certificates required pursuant to Subsection 82-12.3 , and whether or not the structures contain a basement;

- (4) Variances issued pursuant to Section 82-17 , Variance procedures; and,
- (5) Notices required under Sub-section 82-12.3(5) , Alteration of watercourses.

SECTION 82-14

Construction Standards

82-14. General Standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 82-6.

82-14.1 Subdivision proposals.

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions).

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to Minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

82-14.2 Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Elma agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Elma for all fees and other costs in the relation to the application. The applicant must also provide all data, analyses and mapping

and reimburse the Town of Elma for all costs related to the final map revision.

- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 82-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Elma agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Elma for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Elma for all costs related to the final map revisions.

82-15. Standards for all structures.

82-15.1 Anchoring.

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to the applicable State and Local anchoring requirements for resisting wind forces.

82-15.2 Construction materials and methods.

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement

must either be certified by a licensed professional engineer or architect or must meet or exceed the following minimum criteria:

- (i) 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; and
- (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of flood waters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

82-15.3 Utilities.

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic back flow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

82-15.4 Residential structures.

Elevation

The following standards, in addition to the standards in sub-sections 82-14.1, Subdivision proposals, and 82-14.2, Encroachments, and Section 82-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 82-6 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

82-15.5 Non-residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-section 82-14.1, Subdivision proposals, and 82-14.2, Encroachments, and Section 82-15, Standards for all structures.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor (including basement or cellar) elevated to or above the base flood elevation; or
 - (ii) be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamics loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely flood proofed to the level to meet the flood proofing standard specified in sub-section 82-15.5(1).

- (3) If the structure is to be flood proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Flood proofing certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 82-15.5(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be flood proofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

82-15.6 Manufactured homes and recreational vehicles.

The following standards in addition to the standards in Section 82-14, General standards, and Section 82-15, Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in Sections 82-15.6(2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:
 - (i) outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined;

(iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
- (i) elevated in a manner such as required in Section 82-15.6(2), or
 - (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 82-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 82-17

Variance procedure

82-17. Appeals board.

- (1) The Zoning Board of Appeals as established by the Town of Elma shall hear and decide appeals and Requests for variances from the requirements of this Local Law.

- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this Local Law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals , shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Local Law, and:
- (i) the danger that materials be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance

and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- (5) Upon consideration of the factors of Section 82-17(4) and the purposes of this Local Law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to Further the purposes of this Local Law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to The Federal Emergency Management Agency upon request.

82-18. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (I-xii) in Section 82-17(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (I) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variance may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that;
 - (I) the criteria of subparagraphs 1, 4, 5 and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:

(i) a showing of good and sufficient cause;

(ii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing Local Laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

82 - 19 . Repealer.

- A) The enactment of this chapter shall repeal Chapter 82 of the Elma Zoning Local Law No. 2-1987 as adopted May 6, 1987, and as further amended.

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town

Village

of Evans

Local Law No. 2 of the year 2002

A local law to amend and/or add to Local Law # 2 of the year 1987 commonly
(Insert Title)

known as the Flood Prevention Law and any amendments thereto Town

Code Chapter 113 FLOOD DAMAGE PREVENTION.

Be it enacted by the Town Board of the
(Name of Legislative Body)

County

City

Town

Village

of Evans as follows:

(SEE ATTACHED LOCAL LAW # 2 OF THE YEAR 2002)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Town of Evans

Local Law No. 2 of the year 2002

A local law for FLOOD DAMAGE PREVENTION as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Town Board of the Town of Evans, Erie County, New York as follows:

Chapter 113

FLOOD DAMAGE PREVENTION

§ 113-1. Findings.

The Town Board of the Town of Evans finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Evans and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 113-2. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 113-3. Objectives.

The objectives of this chapter are:

- A. to protect human life and health;
- B. to minimize expenditure of public money for costly flood control projects;

- C. to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. to minimize prolonged business interruptions;
- E. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- F. to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. to provide that developers are notified that property is in an area of special flood hazard; and
- H. to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 113-4. Definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL - A request for a review of the Local Administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING - A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE or V1-V30. It is also commonly referred to as the "base floodplain" or "one hundred year floodplain" or "100-year floodplain".

BASE FLOOD - The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT - That portion of a building having its floor subgrade (below ground level) on all sides.

BUILDING - See "Structure"

CELLAR - The same meaning as "Basement".

CRAWL SPACE - An enclosed area beneath the lowest elevated floor, eighteen (18) inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY - The Federal agency that administers the National Flood Insurance Program.

FLOOD ELEVATION STUDY - An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood related erosion hazards.

FLOOD or FLOODING:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) the unusual and rapid accumulation or runoff of surface waters from any source.
- (2) "Flood" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) (a) above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) - An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM) - An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) - An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - See "flood elevation study".

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated by water from any source (see definition of "Flooding").

FLOODPROOFING - 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 their contents.

FLOODWAY - The same meaning as "regulatory floodway".

FUNCTIONALLY DEPENDENT USE - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

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

HISTORIC STRUCTURE - Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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.

LOCAL ADMINISTRATOR - The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement or cellar). 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 of this chapter.

MANUFACTURED HOME - A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - For purposes of the National Flood Insurance Program, 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.

MOBILE HOME - The same meaning as "manufactured home".

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

NEW CONSTRUCTION - Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

ONE HUNDRED YEAR FLOOD Or 100-YEAR FLOOD - The same meaning as "base flood".

PRINCIPALLY ABOVE GROUND - At least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE - a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY - 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 113-14B.

✓ REPETITIVE LOSS - Flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damaged occurred.

START OF CONSTRUCTION - Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and

building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

STRUCTURE - A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE - A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 113-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Evans, Erie County, New York.

§ 113-6. Basis for establishing the areas of special flood hazard.

- A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
- (1) Flood Insurance Rate Map (multiple panels) Index No. 3602400001-0019, whose effective date is February 2, 2002.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Town of Evans, New York, Erie County" dated February 2, 2001.

3. The above documents are hereby adopted and declared to be a part of this Chapter. The Flood Insurance Study and/or maps are on file at the Building Inspector's office.

§ 113-7. Interpretation and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through September 24, 1994, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 113-8. Severability.

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

§ 113-9. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered, and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Evans from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 113-20 and 113-21 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§ 113-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create

liability on the part of the Town of Evans, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 113-11. Designation of the local administrator.

The Building Inspector - the Town of Evans is hereby appointed Local Administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 113-12. The floodplain development permit.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 113-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an appropriate fee, to be set from time to time by the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of Evans for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

§ 113-13. Application for a permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
3. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 113-16C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in § 113-18, Non-residential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 113-6, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

§ 113-14. Duties and responsibilities of the local administrator.

Duties of the Local Administrator shall include, but not be limited to the following.

- A. Permit application review. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:
 - (1) Review all applications for completeness, particularly with the requirements of § 113-13, Application for a permit, and for compliance with the provisions and standards of this law.
 - (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 113-15 through 113-19 and, in particular § 113-15A, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to

submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 113-15 through 113-19, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to § 113-13G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

C. Alteration of watercourses. The local administrator shall:

- (1) Provide notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- E. Inspections. The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.
- F. Stop-work orders.
- (1) The Local Administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 113-9 of this chapter.
 - (2) The Local Administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 113-9 of this chapter.
- G. Certificate of compliance
- (1) In areas of special flood hazard, as determined by documents enumerated in § 113-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this chapter.
 - (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
 - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The Local Administrator shall retain and make available for inspection, copies of the following:
- (1) Floodplain development permits and certificates of compliance.
 - (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsections D(1) and (2),, and whether or not the structures contain a basement.

- (3) Floodproofing certificates required pursuant to Subsection D(1), and whether or not the structures contain a basement.
- (4) Variances issued pursuant to §§ 113-20 and 113-21.
- (5) Notices required under Subsection C, Alteration of watercourses.

§ 113-15. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 113-6.

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
 - (1) Proposals shall be consistent with the need to minimize flood damage.
 - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage.
 - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
 - (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any location; or,
 - (b) the Town of Evans agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Evans for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Evans for all costs related to the final map revision.
 - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 113-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or,
- (b) The Town of Evans agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Evans for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Evans for all costs related to the final map revisions.

§ 113-16. Standards for all structures.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
 - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
 - (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

2. Utilities.

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 113-17. Residential structures.

- A. Elevation. The following standards, in addition to the standards in § 113-15A, Subdivision proposals, and § 113-15B, Encroachments, and § 113-16, Standards for all structures, apply to structures located in areas of special flood hazard as indicated.
- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated two (2) feet or more above the base flood level.
 - (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three (3) feet above the highest adjacent grade.
 - (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in §113-6 [at least two (2) feet if no depth number is specified].
 - (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

§ 113-18. Non-residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in § 113-15A, Subdivision proposals, and § 113-15B, Encroachments, and § 113-16, Standards for all structures.

- A. Within Zones A1 -A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated two (2) feet or more above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below a level three (3) feet or more above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM [at least two (2) feet if no depth number is specified]; or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2) including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade.

§ 113-19. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 113-15, General standards, and § 113-16, Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- A. Recreational vehicles.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (a) Be on site fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the requirements for manufactured homes in Subsections B, D and E.
- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:

- (1) Outside of an existing manufactured home park or subdivision as herein defined;
- (2) In a new manufactured home park or subdivision as herein defined;
- (3) In an expansion to an existing manufactured home park or subdivision as herein defined; or
- (4) In an existing manufactured home park or subdivision, as herein defined, on which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor is elevated two (2) feet or more above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

C. A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (1) Elevated in a manner such as required in Subsection B; or
- (2) Elevated such that the manufactured home chassis is supported by Reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

1. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely

anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

- E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 113-6 [at least two (2) feet if no depth number is specified]. Elevation on piers consisting of dry stacked blocks is prohibited.

§ 113-20. Appeals board.

- A. The as Zoning Board established by the Town Board shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the , shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D, above, and the purposes of this chapter, the Zoning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 113-21. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items § 113-20D(1) through (12) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic structure".
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (1) The criteria of Subsections A, D, E, and F of this section 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 threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:

- (1) A showing of good and sufficient cause.
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing chapters or ordinances.

G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure 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 to property.

Such notification shall be maintained with a record of all variance actions and provided to the Federal Emergency Management Agency and to the NYSDEC upon request.

Attachment A
**MODEL FLOODPLAIN DEVELOPMENT
APPLICATION FORM**

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE _____

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

NAME	ADDRESS	TELEPHONE
APPLICANT		
BUILDER		
ENGINEER		

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A sketch attached to this application showing the project location would be helpful.

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

<u>ACTIVITY</u>	<u>...STRUCTURE TYPE</u>
<input type="checkbox"/> New Structure	<input type="checkbox"/> Residential (1-4 Family)
<input type="checkbox"/> Addition	<input type="checkbox"/> Residential (More than 4 Family)
<input type="checkbox"/> Alteration	<input type="checkbox"/> Non-residential (Floodproofing? <input type="checkbox"/> Yes)
<input type="checkbox"/> Relocation	<input type="checkbox"/> Combined Use (Residential & Commercial)
<input type="checkbox"/> Demolition	<input type="checkbox"/> Manufactured (Mobile) Home
<input type="checkbox"/> Replacement	(In Manufactured Home Park? <input type="checkbox"/> Yes)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- ☐ Fill ☐ Mining ☐ Drilling ☐ Grading
☐ Excavation (Except for Structural Development Checked Above)
☐ Watercourse Alteration (Including Dredging and Channel Modifications)
☐ Drainage Improvements (Including Culvert Work)
☐ Road, Street or Bridge Construction
☐ Subdivision (New or Expansion)
☐ Individual Water or Sewer System
☐ Other (Please

Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- ☐ Is NOT located in a Special Flood Hazard Area (Notify the applicant that the application review is complete and NO FLOODPLAIN DEVELOPMENT PERMIT IS REQUIRED).
- ☐ Is located in a Special Flood Hazard Area.
FIRM zone designation is _____.
100-Year flood elevation at the site is:
_____ Ft. NGVD (MSL)
☐ Unavailable
- ☐ The proposed development is located in a floodway.
FBFM Panel No. _____ Dated _____
- ☐ See Section 4 for additional instructions.

SIGNED _____ DATE _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

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

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- ☐ Development plans, drawn to scale, and specifications, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water 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.
Also,
- ☐ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- ☐ Plans showing the extent of watercourse relocation and/or landform alterations.
- ☐ Top of new fill elevation _____ Ft. NGVD (MSL).
- ☐ Floodproofing protection level (non-residential only) _____ Ft. NGVD (MSL). For floodproofed structures, applicant must attach certification from registered engineer or architect.
- ☐ Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood. A copy of all data and calculations supporting this finding must also be submitted.
- ☐ Other:

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. ☐ Is
B. ☐ Is not
in conformance with provisions of Local Law # _____, 20____. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.

If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

APPEALS: Appealed to Board of Appeals? ☐ Yes ☐ No
Hearing date: _____
Appeals Board Decision --- Approved? ☐ Yes ☐ No

CONDITIONS:

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by **APPLICANT** before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT. NGVD (MSL).
2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD (MSL).

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by **LOCAL ADMINISTRATOR**)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO

SECTION 8: CERTIFICATE OF COMPLIANCE(To be completed by **LOCAL ADMINISTRATOR**)

Certificate of Compliance issued: DATE: _____ BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

**CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA**

(Owner Must Retain This Certificate)

Premises located at .. :

Owner: ..

Address:

Permit No.____ Permit Date:

Check One:

- ☐ New Building
- ☐ Existing Building
- ☐ Fill
- ☐ Other:

The Local Floodplain Administrator is to complete a. or b. below:

- a. Compliance is hereby certified with the requirements of Local Law No.____,
of 2000

Signed:_____ Dated:

- b. Compliance is hereby certified with the requirements of Local Law No.____,
2000, as modified by variance no.____, dated _____.

Signed:_____ Dated:

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2002.
of the (County)(City)(Town)(Village) of Evans was duly passed by the
Town Board on January 16, 2002 in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
_____ on _____ 20____, and was (approved)(not approved)(repassed after
(Name of Legislative Body)
disapproval) by the _____ and was deemed duly adopted on _____ 20____,
(Elective Chief Executive Officer*)
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
_____ on _____ 20____, and was (approved)(not approved)(repassed after
(Name of Legislative Body)
disapproval) by the _____ on _____ 20____. Such local law was submitted
(Elective Chief Executive Officer*)
to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of
the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in
accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
_____ on _____ 20____, and was (approved)(not approved)(repassed after
(Name of Legislative Body)
disapproval) by the _____ on _____ 20____. Such local law was subject to
(Elective Chief Executive Officer*)
permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in
accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

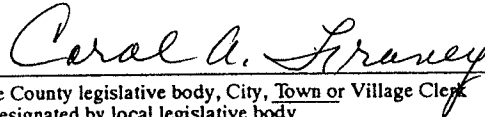
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____¹_____, above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: January 17, 2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

Town Attorney
Title

County
City of Evans
Town
Village

Date: January 17, 2002

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- ☐ County
☐ City of Gowanda
☐ Town
☒ Village

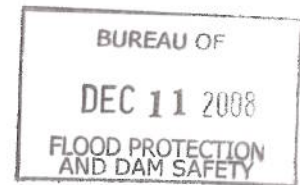
Local Law No. 1 of the year 20 08

A local law Flood Damage Protection
(Insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

- ☐ County
☐ City of Gowanda as follows:
☐ Town
☒ Village

(Delete this line of text and enter text of local law here)



(If additional space is needed, attach pages the same size as this sheet, and number each.)

FLOOD DAMAGE PROTECTION

SECTION 1.0

STATUTORY AUTHORIZATION AND PURPOSE

1.1 Findings

The Board of Trustees of the Village of Gowanda, New York finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Gowanda and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 Statement of Purpose

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. control filling, grading, dredging and other development which may increase erosion or flood damages;
5. regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
6. qualify and maintain for participation in the National Flood Insurance Program.

1.3 Objectives

The objectives of this local law are:

1. to protect human life and health;
2. to minimize expenditure of public money for costly flood control projects;

3. to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. to minimize prolonged business interruptions;
5. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
6. to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. to provide that developers are notified that property is in an area of special flood hazard; and,
8. to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 **DEFINITIONS**

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

*not needed
but OK*

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE, VO or V.

not needed but ok

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V 1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a revering Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood

*Subsequent section numbers prefaced by Chapter number to maintain Code format; otherwise exactly as enacted by Local Law #1, 87. Code format would normally designate this as Article II. profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood. } ?

"Flood Proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. entire but on

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacturing, sales or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Local Law.

"Historic structure" means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 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:

(i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. *1014*

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain. *- not needed*

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law. *and includes any subsequent improvements to such structure.*

"Primarily Above Ground" means that at least 51 percent of the actual cash value of the structure excluding land value is above ground.

"100-year Flood" has the same meaning as "Base Flood".

Reconstructed Vehicle
"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 34.4.3-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent

construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

> Perm constn does not include land area etc

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds — *not needed* landward of the beach.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

no substantial damage definition

"Substantial improvement" means any repair, reconstruction, or *rehabilitation, addition* improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. before the improvement or repair is started; or
2. if the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

1. any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this Local Law which permits construction or use in a manner that would otherwise be prohibited by this Local Law.

SECTION 3.0

GENERAL PROVISIONS

3.1 Lands to which this Local Law applies

This Local Law shall apply to all areas of special flood hazards within the jurisdiction of the Village of Gowanda and the Town of Collins..

3.2 Basis for establishing the areas of Special Flood Hazard

The areas of special flood hazard for the Village of Gowanda, Community Number 360075 and ~~Town of Collins, Community Number 360234~~ are identified and defined on the following documents prepared by the Federal Emergency Management Agency.

1. Flood Insurance Rate Map Panel Numbers 36029C0752G, 36029C0754G, 36029C0756G, 36029C0758G, whose effective date is September 26, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

2. A scientific and engineering report entitled "Flood Insurance Study, Erie County, New York all Jurisdictions" dated September 26, 2008.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: Village of Gowanda Clerk's Office, 27 East Main Street, Gowanda, New York.

3.3 Interpretation, Conflict with other laws

This Local Law is adopted in response to revisions to the National Flood Insurance Program through October 27, 1997 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 Severability

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

3.5 Penalties for non-compliance

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250.00 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Gowanda from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local law for which the developer and/or owner has not applied for and received an approved variance under Section 35.5 will be declared noncompliant and notification sent to the Federal Emergency Management Agency. 6.0

3.6 Warning and disclaimer of liability

The degree of flood protection required by this Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Local Law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Local Law shall not create liability on the part of the Village of Gowanda, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Local

Law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 Designation of the Local Administrator

The Village of Gowanda Building Inspector is hereby appointed Local Administrator to administer and implement this Local Law by granting or denying development permit applications in accordance with its provisions.

4.2 Floodplain Development Permit

4.2-1 Purpose

A Floodplain Development Permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Building Inspector and may include, but not limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in questions; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 Fees:

All applications for a floodplain development permit shall be accompanied by an application fee of \$100.00. In addition, the applicant shall be responsible for reimbursing the Village of Gowanda for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 Application for a Permit

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

1. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A I-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
2. The proposed elevation, in relation to mean sea level, to which any new or

substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

3. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3 UTILITIES.

4. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4 NON-RESIDENTIAL STRUCTURES.

5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2 when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

6. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

7. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 Duties and responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited to the following:

4.4-1 Permit Application Review

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

1. Review all applications for completeness, particularly with the requirements of subsection 4.3 APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.

2. Review all subdivisions and other proposed new developments, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of section 5.0 CONSTRUCTION STANDARDS and, in particular, sub-section 5.1.1 SUBDIVISION PROPOSALS.

3. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g. stream bank erosion and increased flood velocities). The local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fail to meet the requirements of Section 5.0 CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

4. Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law..

4.4-2 Use of Other Flood Data

1. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

2. When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 Alteration of Watercourses

1. Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II Federal Emergency Management Agency.

2. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 Construction stage

1. In Zone AI-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

2. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work for the project unless immediately corrected.

4.4-5 Inspections

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 Stop work orders

1. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

2. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 Certificate of Compliance

1. In areas of special flood hazard, as determined by documents enumerated in Section 3.2. It shall be unlawful to occupy or to permit the use of occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by Local Administrator stating that the building or land conforms to the requirements of this local law.

2. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazards.

3. Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 Information to be Retained:

The Local Administrator shall retain and make available for inspection, copies of the following:

1. Floodplain development permits and certificates of compliance;

2. Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;

3. Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
4. Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSE

SECTION 5.0

CONSTRUCTION STANDARDS

5.1 General standards

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 Subdivision standards

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

1. Proposals shall be consistent with the need to minimize flood damage;
2. Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
3. Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 Encroachments

1. Within Zones AI-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(ii) the Village of Gowanda agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Gowanda for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Gowanda for all costs related to the final map revision.

2. On streams with a regulatory floodway, as shown on the Flood Boundary and Flood-way Map or the Flood Insurance Rate Map adopted in Section 3.2 no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted

unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Village of Gowanda agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Gowanda for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Gowanda for all costs related to the final map revisions.

5.2 Standards for all Structures

5.2-1 Anchoring

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 Construction Materials and Methods

1. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

2. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

3. For enclosed areas below the lowest floor of a structure within Zones AI-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(i) 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; and

(ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 Utilities

1. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
2. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 Residential Structures

5.3-1 Elevation

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, Subdivision Proposals, and 5.1-2, Encroachments, and Section 5.2, Standards for all Structures..

1. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
2. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
3. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 Non Residential Structures

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, Subdivision Proposals, and 5.1-2, Encroachments, and 5.2, Standards for all Structures.

1. Within Zones A 1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:

(i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

(ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

2. Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(I)(ii)..

3. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 Manufactured Homes and Recreational Vehicles

The following standards in addition to the standards in Section 5.1 General Standards , and Section 5.2, Standards for all Structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

1. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

3. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

4. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

SECTION 6.0 VARIANCE PROCEDURE

6.1 Appeals Board

1. The Planning Board as established by the Village of Gowanda shall hear and decide appeals and requests for variances from the requirements of this Local Law.

2. The Planning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this Local Law.

3. Those aggrieved by the decision of the Planning Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

4. In passing upon such applications, the Planning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Local Law and the danger that materials may be swept onto other lands to the injury of others;

- i. the danger to life and property due to flooding or erosion damage;
- ii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- iii. the importance of the services provided by the proposed facility to the community;
- v. the necessity to the facility of a waterfront location, where applicable;
- vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- vii. the compatibility of the proposed use with existing and anticipated development;
- viii. the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- xi. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- xii. the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

5. Upon consideration of the factors of Section 6.1(4) and the purposes of this Local Law, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Local Law.

6. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 Conditions for variances

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation or restoration of historic structures upon determination that:

(i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic Structure"; and

(ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;

(ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

6. Variances shall only be issued upon receiving written justification of:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

7. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(i) the issuance of a variance to construct a structure 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

(ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

Be it enacted this 19th day of August, 2008 by the
Board of Trustees _____ of the Village of Gowanda, County of
Cattaraugus, State of New York to be effective the 19th day of September 2008

SEAL

ATTEST Lawrence V. McLaughlin CLERK

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 08 of the (County)(City)(Town)(Village) of Gowanda was duly passed by the Board of Trustees on August 19 20 08, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

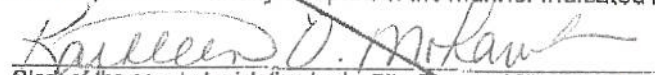
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

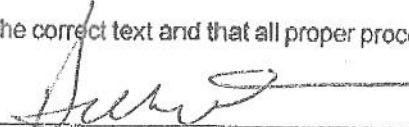
~~5. (City local law concerning Charter revision proposed by petition.)~~~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.~~~~6. (County local law concerning adoption of Charter.)~~~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~~~I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.~~~~
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body~~~~Date: 11/20/08~~

(Seal) _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

Title

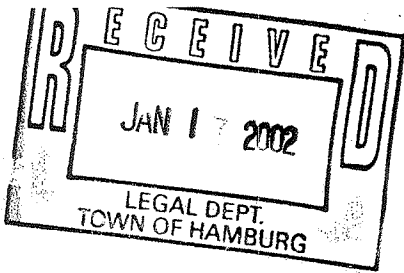
County

City of Gowanda

Town

Village

Date: 11/14/08



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

RANDY A. DANIELS
SECRETARY OF STATE

January 11, 2002

Vincent J Sorrentino
TOWN OF HAMBURG
S-6100 S. PARK AVE.
HAMBURG, NY 14075

RE: Town of Hamburg, Local Law 5, 2001, filed 12/24/2001

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of HAMBURG, NEW YORK
Town
~~Village~~

Local Law No. 5 of the year 2001.

A local law To Amend Local Law No. 10, 1994, Entitled
(Insert Title)
"Flood Damage Prevention" as follows (added or modified
wording shown in italics)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~County~~
~~City~~ of HAMBURG, NEW YORK as follows:
Town
~~Village~~

Section 1:

Local Law No. 4, 1994, Chapter 115 of the Code of the Town of Hamburg entitled "Flood Damage Prevention", shall be amended as follows:

(see attached)

Section 2:

The foregoing local law to take effect immediately after proper filing, including with the Secretary of State.

Dated: December 17, 2001

(If additional space is needed, attach pages the same size as this sheet, and number each.)

The amendments are further described as follows (added or modified wording shown in italics):

Article II

Section 115-4. Terms Defined.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. *Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.*

Article III

Section 115-6. Basis for establishing areas of special flood hazard.

A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map (multiple panels) Index No. 360244 0001- *0021*, whose effective date is *December 20, 2001*.

(2) A scientific and engineering report entitled "Flood Insurance Study, Town of Hamburg, New York, Erie County" dated *December 20, 2001*.

NOTE: Reference Nos. (3) and (4) in this section are deleted.

Section 115-16. Residential structures.

A. (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above *one foot above* the base flood level.

A. (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as *one foot more than* the depth number specified in feet on the community's Flood Insurance Rate Map

enumerated in Section 115-6 (at least two feet if no depth number is specified.)

Section 115-17. Nonresidential structures.

A.(1) Have the lowest floor, including basement or cellar, elevated to or above *one foot above* the base flood elevation; or

A.(2) Be floodproofed so that the structure is watertight below *one foot above* the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B. (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as *one foot more than* the depth number specified on the community's FIRM (at least two feet if no depth number is specified); or

Section 115-18. Manufactured homes and recreational vehicles.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision, as herein defined; in a new manufactured home park or subdivision, as herein defined; in an expansion to an existing manufactured home park or subdivision, as herein defined; or in an existing manufactured home park or subdivision, as herein defined, on which a manufactured home has incurred substantial damage as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor is elevated to or above *one foot above* the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.

E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as *one foot more than* the depth number specified on the Flood Insurance Rate Map enumerated in Section 115-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2001 of the ~~(County)~~(City)(Town)(Village) of Hamburg was duly passed by the Town Board on Dec. 17 2001, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

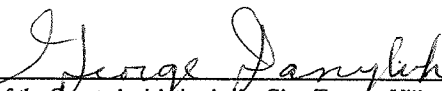
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the County legislative body, City, Town or Village Clerk
or other designated local legislative body

George Danyluk, Town Clerk
December 17, 2001

Date: _____

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



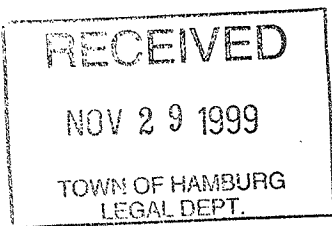
Signature

Vincent J. Sorrentino
Town Attorney

Title

~~County~~xx
~~City~~xxx of HAMBURG
Town
~~Village~~x

Date: December 17, 2001



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

November 23, 1999

RICHARD G. BOEHM
TOWN OF HAMBURG
S-6100 SOUTH PARK AVE.
HAMBURG, NY 14075

RE: Town of Hamburg, Local Law 7, 1999, filed 11/15/99

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

A handwritten signature in cursive script that reads "Janice G. Durfee".

Janice G. Durfee
Principal File Clerk
Bureau of State Records
(518) 474-2755

JGD:ml

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

of Hamburg

~~Town~~

~~Village~~

Local Law No. 7 of the year 1999.

A local law ~~To Amend Local Law 10, 1994, entitled~~
(Insert Title)
"Flood Damage Prevention" by adding subparagraph
"4" to Section 115-6(A)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~

~~City~~

of Hamburg

~~Town~~

~~Village~~

as follows:

Section 1:

Local Law #4, 1994, Chapter 115 of the Code of the Town of Hamburg entitled "Flood Damage Prevention" shall be amended as follows:

Section 115-6(A)(4)

Letter of Map Revision, Case No. 99-02-041P, revising Flood Insurance Rate Map Index No. 360244 0005, effective December 17, 1999.

Section 2:

The foregoing local law to take effect immediately after proper filing, including with the Secretary of State.

Dated: November 8, 1999

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town
~~City~~ of Hamburg, New York
~~Village~~

Local Law No. 10 of the year 1994

A local law for FLOOD DAMAGE PREVENTION

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation law, Article 36.

Be it enacted by the Town Board of the
(Name of Legislative Body)

Town
~~City~~ of Hamburg, Erie County,
~~Village~~

N.Y. as follows:

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Hamburg
finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Hamburg and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before

the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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. such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

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

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

**SECTION 3.0
GENERAL PROVISIONS**

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Hamburg.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map (multiple panels) Index No. 360244 0001-0015, whose effective date is October 4, 1994.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Town of Hamburg, New York, Erie County" dated October 4, 1994.
- (3) Flood Boundary and Floodway Map (multiple panels) No. 360244 0020-0032, whose effective date is October 4, 1994.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: the Building Inspection Department, Town of Hamburg, 6100 South Park Avenue, Hamburg, N.Y. 14075.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Hamburg

_____ from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Hamburg, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector-Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of

protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

- (1) All applications for a floodplain development permit shall be accompanied by an application fee of \$*(see below). In addition, the applicant shall be responsible for reimbursing the Town of Hamburg for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDEN-

*The application fee shall be as established by the Town Board of the Town of Hamburg under separate resolution.

TIAL STRUCTURES.

- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section

5.1-1 SUBDIVISION PROPOSALS.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or

to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals

and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(ii) the Town of Hamburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Hamburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Hamburg for all costs related to the final map revision.

- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Hamburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all

necessary data, analyses and mapping and reimburses the Town of Hamburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Hamburg for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards, in addition to the standards in subsections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two

feet if no depth number is specified).

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (i) elevated in a manner such as required in paragraph 5.5(2), or
 - (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
 - (5) Within Zone A0, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Hamburg shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2. CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 26 th day of September, 19 94 by the
Town Board of the Town of Hamburg
Erie County,
New York, to be effective upon filing with the Secretary of State.

Supervisor:

Patrick H. Hall

Councilman:

K. Hochel

Councilman:

James J. Connolly

Councilman:

W. M. Corcoran

Councilman:

Thomas J. Conarty

SEAL

George Sampson
ATTEST Hamburg Town

CLERK

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 10 of 19 94 of the ~~(County)(City)~~(Town)(Village) of Hamburg, New York was duly passed by the Town Board on Sept. 26, 19 94, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 ____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19 ____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19 ____.
(Name of Legislative Body) (Elective Chief Executive Officer*)
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 ____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19 ____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19 ____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19 ____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 ____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19 ____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19 ____.

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19 ____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)


I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ____¹____, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

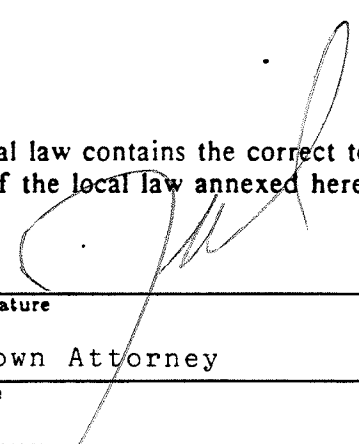
Date: 9/26/94

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Town Attorney

Title

~~County~~

~~City~~

~~Town~~

~~Village~~

of Hamburg, New York

Date: 9/26/94

VILLAGE OF HAMBURG

MAYOR

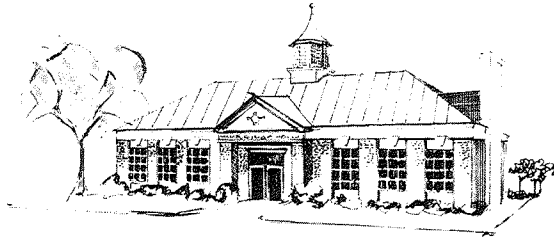
RICHARD R. HANSEN

TRUSTEES

ROBERT E. BROGAN
RAYMOND J. EMERLING, JR.
DAVID F. RIEMAN, JR.
MARGERY SAMUELSON

CLERK-TREASURER

COLETA A. GLASS, CMC

**ATTORNEY**

GEORGE R. HEBARD, JR.

CHIEF OF POLICE

JOHN J. JABLONSKI

SUPT. OF PUBLIC WORKS

GERALD E. KNOLL

RECREATION SUPERVISOR

THOMAS J. MOSES

100 MAIN STREET HAMBURG, NEW YORK 14075-9990
649-0200

April 11, 1988

FEMA
Rezoning Office
26 Federal Plaza
New York, New York 10278

Re: Village of Hamburg
Flood Damage Prevention Local Law

Attention:

Attached is a certified copy of minutes of the Regular Meeting of December 21, 1987 which registered the Local Law of the Village of Hamburg regarding the Flood Management Program.

Please advise us if you need any further information.

Sincerely,

Coleta A. Glass, CMC
Clerk-Treasurer

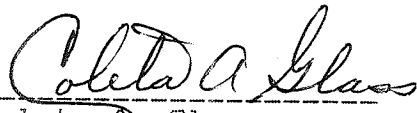
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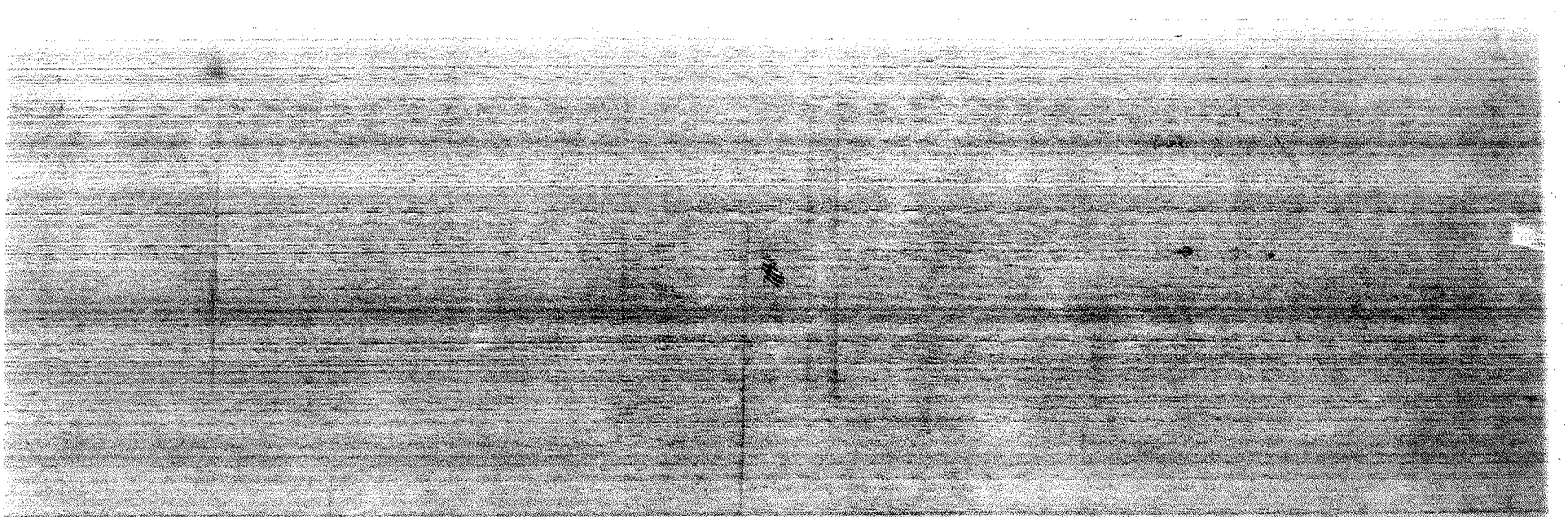
STATE OF NEW YORK :
COUNTY OF ERIE : SS.:
VILLAGE OF HAMBURG :

I, Coleta A. Glass, do hereby certify that I am the duly qualified and acting Clerk-Treasurer of the Village of Hamburg, County of Erie and State of New York; that the attached resolution was duly adopted by the Board of Trustees of the said Village of Hamburg, at a regular Board Meeting held on the 21st day of December, 19 87, and duly entered in the Minutes of said Board on said day. Whereby I have compared the foregoing copy with the original thereof so entered in the Minutes of said Board and the same is a full, true and complete copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Village of Hamburg, this 11th day of April, 19 88.


Coleta A. Glass
Clerk-Treasurer
Village of Hamburg

(SEAL)



General Fund.....	\$115,151.91
Sewer Fund.....	\$148,688.85
Capital Projects Fund.....	\$10,496.26
Trust & Agency Fund.....	\$77,740.48
TOTAL ALL FUNDS.....	\$352,077.50

ROLL CALL

Ayes: Mayor Hansen, Trustees Emerling, Samuelson, Rieman, and Brogan

Nayes: None

CARRIED

Mayor Hansen called the Public Hearing Providing for Flood Damage Prevention and Repealing Local Law No. 14 of 1981 to order at 8:15 P.M. Deputy Clerk Holland read the Local Law. A copy is attached.

Attorney Hebard explained that flooding is a serious problem in various areas. The Village of Hamburg does not have a serious problem with regards to flooding. The Department of Environmental Conservation mandated that all communities adopt a flood plain Local Law. The current administration instituted some changes since 1981 and this is the reason for the Local Law.

Mayor Hansen invited those wishing to speak in Favor of or in Opposition to this Local Law to speak at this time. There was no response.

15. MOTION by Trustee Rieman, seconded by Trustee Brogan resolved that Local Law No. 8 of 1987 Providing for the Amending of the Flood Control Local Law No. 14 of 1981 be enacted.

ROLL CALL

Ayes: Mayor Hansen, Trustees Emerling, Samuelson, Rieman, and Brogan

Nayes: None

CARRIED

Trustee Rieman announced that sealed bids for One 25 Cubic Yard High Compaction Rear Loading Garbage Packer were received on

FURTHER PUBLIC PARTICIPATION was requested by Mayor Hansen: None

The next Board Meeting will be with Department Heads and Staff at 10:00 A.M. on January 4, 1988. Pending matters including agenda items for the next regular Board Meeting will be discussed. The meeting will be opened to the press and the public. No formal action will be taken.

The next Regular Meeting of the Board will be held at 8:00 P.M. on January 4, 1988.

**LEGAL NOTICE
VILLAGE OF HAMBURG
NOTICE OF PUBLIC HEARING ON A
PROPOSED LOCAL LAW OF 1987
PROVIDING FOR FLOOD DAMAGE
PREVENTION AND REPEALING
LOCAL LAW NO. 14 OF 1981**

PUBLIC NOTICE IS HEREBY
GIVEN that there has been presented to the Board of Trustees of the Village of Hamburg, a proposed Local Law of 1987 providing for flood damage prevention and repealing Local Law No. 14 of 1981. Pursuant to statute and Local Law No. 1 of 1953 the Board of Trustees of the Village of Hamburg will hold a public hearing on said proposed Local Law in the Village Hall, 100 Main Street, Hamburg, New York at 8:15 P.M. on December 21, 1987.

The proposed Local Law provides in substance as follows: For Repeal of Local Law No. 14 of 1981; For flood damage prevention and containing sections dealing with: Findings of fact, statement of purpose, methods of reducing flood losses, definitions of terms, lands to which it applies, bases for establishing areas of special flood hazard, penalties, abrogation and greater restrictions, interpretation, appropriate disclaimers, development permits, designation of local administrator, duties of local administrator, review procedures, use of other flood data, record keeping, alteration of water courses, interpretation of boundaries, variance procedures, conditions for variances, general standards, anchoring, construction materials and methods, utilities, subdivision requirements, specific standards, residential and non-residential construction, mobile home standards, floodways, effective date.

Copies of said Local Law containing the complete text thereof, are available at the Clerk-Treasurer's Office, 100 Main Street, Hamburg, New York, where they may be examined and additional copies obtained by interested persons.

FURTHER NOTICE IS HEREBY
GIVEN that at such hearing all interested persons will be afforded an opportunity to be heard in favor of or in opposition to the proposed Local Law.

DATED: December 7, 1987

Richard R. Hansen
Mayor
Coleta A. Glass, CMC
Clerk-Treasurer

12-10

RESPECTFULLY SUBMITTED,

Coleta A. Glass

Coleta A. Glass, CMC
Clerk-Treasurer

~~6~~ APR 88 (FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD PRONE AREAS -
(44 CFR 60.3(d)) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The BOARD OF TRUSTEES of the VILLAGE of HAMBURG finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the VILLAGE of HAMBURG and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE, or VI-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of VILLAGE OF HAMBURG.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the VILLAGE of HAMBURG, of ERIE County, New York", dated JULY 20, 1981, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at VILLAGE HALL, 100 MAIN STREET, HAMBURG, NEW YORK

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the VILLAGE OF HAMBURG from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the VILLAGE of HAMBURG, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The BUILDING INSPECTOR is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and

certified by same. When flood-proofing is utilized for a particular building. The floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

- (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.

- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2 the requirements of Section 5.3, Floodways, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;

- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor

including basement elevated to or above the base flood elevation as may be determined in Section 4.3-(2) or 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 and Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The BOARD OF APPEALS as established by VILLAGE OF HAMBURG shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The BOARD OF APPEALS shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the BOARD OF APPEALS may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the BOARD OF APPEALS shall consider all technical evaluations, all relevant

factors, standards specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the BOARD OF APPEALS may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic

Places on the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

7.1 REPEAL; Local Law No. 14 of 1981 (Sections 7.1/4 -1 through 7 1/4 -19) is repealed

Be it enacted this 21st day of DECEMBER, 1987 by the
BOARD OF TRUSTEES of VILLAGE OF HAMBURG of
ERIE County, New York, to be effective
DECEMBER 21, 1987.

SEAL

ATTEST.

CLERK

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

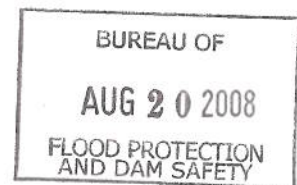
- ☐ County
☐ City of HOLLAND
☒ Town
☐ Village

Local Law No. 3 of the year 2008

A local law TO AMEND LOCAL LAW 2-1988 KNOWN AS "ADOPTION OF CODE",
(Insert Title)
ADOPTED BY THE TOWN BOARD OF THE TOWN OF HOLLAND ON JULY
13, 1988, BY AMENDING CHAPTER 69, FLOOD DAMAGE PREVENTION.

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

- ☐ County
☐ City of HOLLAND
☒ Town
☐ Village
- as follows:



SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Holland finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Holland and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;

- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or

100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an ab-

normal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

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

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and

- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. 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, whether or not that alteration affects the external dimensions of the building.

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

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Holland, Erie County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Holland, Community Number 360245, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers:

36029C0529G, 36029C0535G, 36029C0537G, 36029C0539G, 36029C0541G, 36029C0542G, 36029C0543G, 36029C0544G, 36029C0555G, 36029C0565G, 36029C0705G, 36029C0710G, 36029C0730G,

whose effective date is September 26, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York, All Jurisdictions" dated September 26, 2008.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

Town of Holland Town Hall, 47 Pearl Street, Holland, New York 14080.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Holland from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Holland, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Supervisor of the Town of Holland is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the na-

ture, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$ 250.00. In addition, the applicant shall be responsible for reimbursing the Town of Holland for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of sub-section 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Holland agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Holland for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Holland for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Holland agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Holland for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Holland for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating

within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or

- (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Holland shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;

- (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
 - (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (i) the issuance of a variance to construct a structure 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
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

Be it enacted this 13th day of August, 2008 by the Town Board of the Town of Holland, Erie County, New York, to be effective upon filing with the New York Secretary of State.

Councilman James Britt

Councilman Geoffrey Hack

Councilwoman Roberta Herr

Councilwoman Karen Kline

Supervisor Michael Kasprzyk

SEAL

ATTEST Jordan B. Smith CLERK

Attachment A
MODEL FLOODPLAIN DEVELOPMENT
APPLICATION FORM

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance, and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE _____

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

NAME	ADDRESS	TELEPHONE
APPLICANT		
BUILDER		
ENGINEER		

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

APPLICATION # _____

PAGE 2 of 4

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

ACTIVITY

STRUCTURE TYPE

- ☐ New Structure
- ☐ Addition
- ☐ Alteration
- ☐ Relocation
- ☐ Demolition
- ☐ Replacement

- ☐ Residential (1-4 Family)
- ☐ Residential (More than 4 Family)
- ☐ Non-residential (Floodproofing? ☐ Yes)
- ☐ Combined Use (Residential & Commercial)
- ☐ Manufactured (Mobile) Home
- (In Manufactured Home Park? ☐ Yes ☐ No)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- ☐ Fill ☐ Mining ☐ Drilling ☐ Grading
- ☐ Excavation (Except for Structural Development Checked Above)
- ☐ Watercourse Alteration (Including Dredging and Channel Modifications)
- ☐ Drainage Improvements (Including Culvert Work), Stormwater Control Structures or Ponds
- ☐ Road, Street or Bridge Construction
- ☐ Subdivision (New or Expansion)
- ☐ Individual Water or Sewer System
- ☐ Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- ☐ The proposed development is reasonably safe from flooding. Entire property is in Zone B, C or X.
- ☐ The proposed development is in adjacent to a flood prone area.
100-Year flood elevation at the site is:
_____ Ft. ☐ NGVD 1929/ ☐ NAVD 1988 (MSL)
☐ Unavailable
- ☐ See Section 4 for additional instructions for development that is or may be in a flood prone area.

SIGNED _____ DATE _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

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

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- ☐ Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor, openings in foundation for entry and exit of floodwaters.
Other _____
- ☐ Elevation Certificate
- ☐ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- ☐ Plans showing the watercourse location, proposed relocations, Floodway location.
- ☐ Topographic information showing existing and proposed grades, location of all proposed fill.
- ☐ Top of new fill elevation _____ Ft. ☐ NGVD 1929/ ☐ NAVD 1988 (MSL)
- ☐ PE Certification of Soil Compaction
- ☐ Floodproofing protection level (non-residential only) _____ ☐ NGVD 1929/ ☐ NAVD 1988 (MSL)
For floodproofed structures, applicant must attach certification from registered engineer or architect.
- ☐ Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. ☐ Is
 B. ☐ Is not
in conformance with provisions of Local Law # _____, (yr) _____. This permit is hereby issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.
If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

Expiration Date: _____

APPEALS: Appealed to Board of Appeals? ☐ Yes ☐ No
Hearing date: _____
Appeals Board Decision --- Approved? ☐ Yes ☐ No

Conditions: _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by **APPLICANT** before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT. ☐ NGVD 1929/
☐ NAVD 1988 (MSL).
Attach Elevation Certificate FEMA Form 81-31
2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. ☐ NGVD 1929/ ☐ NAVD 1988 (MSL).
Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by **LOCAL ADMINISTRATOR**)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO

SECTION 8: CERTIFICATE OF COMPLIANCE (To be completed by **LOCAL ADMINISTRATOR**)

Certificate of Compliance issued: DATE: _____

BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

**CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA**

(Owner Must Retain This Certificate)

Premises located at: _____

Owner: _____

Owner's Address: _____

Permit No. _____ Permit Date: _____

Check One:

- ☐ New Building
☐ Existing Building
☐ Fill
☐ Other:

The Local Floodplain Administrator is to complete a. or b. below:

- a. Compliance is hereby certified with the requirements of Local Law No. ____, (yr) ____.

Signed: _____ Dated: _____

- b. Compliance is hereby certified with the requirements of Local Law No. ____, (yr) ____, as modified by variance no. ____, dated _____.

Signed: _____ Dated: _____

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2008 of the ~~(County)~~(City)(Town)(Village) of HOLLAND was duly passed by the TOWN BOARD on August 13 2008, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted _____ (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

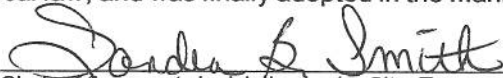
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

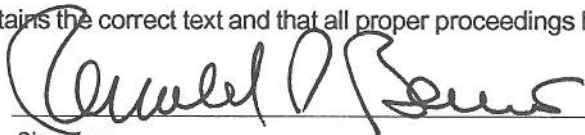
(Seal)

Date: August 13, 2008

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

TOWN ATTORNEY

Title

~~County~~

~~City~~

of HOLLAND

Town

~~Village~~

Date: August 13, 2008

GERALD S. DePASQUALE
CITY CLERK



OFFICE OF THE CITY CLERK
ROOM 215, CITY HALL

LACKAWANNA, NEW YORK 14218
716 - 827 - 6452

April 18, 1988

I hereby certify that the attached are true copies of the Municipal Code, Zoning Sections as adopted by Your Honorable Body at a regular Council meeting on December 7, 1987.

Yours truly,

A handwritten signature in cursive script, reading "Gerald S. DePasquale".

Gerald S. DePasquale, C.M.C.
City Clerk

GSD:jc

renewal permit, the Zoning Officer shall produce a photograph of the sign as completely installed, and keep it on public record with the Use Permit.

5. A Building Permit issued for the erection, alteration, modification or repair of any sign conforming to the requirements of this Chapter shall constitute the use permit herein required. The term of the use permit shall not be limited by any restriction contained in the Building Permit for the commencement of the work thereby authorized.

§ 30.64 Flood Plain Overlay District (FP)

A. Intent.

1. A Flood Plain Overlay District is hereby established and shall apply to all areas of special flood hazards within the jurisdiction of the City of Lackawanna, New York. The provisions of the FP-District take precedence over any other Zoning District, Zoning Article, local law or ordinance to the extent that the provisions of this Section are inconsistent with such other provisions of such other enactments.
2. The FP-District is established to allow floodways within the City of Lackawanna to carry abnormal flows of water in time of flooding, and to prevent encroachment into these floodways that would unduly increase flood heights, velocities, damages and other problems.

B. Findings.

The Council of the City of Lackawanna finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Lackawanna and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Section is adopted.

C. Statement of Purpose.

It is the purpose of this Section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

an area of special flood hazard; and,

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

E. Definitions.

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Section or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, Al-99, V, VO, VE or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high

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 their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, ship-building, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Section.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929

before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to commence 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. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure or contributing structure listed on the National Register of Historical Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this Section which permits construction or use in a manner that would otherwise be prohibited by this Section.

F. General Provisions.

1. Lands to which this Section applies.

This Section shall apply to all areas of special flood hazards within the jurisdiction of the City of Lackawanna.

2. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Lackawanna, of Erie County, New York, Community No. 360297", dated January 2, 1980, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Chapter. The Flood Insurance Study and maps are on file at the Office of the Department of Public Works, Room 311, City Hall, 714 Ridge Road, Lackawanna, New York 14218.

3. Interpretation, conflict with other laws.

This Section is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986

considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City of Lackawanna, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

G. Administration.

1. Designation of the Local Administrator.

The Zoning Officer is hereby appointed Local Administrator to administer and implement this Section by granting or denying development permit applications in accordance with its provisions.

2. Establishment of Development Permit.*

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 30.64(F)[2]. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

a. Application stage.

The following information is required where applicable:

(1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;

(2) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;

*A Building Permit normally will also be required. See Chapter 26, § 26.31 et seq. 30.105

those Federal, State or local governmental agencies from which prior approval is required.

- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this Section "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

i. If there is no adverse effect, then the permit shall be granted consistent with the provisions of this Section.

ii. If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

- (4) Review all development permits for compliance with the provisions of § 30.64(H)[1(e)].

b. Use of other base flood and floodway data.

When base flood elevation data has not been provided in accordance with § 30.64(F)[2] Basis for Establishing the Areas of Special Flood Hazard, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to § 30.64(H)[1(d)], in order to administer § 30.64(H)[2], Specific Standards, and § 30.64(H)[3].

c. Information to be obtained and maintained.

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.

- (2) For all new or substantially improved floodproofed structures:

i. Obtain and record the actual elevation in relation to mean seal level, to which the structure has been floodproofed; and

of a stop work order shall be subject to the penalties described in § 30.64(F)[3] of this Section.

- (2) All floodplain development found noncompliant with the provisions of this Section and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in § 30.64(F)[3] of this Section.

g. Inspections.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

h. Certificate of Compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Section.

- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to § 30.64(G)[3(g)] and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

H. Provisions for Flood Hazard Reduction.

1. General Standards.

- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

e. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in § 30.64(G)[3(a)(3)], Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 30.64(G)[3(b)] or § 30.64(H)[1(a)(4)] and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

ture, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- i. 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;
- ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- iii. Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

(2) If the structure is to be floodproofed:

- i. A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyance; and

(3) Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definitions, Article II). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 30.64(F)[2] and 30.64(G)[3(b)], all encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

I. Variance Procedure.

1. Appeals Board.

- a. The Zoning Board of Appeals as established by the City of Lackawanna, shall hear and decide appeals and requests for variances from the requirements of this Section.
- b. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this Section.
- c. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- d. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other parts of this Section and:
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or

of this Section.

- f. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

2. Conditions for Variances.

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in § 30.64(I)[1(d)] have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this Section.
- c. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. The criteria of paragraphs a, d, e, and f of this Paragraph are met;
 - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- d. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

FLOODPLAINS

Chapter 21

LOCAL LAW NO. 2 Of the Year 2001

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF THE TOWN OF LANCASTER, NEW YORK BY REPEALING AND DELETING CHAPTER 21-FLOODPLAINS FURTHER IDENTIFIED AS LOCAL LAW NO. 1 OF THE YEAR 1987, AND ENACTING IN PLACE THEREOF A NEW CHAPTER 21-FLOODPLAINS .

BE IT ENACTED by the Town Board of the Town of Lancaster, as follows:

SECTION 1. That Chapter 21-Floodplains (comprised of Local Law No. 1 of the Year 1987 and Local Law No. 3 of the Year 1999) be and is hereby repealed.

SECTION 2. That a new Chapter 21-Floodplains-Local Law No. 2 of the Year 2001 of the Code of the Town of Lancaster be and is hereby enacted as follows:

CHAPTER 21 FLOODPLAINS

- §21-1. Statutory Authorization and Purpose.**
- §21.2. Definitions.**
- §21.3. General Provisions.**
- §21.4. Administration.**
- §21.5. Construction Standards/General Standards**
- §21.6. Variance Procedure**

SECTION 21.1 Statutory Authorization and Purpose.

§21-1.1 Findings.

The Town Board of the Town of Lancaster, New York finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Lancaster and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

§21-1.2 Statement of Purpose.

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (3) control the alteration of natural floodplains stream channels" and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

§21-1.3 Objectives.

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 21-2.0 DEFINITIONS.

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VD Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent-or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AB, AH, AO, AI-A3O, A99, V, VD, VE, or VI-V30. It is also commonly referred to as the base flood-plain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building built, in the case of a building in Zones AI-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones VI-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear wall parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AI-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones VI-30, VE or V, "elevated building", also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "Flooding" also means 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

VU, 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)," means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" has the same meaning as "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 such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 structural" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing Maintained by the Department of the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

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

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 21-3.0 - GENERAL PROVISIONS.

§21-3.1 Lands to which this local law applies.

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Lancaster.

§21-3.2 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map (multiple panels) Index No 360249 0001-0012 whose effective date is February 23, 2001;

(2) A scientific and engineering report entitled "Flood Insurance Study, Town of Lancaster, New York, Erie County" dated February 23, 2001.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at:
Town of Lancaster Building and Zoning Department.

§21-3.3 Interpretation and conflict with other laws.

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and a placation, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§21-3.4 Severability.

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

§21-3.5 Penalties for non-compliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Lancaster from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§23-3.6 Warning and disclaimer of liability.

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town or any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 21-4.0 ADMINISTRATION.

§21-4.1 Designation of the local administrator.

The Town of Lancaster ~~Building Inspector~~ is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

§21-4.2 The Floodplain Development Plan.

§21-4.2.1 Purpose.

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 21-3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

§21-4.2.2 Fees.

(1) All applications for a floodplain development permit shall be accompanied by an application fee of \$100. In addition, the applicant shall be responsible for reimbursing the Town of Lancaster for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

§21-4.3 Application for a permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor

- (2) The proposed elevation, in relation, to mean sea level, to which any new or substantially improved non-residential structure will be flood proofed. Upon completion of the flood proofed portion of the structure, the permittee shall submit to the Local Administrator the as-built flood proofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility flood proofing will meet the criteria in Section 21-5.2.3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential flood proofed structure will meet the flood proofing criteria in Section 21-5.4, NON- RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 21-3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments including proposals for manufactured home and recreational vehicle parks and subdivisions that are greater than either 50 lots or 5 acres.

§21-4.4 Duties and responsibilities of the Local Administrator.

Duties of the Local Administrator shall include, but not be limited to the following:

§21-4.4.1 Permit Application review.

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 21-5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 21-5.1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities.). The Local Administrator

may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 21-5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

§21-4.4.2 Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a Floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and Floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 21-4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law. ✓
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

§21-4.4.3 Alteration of watercourses.

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit, holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

§21-4.4.4 Construction Stage.

- (1) In Zones AI-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of flood proofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood proofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected

§21-4.4.5 Inspections.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

§21-4.4.6 Stop Work Orders.

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 21-3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 21-3.5 of this local law.

§21-4.4.7 Certificate of Compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 21-3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 21- 4.4.5, INSPECTIONS, and/or any certified elevations, hydraulic data, flood proofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

§21-4.4.8 Information to be retained.

The Local Administrator, shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance.
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 21-4.4.4 (1) and 21-4.4.4 (2), and whether or not the structures contain a basement;
- (3) Flood proofing certificates required pursuant to sub-section 21-4.4.4 (1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 21-6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 21-4.4.3, ALTERATION OF WATERCOURSES.

SECTION 21-5.0 CONSTRUCTION STANDARDS.

§21-5.1 General Standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 21-3.2.

§21-5.1.1 Subdivision Proposals.

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

§21-5.1.2 Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory Floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Lancaster agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburse the Town of Lancaster for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 21-3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or
 - (ii) the Town of Lancaster agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Lancaster for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Lancaster for all costs related to the final map revisions.

§21-5.2 STANDARDS FOR ALL STRUCTURES

§21-5.2.1 Anchoring.

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

§21-5.2.2 Construction Materials and Methods.

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones AI-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

§21-5.2.3 Utilities

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§21-5.3 Residential Structures.

§21-5.3.1 Elevation.

The following standards, in addition to the standards in sub-sections 21-5.1.1 SUBDIVISION PROPOSALS, and 21-5.1.2 ENCROACHMENTS, and Section 21-5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base, flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to one foot above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 21-3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

§21-5.4 Non-Residential Structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in sub-sections 21-5.1.1, SUBDIVISION PROPOSALS, and 21-5.1.2, ENCROACHMENTS, and Section 21-5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:

- (i) have the lowest floor, including basement or cellar, elevated to one foot above the base flood elevation; or

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- (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall;

- (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified) or

- (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in 21-5 (1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 21-5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§21-5.5 Manufactured Homes and Recreational Vehicles

The following standards in addition to the standards in Section 21-5.1 GENERAL STANDARDS, and Section 21-5.2 STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 21-5.5(2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:
 - (i) outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

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shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground-anchors.

- (3) A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
 - (i) elevated in a manner such as required in paragraph 21-5.5(2), or
 - (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited..
- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 21-3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 21-6.0 Variance Procedure

§21-6.1 Appeals Board.

- (1) The Zoning Board of Appeals as established by the Town Board of the Town of Lancaster shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such application they shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;

- (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 21-6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§21-6.2 Conditions for Variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (I-xii) in Section 21-6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated Floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;

- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 26th day of February, 2001 by the Town Board of the Town of Lancaster, Erie County, New York, to be effective immediately.

ATTEST

CLERK

Johanna M. Coleman

State of New York
County of Erie
Town of Lancaster

} ss:

This is to certify that I, JOHANNA M. COLEMAN, Town Clerk and Registrar of Vital Statistics of the **Town of Lancaster** in the said **County of Erie**, have compared the foregoing copy of a resolution

SEAL

*Do not accept this copy unless the raised seal of the
Town of Lancaster is affixed thereon.*

with the original thereof filed in my office at **Lancaster, New York**, on the 26th day of February, 20 01 and that the same is a true and correct copy of said original, and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Town this 27th day of February, 20 01

Johanna M. Coleman
Town Clerk and Registrar of Vital Statistics



Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~
~~Town~~
Village

LANCASTER

Local Law No. 3 of the year 1989.

A local law Flood Damage Prevention
(Insert title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~County~~
~~City~~
~~Town~~
Village

of Lancaster as follows:

A local law to amend Chapter 81 of the Code of the Village of Lancaster to read as follows:

(see attached)

OCT 6 1989

(If additional space is needed, please attach sheets of the same size as this and number each)

FLOOD DAMAGE PREVENTION

Chapter 81

FLOOD DAMAGE PREVENTION

- § 81-1. Findings.
- § 81-2. Purpose.
- § 81-3. Objectives.
- § 81-4. Definitions.
- § 81-5. Applicability.
- § 81-6. Basis for establishing areas of special flood hazard.
- § 81-7. Interpretation; conflict with other provisions.
- § 81-8. Penalties for offenses.
- § 81-9. Warning and disclaimer of liability.
- § 81-10. Designation of local administrator.
- § 81-11. Development permit.
- § 81-12. Powers and duties of local administrator.
- § 81-13. General standards.
- § 81-14. Specific standards.
- § 81-15. Floodways.
- § 81-16. Appeals Board; variances.

[HISTORY: Adopted by the Board of Trustees of the Village of Lancaster 9-14-87 as L.L. No. 3-1987.¹ Amendments noted where applicable.]

¹ Editor's Note: This local law also supersedes former Ch. 81, Flood Damage Prevention, adopted 6-11-79 as L.L. No. 4-1979.

GENERAL REFERENCES

Building construction administration — See Ch. 55.
Environmental quality review — See Ch. 72.
Subdivision of land — See Ch. 135.
Zoning — See Ch. 152.

§ 81-1. Findings.

The Board of Trustees of the Village of Lancaster finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Lancaster and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purpose and objectives hereinafter set forth, this chapter is adopted.

§ 81-2. Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damage.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 81-3. Objectives.

The objectives of this chapter are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in areas of special flood hazard.
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. To provide that developers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 81-4. Definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM), with base flood depths from one (1) to three (3) feet,

where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AH, AO, A1 - 99, V, VO, VE or V1 - 30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR — The same meaning as "basement."

COASTAL HIGH-HAZARD AREA — The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the areas of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD or FLOODING — 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 HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) — The official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary - Floodway Map and the water surface elevations of the base flood.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The same meaning as "regulatory floodway."

FLOOR — The top surface of an enclosed area in a building, including basement, i.e., the top of the slab in concrete slab

construction or the top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

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

LOWEST FLOOR — The lowest level, including basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement, is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL — For the purposes of the National Flood Insurance Program, 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.

MOBILE HOME — The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD — The same meaning as "base flood."

PRINCIPALLY ABOVE GROUND — At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

REGULATORY FLOODWAY — 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 81-12B of this chapter.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages or sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which

equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) Any project for the improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 81-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Lancaster.

§ 81-6 Basis for establishing areas of special flood hazard.

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Village of Lancaster, New York, Erie County" dated January, 1979 with Flood Insurance Rate Maps enumerated on Map Index No. 360248 0001C dated July 2, 1979 and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 360248 0001C dated July 2, 1979.

The above documents are, hereby, adopted and declared to be a part of this local law and are filed at the Village Clerk's Office.

§ 81-7. Interpretation; conflict with other provisions.

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

§ 81-8. Penalties for offenses.

No structure will hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Lancaster from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under § 81-16 will be declared noncompliant, and notification will be sent to the Federal Emergency Management Agency.

§ 81-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Lancaster, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 81-10 Designation of local administrator

The Superintendent of Public Works is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 81-11. Development permit.

A development permit shall be obtained before the start of construction or any other development within the areas of special flood hazard as established in § 81-6. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing.

A. Application stage. The following information is required where applicable:

- (1) The elevation, in relation to mean sea level, of the proposed lowest floor, including basement or cellar, of all structures.
- (2) The elevation, in relation to mean sea level, to which any nonresidential structure will be floodproofed.
- (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 81-13C(1).

- (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 81-14.
 - (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 81-12. Powers and duties of local administrator.

Duties of the local administrator shall include but not be limited to:

- A. Permit application review. The local administrator shall:
- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
 - (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (3) Review all development permit applications to determine if the proposed development adversely affects the areas of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent

properties. An engineering study may be required of the applicant for this purpose.

- (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of § 81-13E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 81-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 81-13D(4), in order to administer § 81-14, Specific standards, and § 81-15, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
 - (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
 - (b) Maintain the floodproofing certifications required in §§ 81-13 and 81-14.
 - (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances, when granted, and certificates of compliance.

D. Alteration of watercourses. The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified areas of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 81-6 and/or Subsection B, when available, shall be used to accurately delineate the areas of special flood hazard.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 81-8 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order issued by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 81-8 of this chapter.

G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the local administrator.
- (3) All certifications shall be based upon the inspections conducted subject to Subsection G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 81-13. General standards.

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured

homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments, including proposals for manufactured home parks and subdivisions, greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in § 81-12A(3). This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 81-12B or Subsection D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.
- (3) In all areas of special flood hazard where floodway data is provided or available pursuant to § 81-12B, the requirements of § 81-15, Floodways, shall apply.

§ 81-14. Specific standards.

- A. In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 81-6, Basis for establishing areas of special flood hazard, and § 81-12B, Use of other base flood and floodway data, the following standards are required:

- (1) Residential construction. New construction and substantial improvements of any resident structure shall:
 - (a) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - (b) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for

the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(b) If the structure is to be floodproofed:

- [1] A licensed professional engineer or architect shall develop and/or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation, in relation to mean sea level, to which the structure is floodproofed.

(c) The local administrator shall maintain on record a copy of all such certificates noted in this section.

B. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial

improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 81-12B or two (2) feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 81-15. Floodways.

Located within the areas of special flood hazard are areas designated as floodways. (See § 81-4.) The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 81-6 and 81-

12B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 81-16. Appeals Board; variances.

A. Appeals Board.

- (1) The Zoning Board of Appeals as established by the Village of Lancaster shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.

- (e) The necessity to the facility of a waterfront location, where applicable.
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The costs to local government and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (5) Upon consideration of the factors of Subsection A(4) and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (6) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

B. Variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Subsection A(4)(a) through (l) have been fully considered. As the lot size increases beyond one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the contributing structures procedures set forth in the remainder of this section.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (a) The criteria of Subsection B(1), (4), (5) and (6) of this section are met.
 - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) A showing of good and sufficient cause;

- (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 19 89
County
City of Lancaster was duly passed by the Board of Trustees
Town (Name of Legislative Body)
Village
on September 25, 19 89 in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer* or repassage after disapproval.)~~

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City of was duly passed by the (Name of Legislative Body)
Town
Village
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City of was duly passed by the (Name of Legislative Body)
Town
Village
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive
thereon at the general election held on 19, in accordance with the applicable
annual provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
County
City of was duly passed by the (Name of Legislative Body)
Town
Village
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of 19
in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of §³⁶~~37~~ of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special}~~general~~ election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph1..... above.



Clerk of the County Legislative Body, City, Town or Village Clerk or
officer designated by local legislative body

Rosemary Babcock

Date: *September 29, 1989*

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


.....
Anthony M. Nosek
Village Attorney

Signature

.....
Title

Date: September 29, 1989

~~County~~
~~City~~
~~Town~~
Village

of Lancaster

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County of Erie
City of Marilla
Town of
Village

Local Law No. 1 of the year 19 87

A local law for FLOOD DAMAGE PREVENTION

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Town Board of the

County of Marilla Erie County, N.Y. as follows:

60.3 (d)

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFD 60.3 (d)) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Marilla finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Marilla and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(If additional space is needed, please attach sheets of the same size as this and number each)

- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE, or VI-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Town of Marilla.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Marilla, of Erie County, New York", dated May 17, 1974, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at The Town Clerk's Office, Two Rod Road, Marilla, New York.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Marilla from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Marilla, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

Building Inspector and The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and

certified by same. When flood-proofing is utilized for a particular building. The floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

- (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.

- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2 the requirements of Section 5.3, Floodways, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;

- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor

including basement elevated to or above the base flood elevation as may be determined in Section 4.3-(2) or 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 and Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by Town of Marilla shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant

factors, standards specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic

Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 2nd day of March, 19 87 by the
Town of Marilla of
Erie County, New York, to be effective
March 2, 1987.

SEAL

ATTEST. _____ CLERK

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 87
County of Erie
City of Marilla was duly passed by the Town Board of the Town of Marilla
of the Town of Marilla (Name of Legislative Body)
on March 2, 19 87 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____
County
City of _____ was duly passed by the _____
of the Town of _____ (Name of Legislative Body)
Village
on _____ 19 _____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____
County
City of _____ was duly passed by the _____
of the Town of _____ (Name of Legislative Body)
Village
on _____ 19 _____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19 _____ Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____
County
City of _____ was duly passed by the _____ On _____
of the Town of _____ (Name of Legislative Body)
Village
_____ 19 _____ not disapproved
and was approved by the _____ On _____
repassed after disapproval Elective Chief Executive Officer *
_____ 19 _____ Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19 _____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

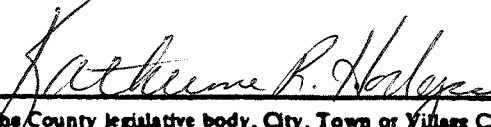
I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.


Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: March 2, 1987.

KATHERINE HODGES, Clerk of the Town of Marilla,
New York

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


.....
Signature
KENNETH H. HALL, Town Attorney
.....
Title

Date: March 2, 1987.

County of Erie
City of Marilla
Town of
Village of

A Meeting of the Town Board of the Town of Orchard Park, Erie County New York, was held at the Municipal Building, S4295 South Buffalo Street, Orchard Park, New York on the 3rd day of February, 1999 at 8:00 P.M., (local time). The meeting was called to order by the Supervisor and there were

PRESENT AT ROLL CALL:

Toni M. Cudney	Supervisor
John J. Mills	Councilman
David M. Buyer	Councilman
Nancy W. Ackerman	Councilwoman
Steven P. McCarville	Councilman
Janis A. Colarusso	Town Clerk
Leonard Berkowitz	Town Attorney
Samuel M. McCune	Police Chief
Michael R. Merritt	Town Engineer
Ronald A. Geitter	Superintendent of Highways

Absent:	Joseph M. Campion	Building Inspector
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1) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN McCARVILLE, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the minutes of the regular meetings of the Town Board, held on December 16, 1998, the 1999 Organizational Meeting, January 6, 1999, and January 20, 1999, as presented by the Town Clerk, are hereby approved, and be it further

RESOLVED, that the reading of these minutes be dispensed with as each member of the Town Board has previously received copies thereof.

The resolution was unanimously adopted.

PUBLIC HEARING

At 8:00 P.M. (local time), the advertised time, the Supervisor called for the Public Hearing to hear all interested parties and citizens for or against the adoption of an amendment to the Town Code of Ordinances: Local Law #1-1999

PROPOSED AMENDMENT TO LOCAL LAW #1 of 1987 **Flood Damage Prevention**

Section § 66-6 of Local Law #1 of 1987, entitled "Basis for establishing areas of special flood hazard" is hereby repealed. A new § 66-6 "Basis for establishing of flood hazard is hereby adopted as follows:

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

**SECTION 3.0
GENERAL PROVISIONS**

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Orchard Park, Erie County, New York.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency

- (1) Flood Insurance Rate Map (multiple panels) Index No. 360255 0001-0014, whose effective date is March 16, 1983.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Town of Orchard Park, New York, Erie County" dated September 16, 1982
- (3) Flood Boundary and Floodway Map (multiple panels) Index No. 360255 0001-0014, whose effective date is March 16, 1983.
- (4) LOMR effective March 27, 1998, FEMA case # 97-02-025P, revising FIRM and FBFM panel 0007.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

FLOOD DAMAGE PREVENTION

Chapter 66

FLOOD DAMAGE PREVENTION

- § 66-1. Findings.**
- § 66-2. Purpose.**
- § 66-3. Objectives.**
- § 66-4. Definitions.**
- § 66-5. Applicability.**
- § 66-6. Basis for establishing areas of special flood hazard.**
- § 66-7. Interpretation; conflict with other laws.**
- § 66-8. Penalties for offenses.**
- § 66-9. Warning and disclaimer of liability.**
- § 66-10. Designation of local administrator.**
- § 66-11. Establishment of development permit.**
- § 66-12. Duties and responsibilities of local administrator.**
- § 66-13. General standards.**
- § 66-14. Specific standards.**
- § 66-15. Floodways.**
- § 66-16. Appeals board.**
- § 66-17. Conditions for variances.**

[HISTORY: Adopted by the Town Board of the Town of Orchard Park 4-1-87 as L.L. No. 1-1987.¹ Amendments noted where applicable.]

¹ Editor's Note: This local law supersedes former Ch. 66, Flood Damage Prevention, adopted 7-6-77, as amended 11-17-82.

GENERAL REFERENCES

Subdivision — See Ch. 121.

Water — See Ch. 138.

Zoning — See Ch. 144.

§ 66-1. Findings.

The Town Board of the Town of Orchard Park finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Orchard Park and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 66-2. Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 66-3. Objectives.

The objectives of this chapter are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, sewer lines, streets and bridges, located in areas of special flood hazard.
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. To provide that developers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 66-4. Definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM), with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 through 99, V, VO, VE or V1 through 30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR — Has the same meaning as "basement."

COASTAL HIGH HAZARD AREA — The area subject to high velocity waters, including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1 through 30, VE, VO or V.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or sheer walls.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary - Floodway Map and the water surface elevations of the base flood.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — Has the same meaning as "regulatory floodway."

FLOOR — The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

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

LOWEST FLOOR — Lowest level, including basement or cellar of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used, with or without a permanent foundation, when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, 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.

MOBILE HOME — Has the same meaning as “manufactured home.”

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD — Has the same meaning as “base flood.”

PRINCIPALLY ABOVE GROUND — That at least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

REGULATORY FLOODWAY — 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 66-12B of this chapter.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project or physical alteration of the property and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes the actual start means the affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 66-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Orchard Park.

§ 66-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the Town of Orchard Park, of Erie County, New York," dated March 16, 1983, with accompanying Flood Insurance Rate Maps and Flood

Boundary - Floodway Maps is hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at the Town Engineer's Office.

§ 66-7. Interpretation; conflict with other laws.

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program, effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

§ 66-8. Penalties for offenses.

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Orchard Park from taking such other lawful action as is necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 66-16 and 66-17 will

be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 66-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Orchard Park, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 66-10. Designation of local administrator.

The Zoning Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 66-11. Establishment of development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 66-6. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing.

A. Application stage. The following information is required where applicable:

- (1) The elevation, in relation to mean sea level, of the proposed lowest floor, including basement or cellar, of all structures;
 - (2) The elevation, in relation to mean sea level, to which any nonresidential structure will be floodproofed;
 - (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 66-13C(1);
 - (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 66-14; and
 - (5) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 66-12. Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to:

- A. Permit application review. He shall:

- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
 - (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
 - (4) Review all development permits for compliance with the provisions of § 66-13E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 66-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 66-13D(4), in order to administer § 66-14, Specific standards, and § 66-15, Floodways.
- C. Information to be obtained and maintained. He shall:
- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures and whether or not the structure contains a basement or cellar.

- (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (b) Maintain the floodproofing certifications required in §§ 66-13 and 66-14.
- (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances, when granted, and certificates of compliance.

D. Alteration of watercourses. He shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to §§ 66-6 and/or 66-12B, when available, shall be used to accurately delineate the areas of special flood hazard.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 66-8 of this chapter.
 - (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 66-8 of this chapter.
- G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.
- H. Certificate of compliance.
- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
 - (2) All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.
 - (3) All certifications shall be based upon the inspections conducted subject to § 66-12G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 66-13. General standards.

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in § 66-12A, Permit application review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 66-12B or 66-13D(4) and no floodway has been determined, the cumulative effects of any proposed development, when

combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 66-12B, the requirements of § 66-15, Floodways, shall apply.

§ 66-14. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 66-6, Basis for establishing areas of special flood hazard, and § 66-12B, Use of other base flood data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any residential structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade; and
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction.

- (1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - [1] Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade; and
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (b) If the structure is to be floodproofed:
 - [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods

of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation, in relation to mean sea level, to which the structure is floodproofed.
- (2) The local administrator shall maintain on record a copy of all such certificates noted in this section.
- C. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement elevated to or above the base flood elevation as may be determined in § 66-12B or two (2) feet above the highest adjacent grade where no elevation data is available.
 - (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
 - (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

- (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade;
- (c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 66-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways. (See definition, § 66-4.) The floodway is an extremely hazardous area due to high velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 66-6 and 66-12B, all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 66-16. Appeals board.

- A. The Zoning Board of Appeals as established by the Town of Orchard Park shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.

- E. Upon consideration of the factors of § 66-16D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 66-17. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the provisions of § 66-16D(1) through (12) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (1) The criteria of Subsections A, D, E and F of this section are met;
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.



(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

NOV 20 1987

County
City of Orchard Park, New York
Town
Village

Local Law No. 1 of the year 1987

A local law adding Chapter 31 entitled "Flood Damage Prevention" to the Village of Orchard Park Municipal Code, as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36, and repealing Article VIII of Chapter 30 of said Municipal Code.

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County
City of Orchard Park, Erie County, New York as follows:
Town
Village

SECTION 1. ENACTMENT OF CHAPTER 31 ENTITLED "Flood Damage Prevention" OF THE VILLAGE OF ORCHARD PARK MUNICIPAL CODE.

A new Chapter is hereby added to the Village of Orchard Park Municipal Code to read as follows:

"CHAPTER 31
FLOOD DAMAGE PREVENTION

ARTICLE I
TITLE, STATUTORY AUTHORIZATION AND PURPOSE

§ 31.1 Title

This Chapter shall be known and may be cited as the "Village of Orchard Park Flood Damage Prevention Law".

§31.2 Findings

The Board of Trustees of the Village of Orchard Park finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Orchard Park and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Chapter is adopted.

§ 31.3 Statement of purpose

It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Regulate uses which are dangerous to health, safety and property due water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(If additional space is needed, please attach sheets of the same size as this and number each)

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging and other development which may increase erosion or flood damages;

5. Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;

6. Qualify and maintain for participation in the National Flood Insurance Program.

§ 31.4 Objectives

The objectives of this Chapter are:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To provide that developers are notified that property is in an area of special flood hazard; and,
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II

DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Chapter or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE or VI-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI-30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, ship-building, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Chapter.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Chapter.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood".

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 32.43(B) of this Chapter.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to commence 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. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure or contributing structure listed on the National Register of Historical Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this Chapter which permits construction or use in a manner that would otherwise be prohibited by this Chapter.

ARTICLE III

GENERAL PROVISIONS

§ 31.31 Lands to which this Chapter applies

This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the Village of Orchard Park.

§ 31.32 Basis for establishing the areas of special flood hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Village of Orchard Park, of Erie County, New York, Community No. 360254", dated July 1, 1981, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Chapter. The Flood Insurance Study and maps are on file at the Village Clerk's Office, Municipal Building S-4295 South Buffalo Street, Orchard Park, New York 14127.

§ 31.33 Interpretation, conflict with other laws

This Chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, local laws or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 31.34 Severability

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

§ 31.35 Penalties for non-compliance

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Chapter and any other applicable regulations. Any infraction of the provisions of this Chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than Two Hundred Fifty Dollars (\$250.00) or imprisoned for not more than fifteen (15) days or both such fine or imprisonment. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Orchard Park from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 31.36 Warning and disclaimer of liability

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the area of special flood hazards or uses permitted with-

in such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Village of Orchard Park, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

ARTICLE IV

ADMINISTRATION

§ 31.41 Designation of the Local Administrator

The Building Inspector is hereby appointed Local Administrator to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.

§ 32.42 Establishment of Development Permit

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 31.32. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

A. Application stage.

The following information is required where applicable:

1. Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
2. Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
3. When required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 31.51(C).
4. Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in § 31.52; and
5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the floodproofing certificate

shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 31.43 Duties and responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited to:

A. Permit application review.

1. Review all development permit applications to determine that the requirements of this Chapter have been satisfied.
2. Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
3. Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this Chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - i. If there is no adverse effect, then the permit shall be granted consistent with the provisions of this Chapter.
 - ii. If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
4. Review all development permits for compliance with the provisions of § 31.51(E), Encroachments.

B. Use of other base flood and floodway data.

When base flood elevation data has not been provided in accordance with § 31.32, Basis for Establishing the Areas of Special Flood Hazard, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to § 31.51(D), in order to administer § 31.52, Specific Standards and § 31.53, Floodways.

C. Information to be obtained and maintained.

1. Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
2. For all new or substantially improved floodproofed structures:
 - i. Obtain and record the actual elevation in relation to mean seal level, to which the structure has been floodproofed; and

ii. Maintain the floodproofing certifications required in §§ 31.51 and 31.52.

3. Maintain for public inspection all records pertaining to the provisions of this Chapter including variances when granted and Certificates of Compliance.

D. Alteration of watercourses.

1. Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to §§ 31.32 and 31.43(B), when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop work orders.

1. All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in § 31.35 of this Chapter.

2. All floodplain development found noncompliant with the provisions of this Chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in § 31.35 of this Chapter.

G. Inspections.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

H. Certificate of Compliance.

1. It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Chapter.
2. All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to § 31.43(G) and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 31.51 General standards

In all areas of special flood hazard the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

1. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
2. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

1. All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in § 31.43(A)[3], Permit Review. This may require the submission of additional technical data to assist in the determination.
2. In all areas of special flood hazard in which base flood elevation data is available pursuant to § 31.43(B) or § 31.51(D)[4] and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
3. In all areas of the special flood hazard where floodway data is provided or available pursuant to § 31.43(B) the requirements of § 31.53, Floodways, shall apply.

§ 31.52 Specific standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 31.32, Basis for Establishing the Areas of Special Flood Hazards, and § 31.43(B), Use of Other Base Flood Data, the following standards are required:

A. Residential Construction.

New construction and substantial improvements of any resident structure shall:

1. Have the lowest floor, including basement or cellar, elevated to one foot or more above the base flood elevation;
2. Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. 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;
 - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - iii. Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction.

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

1. If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - i. 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;
 - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

- iii. Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

2. If the structure is to be floodproofed:

- i. A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyance; and
- ii. A licensed professional engineer or ~~licensed land surveyor~~ shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this Section.

C. Construction Standards for Areas of Special Flood Hazards Without Base Flood Elevations.

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in § 31.43(B) or two (2) feet above the highest adjacent grade where no elevation data is available.

1. New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
2. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - i. 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;
 - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - iii. Openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

§ 31.53 Floodways

Located within areas of special flood hazard are areas designated as floodways (see definitions, Article II). The floodway is an extremely hazardous area due to high velocity

flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 31.32 and 31.43(B), all encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

ARTICLE VI

VARIANCE PROCEDURE

§ 31.61 Appeals Board

- A. The Board of Appeals as established by the Village of Orchard Park, shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- B. The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this Chapter.
- C. Those aggrieved by the decision of the Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Chapter and:
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - xi. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - xii. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of § 31.61(D) and the purposes of this Chapter, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
- F. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 31.62 Conditions for variances

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in § 31.61(D) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this Section.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- i. The criteria of Subdivisions A, D, E and F of this Section are met;
 - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation."

SECTION 2. REPEAL OF ARTICLE VIII OF CHAPTER 30 ENTITLED "ZONING" OF THE VILLAGE OF ORCHARD PARK MUNICIPAL CODE.

That Article VIII entitled "Flood Damage Prevention" of Chapter 30 entitled "Zoning" of the Village of Orchard Park Municipal Code as added by Local Law #3 of the year 1981 be and hereby is repealed but for the purpose of construction, this local law shall be construed as a continuation thereof.

SECTION 3. EFFECTIVE DATE.

This local law shall take effect on April 1, 1987."

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No.1..... of 1987....
~~XXXXX~~
of the ~~XXXXX~~ of Orchard Park..... was duly passed by theBoard of Trustees.....
~~XXXXX~~ Village (Name of Legislative Body)
on March 23..... 19 87. in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer, or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the
Town (Name of Legislative Body)
Village
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the
Town (Name of Legislative Body)
Village
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19....., in accordance with the appli-
annual cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the On
Town (Name of Legislative Body)
Village
..... 19..... not disapproved
and was approved by the On
repassed after disapproval Elective Chief Executive Officer *
..... 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
..... 19....., in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

RANDY A. DANIELS
SECRETARY OF STATE

November 27, 2002

BETSY A. MARSH
TOWN OF SARDINIA
12320 SAVAGE ROAD
SARDINIA, NY 14134

RE: Town of Sardinia, Local Law 1, 2002, filed 11/20/2002

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town
~~City~~ of SARDINIA
~~Village~~
~~XXXXXX~~

Local Law No. 1 of the year 2002

A local law for FLOOD DAMAGE PREVENTION
as authorized by the New York State Constitution, Article IX, Section 2,
and Environmental Conservation law, Article 36.

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

Town
~~City~~ of SARDINIA, ERIE County,
~~Village~~
~~XXXXXX~~

N.Y. as follows:

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The TOWN BOARD of the TOWN OF
SARDINIA finds that the potential and/or actual
damages from flooding and erosion may be a problem to the residents of
the TOWN OF SARDINIA and that such
damages may include: destruction or loss of private and public
housing, damage to public facilities, both publicly and privately
owned, and injury to and loss of human life. In order to minimize the
threat of such damages and to achieve the purposes and objectives
hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health,
safety, and general welfare, and to minimize public and private losses
due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property
due to water or erosion hazards, or which result in damaging
increases in erosion or in flood heights or velocities;

- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In

the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of

the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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. such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:

- (i) by an approved state program as determined by the Secretary of the Interior or

- (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;

- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

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

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Sardinia, Erie County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map (multiple panels) Index No. 360256 0005-0040, whose effective date is January 16, 2003.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Town of Sardinia, New York, Erie County County" dated January 16, 2003.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:
The Town Code Enforcement Office at 12320 Savage Road
Sardinia, NY 14134.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the TOWN OF SARDINIA from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the TOWN OF SARDINIA, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The CODE ENFORCEMENT OFFICER OF THE TOWN OF SARDINIA is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section

3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

- (1) All applications for a floodplain development permit shall be accompanied by an application fee of \$ 50 00. In addition, the applicant shall be responsible for reimbursing the TOWN OF SARDINIA for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by

the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to

include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180

consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(ii) the TOWN OF SARDINIA agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the TOWN OF SARDINIA for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the TOWN OF SARDINIA for all costs related to the final map revision.

- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the TOWN OF SARDINIA agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the TOWN OF SARDINIA for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the TOWN OF SARDINIA for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) ON-SITE WASTE DISPOSAL SYSTEMS SHALL BE LOCATED TO AVOID IMPAIRMENT TO THEM OR CONTAMINATION FROM THEM DURING FLOODING.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards, in addition to the standards in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above **one foot above** the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as **one foot more than** the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential

structure, together with attendant utility and sanitary facilities, shall either:

- (i) have the lowest floor, including basement or cellar, elevated to or above **one foot above** the base flood elevation; or

- (ii) be floodproofed so that the structure is watertight below **one foot above** the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

- (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as **one foot more than** the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

- (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)

(3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

(5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:
 - (i) outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above **one foot above** the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (i) elevated in a manner such as required in paragraph 5.5(2), or
- (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as **one foot more than** the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 6.0
VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The ZONING BOARD OF APPEALS as established by the TOWN LAW AND TOWN BOARD shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The ZONING BOARD OF APPEALS shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the ZONING BOARD OF APPEALS may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the ZONING BOARD OF APPEALS, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the ZONING BOARD OF APPEALS may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 13th day of NOVEMBER, 2002, XXX by the
TOWN BOARD of the TOWN
OF SARDINIA ERIE County,
New York, to be effective JANUARY 1, 2003.

SEAL

ATTEST _____ CLERK

Attachment A
MODEL FLOODPLAIN DEVELOPMENT
APPLICATION FORM

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign): _____

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE _____

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

	NAME	ADDRESS	TELEPHONE
APPLICANT			
BUILDER			
ENGINEER			

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A sketch attached to this application showing the project location would be helpful.

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

<u>ACTIVITY</u>	<u>STRUCTURE TYPE</u>
<input type="checkbox"/> New Structure	<input type="checkbox"/> Residential (1-4 Family)
<input type="checkbox"/> Addition	<input type="checkbox"/> Residential (More than 4 Family)
<input type="checkbox"/> Alteration	<input type="checkbox"/> Non-residential (Floodproofing? <input type="checkbox"/> Yes)
<input type="checkbox"/> Relocation	<input type="checkbox"/> Combined Use (Residential & Commercial)
<input type="checkbox"/> Demolition	<input type="checkbox"/> Manufactured (Mobile) Home
<input type="checkbox"/> Replacement	(In Manufactured Home Park? <input type="checkbox"/> Yes)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- ☐ Fill ☐ Mining ☐ Drilling ☐ Grading
☐ Excavation (Except for Structural Development Checked Above)
☐ Watercourse Alteration (Including Dredging and Channel Modifications)
☐ Drainage Improvements (Including Culvert Work)
☐ Road, Street or Bridge Construction
☐ Subdivision (New or Expansion)
☐ Individual Water or Sewer System
☐ Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- ☐ Is NOT located in a Special Flood Hazard Area (Notify the applicant that the application review is complete and NO FLOODPLAIN DEVELOPMENT PERMIT IS REQUIRED).
- ☐ Is located in a Special Flood Hazard Area.
FIRM zone designation is _____.
100-Year flood elevation at the site is:
_____ Ft. NGVD (MSL)
☐ Unavailable
- ☐ The proposed development is located in a floodway.
FBFM Panel No. _____ Dated _____
- ☐ See Section 4 for additional instructions.

SIGNED _____ DATE _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

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

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- ☐ Development plans, drawn to scale, and specifications, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water 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.
Also, _____
- ☐ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- ☐ Plans showing the extent of watercourse relocation and/or landform alterations.
- ☐ Top of new fill elevation _____ Ft. NGVD (MSL).
- ☐ Floodproofing protection level (non-residential only) _____ Ft. NGVD (MSL). For floodproofed structures, applicant must attach certification from registered engineer or architect.
- ☐ Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood. A copy of all data and calculations supporting this finding must also be submitted.
- ☐ Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity:

A. ☐ Is

B. ☐ Is not

in conformance with provisions of Local Law # _____, (yr) _____. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.

If **BOX B** is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

APPEALS: Appealed to Board of Appeals? ☐ Yes ☐ No
Hearing date: _____
Appeals Board Decision --- Approved? ☐ Yes ☐ No

Conditions _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by **APPLICANT** before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT. NGVD (MSL).
2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD (MSL).

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by **LOCAL ADMINISTRATOR**)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO

SECTION 8: CERTIFICATE OF COMPLIANCE(To be completed by **LOCAL ADMINISTRATOR**)

Certificate of Compliance issued: DATE: _____ BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA

(Owner Must Retain This Certificate)

Premises located at: _____

Owner: _____

Address: _____

Permit No. _____ Permit Date: _____

Check One:

_____ New Building
_____ Existing Building
_____ Fill
_____ Other: _____

The Local Floodplain Administrator is to complete a. or b.
below:

- a. Compliance is hereby certified with the requirements of
Local Law No. _____, (yr) _____.

Signed: _____ Dated: _____

- b. Compliance is hereby certified with the requirements of
Local Law No. _____, (yr) _____, as modified by
variance no. _____,
dated _____.

Signed: _____ Dated: _____

(City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____

_____, 20____, became operative.

X (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November ____ 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(Seal)

I hereby certify that this is a true copy of certificate on file in the Town of Sardinia, Erie County, New York
Betsy A. Marsh
Town Clerk

Betsy A. Marsh

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: November 13, 2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title

County

City

Town of

Village

Date:

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

of Springville

~~Town~~

Village

Local Law No. 4 of the year 19 87

A local law for FLOOD DAMAGE PREVENTION, as authorized by the New York State
(Insert title)

Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

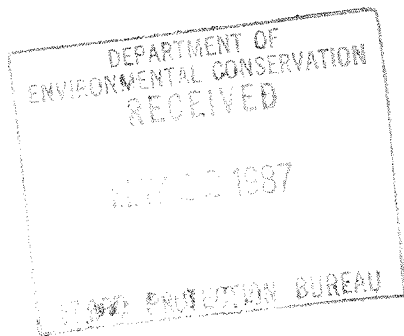
~~County~~

~~City~~

~~Town~~

Village

of Springville, Erie County, New York as follows:



Section 1. ^{Code}Section 132-2,C, Words and Terms Defined, is hereby repealed.
Section 132-2,C, is hereby added as follows:

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's Interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, Al-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base Flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBH)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement 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 of this Local Law.

"Manufacturer home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-b of this Law.

"Sand Dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before damage occurred.

For the purpose of this definition "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local buildings, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

Section 2. Section 132.16-1 of the Code of the Village of Springville is hereby repealed.

Section 3. Section 132.16-1 of the Code of the Village of Springville is hereby enacted as follows.

A. FINDINGS

The Board of Trustees of the Village of Springville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Springville and that such damage may include: destruction or loss of private and public

housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purpose and objectives hereinafter set forth, this local law is adopted.

B. STATEMENT OF PURPOSE

It is the purpose of the local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

C. OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood hazard; and,
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Village of Springville.

.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Village of Springville, of Erie County, New York", dated July 17, 1986, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study, and maps are on file at the Village Office, 5 West Main Street, Springville, New York.

.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this local law are at variance regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

.4 SEVERABILITY

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

.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250 of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Springville from taking such other lawful action as necessary to prevent of remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliance and notification sent to the Federal Emergency Management Agency.

.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Springville, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

E.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

E.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section D.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

E.2-a APPLICATION STAGE

The following information is required where applicable:

- (1) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (2) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (3) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section F.1-c(1);
- (4) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section F.2; and
- (5) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E.2-b CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, of flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building. The floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

E.3-a PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.

- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section F.1-e, Encroachments.

E.3-b USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 132-2,C, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize and base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section F.1-d(4) in order to administer Section F.2, SPECIFIC STANDARDS and Section F.3 FLOODWAYS.

E.3-c INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Section F.1 and F.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

E.3-d ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.

- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E.3-e INTERPRETATION OF FIRM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section D.2 and/or Section E.3-b, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

E.3-f STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section D.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section D.5 of this Local Law.

E.3-g INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

E.3-h CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.
- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section E.3-g and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

PROVISIONS FOR FLOOD HAZARD REDUCTION

F.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

F.1-a ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be 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.

F.1-b CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

F.1-c UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

F.1-d SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

F.1-e ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Section E.3-a(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section E.3-b or Section F.1-d(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section E.3-b the requirements of Section F.3, Floodways, shall apply.

F.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section D.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section E.3-b, USE OF OTHER BASE FLOOD DATA, the following standards are required:

F.2-a RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

F.2-b NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structures, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

F.2-c CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in Section 4.3-c of 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.

- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

F.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 132-2,c.) The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section D.2 and Section E.3-b, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

VARIANCE PROCEDURE

G.1 APPEALS BOARD

- (a) The Zoning Board of Appeals as established by the Board of Trustees of the Village of Springville shall hear and decide appeals and requests for variances from the requirements of this local law.
- (b) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (c) Those aggrieved by the decision of the Zoning Board of Appeals, may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (d) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluation, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (e) Upon consideration of the factors of Section G.1(d) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
 - (f) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

G.2 CONDITIONS FOR VARIANCES

- (a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section G.1-d have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this Section.
- (c) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) the criteria of subparagraphs a, d, e, and f of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (f) Variances shall only be issued upon receiving written justification:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood height, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (g) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Section 4. This Local Law shall take effect immediately.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No.4..... of 1987....
XXXXXX
County
XXXX
of the Town of Springville was duly passed by the Board of Trustees
Village (Name of Legislative Body)
on May 18, 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer * or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19....., in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the On
Village (Name of Legislative Body)
..... 19..... not disapproved
and was approved by the On
repassed after disapproval Elective Chief Executive Officer *
..... 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
..... 19..... in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

~~(City local law concerning Charter revision proposed by petition.)~~


I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of having been submitted to referendum pursuant to the provisions of ^{§ 36} ~~§ 37~~ of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county ~~considered as a unit voting at said general election, became operative~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph¹..... above.


~~Clerk of the County legislative body, City or Town or Village Clerk or~~
~~Officer designated by local legislative body~~
Village Clerk
Village of Springville, New York

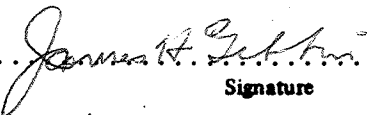
Date: May 18, 1987

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

..........
Signature
Village Attorney
.....
Title

Date: May 18, 1987

~~COUNTY~~
~~CITY~~ of Springville, New York
~~TOWN~~
Village

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ ~~County~~
☐ ~~City~~ of WALES
☒ Town
☐ ~~Village~~

Local Law No. 10 of the year 20 08

A local law To amend Local Law 1-1993 known as "adoption of Code",
(Insert Title)
adopted by the Town Board of the Town of Wales on
May 11, 1993, by amending Chapter 103, Flood Damage
Prevention.

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ ~~County~~
☐ ~~City~~ of Wales
☒ Town
☐ ~~Village~~ as follows:

(Delete this line of text and enter text of local law here)

See Attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 10 of 20 08 of the ~~(County)(City)(Town)(Village)~~ of Wales was duly passed by the Town Board on Aug. 26 20 08, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*) Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ONE, above.

Sharon A. Marfurt
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: August 26, 2008

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]
Signature _____
Attorney

Title _____

County _____
City of Wales
Town _____
Village _____

Date: 9/2/08



TOWN OF WALES
LOCAL LAW 10-2008

A LOCAL LAW TO AMEND LOCAL LAW 1- 1 993 KNOWN AS "ADOPTION OF CODE", ADOPTED BY THE TOWN BOARD OF THE TOWN OF WALES ON MAY 11, 1993, BY AMENDING CHAPTER 103, FLOOD DAMAGE PREVENTION.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF WALES AS FOLLOWS:

Chapter 103, Flood Damage Prevention, is amended by deleting the present Chapter in its entirety and replacing it with the following:

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Wales finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Wales and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;

- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain

or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an

abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

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

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;

- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. 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, whether or not that alteration affects the external dimensions of the building.

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

"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 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Wales, Erie County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Wales, Community Number 360261, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Numbers:

36029C0387G, 36029C0389G, 36029C0391G, 36029C0392G, 36029C0393G, 36029C0394G, 36029C0411G, 36029C0413G, 36029C0414G, 36029C0527G, 36029C0529G, 36029C0531G, 36029C0532G, 36029C0535G, 36029C0551G, 36029C0552G, 36029C0555G,

whose effective date is September 26, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York, All Jurisdictions" dated September 26, 2008.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

Town of Wales Town Hall, 12345 Big Tree Road, Wales Center, New York 14169.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Wales from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Wales, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Supervisor of the Town of Wales is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question;

existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$250.00. In addition, the applicant shall be responsible for reimbursing the Town of Wales for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other

proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to

establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the

conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Wales agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Wales for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Wales for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Wales agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Wales for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Wales for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating

within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or

(iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Wales shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;

- (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
 - (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
- (i) the issuance of a variance to construct a structure 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
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

COPY

DAVID A. PATERSON
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ
SECRETARY OF STATE

September 10, 2008

Town Clerk
12345 Big Tree Road
PO Box 264
Wales Center NY 14169

RE: Town of Wales, Local Law No. 4 thru 11, 2008, filed on September 4, 2008

Dear Sir/Madam:

The above referenced material was received and filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.state.ny.us/corp/misc.html.

Sincerely,
Linda Lasch
Principal Clerk
State Records and Law Bureau
(518) 474-2755

RECEIVED

SEP 15 2008

WALES TOWN CLERK

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of West Seneca
Town
~~Village~~

Local Law No. 2 of the year 19 92

A local law for FLOOD DAMAGE PREVENTION

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation law, Article 36.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of West Seneca, Erie County,
Town
~~Village~~ N.Y. as follows:

SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of West Seneca finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of West Seneca and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which

serve such uses, be protected against flood damage at the time of initial construction;

- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0
DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-30, A99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, x, or D, to have the top

of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"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" or "flooding" also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFW)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFW delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

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

"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 their contents.

"Floodway" - has the same meaning as "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. such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service 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 the 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:

(i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest Floor" means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year flood" has the same meaning as "Base Flood".

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

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

"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 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. The term includes structures which have incurred

"substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Town of West Seneca.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency: (COMPLETE ONE THROUGH FIVE AS NECESSARY)

- (1) Flood Insurance Rate Map (single panel) No. _____, whose effective date is _____.
- (2) Flood Insurance Rate Map (multiple panels) No. 360262-0001-
0004, whose effective date is September 30, 1992.
- (3) A scientific and engineering report entitled "Flood Insurance Study, Town of West Seneca, New York, Erie County" dated September 30, 1992.
- (4) Flood Boundary and Floodway Map (single panel) No. _____, whose effective date is _____.
- (5) Flood Boundary and Floodway Map (multiple panels) No. _____, whose effective date is _____.

The above documents are hereby adopted and declared to be a part of this local law. The Flood Insurance Study and/or maps are on file at:
Town Clerk's Office, 1250 Union Rd., West Seneca, New York 14224

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of West Seneca from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of West Seneca, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0
ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Town Engineer is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permits in accordance with its provisions.

4.2 ESTABLISHMENT OF THE DEVELOPMENT PERMIT

A Floodplain Development Permit shall be obtained before the start of construction or any other development, including the placement or replacement of manufactured homes or recreational vehicles, within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$200.00. In addition the Town of West Seneca reserves the right to recover from the permittee all reasonable costs necessary for review, approval, and inspection of this project.

4.2-2 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
- (c) when required, a certificate from a licensed professional engineer or architect that the utility flood proofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential floodproofed structure will meet the flood proofing criteria in Section 5.2-3; and

- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-3 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review of all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review of all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review of all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent and other properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

- (4) Review of all development permits for compliance with the provisions of Section 5.1-5, ENCROACHMENTS.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

- (1) The Local Administrator shall have the authority to make

interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

- (2) Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the areas of special flood hazard.
- (3) The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish flood elevations within the areas of special flood hazard when base flood elevations are not available.

4.3-6

STOP WORK ORDERS

- (1) All floodplain development found ongoing without a development permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) All floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.3-7

INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of the development permit and/or any variance provisions.

4.3-8

CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (2) All other development occurring within the designated areas of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazard the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated in accordance with Section 5.2-2. Methods of anchoring may include, but are not to be 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.
- (3) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated and anchored to resist flotation, collapse or lateral movement. Recreational vehicles shall be elevated in accordance with Section 5.2-2.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine areas where no flood elevation data are available (unnumbered A Zones) shall be reviewed as set forth in Section 4.3-1(3), Permit Review, to determine the effects of the encroachment on the flood carrying capacity of the stream. The Local Administrator may require submission of additional

technical analyses and data necessary to complete the determination.

- (2) In all areas of special flood hazard in which base flood elevation data are available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data are provided or available pursuant to Section 4.3-2, the requirements of Section 5.3, FLOODWAYS, shall apply except as provided in Section 5.1-5 (4).
- (4) Notwithstanding any other provisions of this local law, certain development in zones A1-30, AE and AH may be permitted to increase the water surface elevation of the base flood (e.g. dams, levees, etc.) provided that the Town of West Seneca endorses application to the Federal Emergency Management Agency (FEMA), the permit applicant provides all necessary data and analyses and pays all fees, and FEMA approval is received.
- (5) The Local Administrator shall require within zones AH and AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of residential structures shall:

- (1) in zones A1-30, AE and AH, have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) in all areas of special flood hazard, have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry

and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (i) 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; and
- (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- (3) within any AO zone, have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (4) within any A zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.

5.2-2

MANUFACTURED HOMES AND RECREATIONAL VEHICLES

- (1) A manufactured home that is placed or substantially improved on a site in an A1-30, AE or AH zone that is either:
 - (i) outside of a manufactured home park or subdivision;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (2) A manufactured home to be placed or substantially improved on a site located in a A1-30, AE, or AH zone, in a manufactured home park or subdivision, as herein defined, that is not subject to the provisions of Section 5.2-2(1) shall be elevated so that either:
 - (i) the lowest floor of the manufactured home is at or above the base flood elevation, or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system.
- (3) New construction or substantial improvements of manufactured homes in zone A, where no base flood elevation data are available, shall be elevated at least three feet above the highest adjacent grade.
- (4) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated in accordance with Sections 5.2-2(1), 5.2-2(2) or 5.2-2(3).
- (5) Manufactured homes and recreational vehicles, on-site for longer than 180 consecutive days, with fully enclosed areas below the lowest floor, must meet the requirements of Section 5.2-1(2)

5.2-3 NON-RESIDENTIAL CONSTRUCTION

- (1) In zones A1-30, AE and AH, new construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydro- static and hydrodynamic loads and the effects of buoyancy.
- (2) In an AO zone, all new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at

least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- (3) In an A zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.
- (4) If the structure is to be elevated, fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically (without human intervention) equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- (5) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.2-3(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (6) The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway

data is available for a particular site as provided by Section 3.2 or when applicable, Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Flood Prevention Appeals Board as established by the West Seneca Town Board shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Flood Prevention Appeals Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Flood Prevention Appeals Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Flood Prevention Appeals Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

- (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Town Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Attachment A

MODEL FLOODPLAIN DEVELOPMENT
APPLICATION FORM

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

- 1. No work may start until a permit is issued.
- 2. The permit may be revoked if any false statements are made herein.
- 3. If revoked, all work must cease until permit is re-issued.
- 4. Development shall not be used or occupied until a Certificate of Compliance is issued.
- 5. The permit will expire if no work is commenced within six months of issuance.
- 6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
- 7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
- 8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE _____

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

	NAME	ADDRESS	TELEPHONE
APPLICANT			
BUILDER			
ENGINEER			

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A sketch attached to this application showing the project location would be helpful.

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

ACTIVITY	STRUCTURE TYPE
<input type="checkbox"/> New Structure	<input type="checkbox"/> Residential (1-4 Family)
<input type="checkbox"/> Addition	<input type="checkbox"/> Residential (More than 4 Family)
<input type="checkbox"/> Alteration	<input type="checkbox"/> Non-residential (Floodproofing? <input type="checkbox"/> Yes)
<input type="checkbox"/> Relocation	<input type="checkbox"/> Combined Use (Residential & Commercial)
<input type="checkbox"/> Demolition	<input type="checkbox"/> Manufactured (Mobile) Home (In Manu-
<input type="checkbox"/> Replacement	factured Home Park? <input type="checkbox"/> Yes)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

☐ Fill ☐ Mining ☐ Drilling ☐ Grading
☐ Excavation (Except for Structural Development Checked Above)
☐ Watercourse Alteration (Including Dredging and Channel Modifications)
☐ Drainage Improvements (Including Culvert Work)
☐ Road, Street or Bridge Construction
☐ Subdivision (New or Expansion)
☐ Individual Water or Sewer System
☐ Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

☐ Is NOT located in a Special Flood Hazard Area (Notify the applicant that the application review is complete and NO FLOODPLAIN DEVELOPMENT PERMIT IS REQUIRED).

☐ Is located in a Special Flood Hazard Area.
FIRM zone designation is _____
100-Year flood elevation at the site is: _____ Ft. NGVD (MSL)
☐ Unavailable

☐ The proposed development is located in a floodway.
FBFM Panel No. _____ Dated _____

☐ See Section 4 for additional instructions.

SIGNED _____ DATE _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

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

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- ☐ Development plans, drawn to scale, and specifications, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water 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.
Also, _____
- ☐ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- ☐ Plans showing the extent of watercourse relocation and/or landform alterations.
- ☐ Top of new fill elevation _____ Ft. NGVD (MSL).
- ☐ Floodproofing protection level (non-residential only) _____ Ft. NGVD (MSL). For floodproofed structures, applicant must attach certification from registered engineer or architect.
- ☐ Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood. A copy of all data and calculations supporting this finding must also be submitted.
- ☐ Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. ☐ Is
B. ☐ Is not
in conformance with provisions of Local Law # _____, 19____. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.

If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

APPEALS: Appealed to Board of Appeals? ☐ Yes ☐ No
Hearing date: _____
Appeals Board Decision --- Approved? ☐ Yes ☐ No

Conditions _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

- 1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT. NGVD (MSL).
- 2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD (MSL).

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)

The LOCAL ADMINISTRATOR will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
 DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO
 DATE _____ BY _____ DEFICIENCIES? ☐ YES ☐ NO

SECTION 8: CERTIFICATE OF COMPLIANCE (To be completed by LOCAL ADMINISTRATOR)

Certificate of Compliance issued: DATE: _____ BY: _____

**CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA
(OWNER MUST RETAIN THIS CERTIFICATE)**

PREMISES LOCATED AT:

PERMIT NO. _____

PERMIT DATE _____

OWNERS NAME AND ADDRESS:

CHECK ONE:

☐ NEW BUILDING

☐ EXISTING BUILDING

☐ VACANT LAND

THE LOCAL ADMINISTRATOR IS TO COMPLETE A. OR B. BELOW:

A. COMPLIANCE IS HEREBY CERTIFIED WITH THE REQUIREMENTS OF
LOCAL LAW # ____, 19 __.

SIGNED: _____ DATED: _____

B. COMPLIANCE IS HEREBY CERTIFIED WITH THE REQUIREMENTS OF
LOCAL LAW # ____, 19 __, AS MODIFIED BY VARIANCE # _____,
DATED _____.

SIGNED: _____ DATED: _____

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 1992 of the ~~(County)(City)(Town)(Village)~~ of West Seneca was duly passed by the Town Board on August 31, 1992, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.


Clerk of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.


(Seal)

Date: August 31, 1992

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Eric

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature _____
Town Attorney _____
Title _____

XXXXXX
XXXXXX of West Seneca
Town
Village

Date: August 31, 1992

The Town Board of the Town of West Seneca, Erie County, New York, met in regular session at the Town Hall, 1250 Union Road, in said Town, on the 31st day of August, 1992, at 7:30 P.M., EDT.

The meeting was called to order by Supervisor Clark and upon roll call being called, there were:

Present:	Paul T. Clark	Supervisor
	Jerry M. Hicks	Councilman
	Robert J. Jarnot	Councilman
	Christopher F. Osmanski	Councilman
	Barbara A. Rudnicki	Councilwoman

Absent: None

The following resolution was offered by Councilman Osmanski who moved its adoption, seconded by Councilman Jarnot to wit:

Whereas, the Town Board on the 10th day of August, 1992, adopted a Resolution calling a Public Hearing to consider Local Law No. 2 entitled Flood Damage Prevention of the Town of West Seneca, and to hear any and all persons interested in the subject thereof concerning the same, such public hearing to be held on the 31st day of August, 1992 at 7:30 P.M., EDT at the Town Hall, 1250 Union Road, in said Town;

Whereas, at such time and place this Town Board did meet to hear any and all persons interested in the subject thereof concerning the same.

Now, therefore, be it resolved and determined by the Town Board of the Town of West Seneca, Erie County, New York, that Local Law No. 2 entitled Flood Damage Prevention of the Town of West Seneca is set forth as attached.

Such Local Law No. 2 entitled Flood Damage Prevention shall take effect ten (10) days after such publication and posting, but such amendments shall take effect from the date of its service against a person served personally with a copy thereof certified by the Town Clerk under the corporate seal of the Town, and showing the date of its passage and entry into the minutes.

The question of the adoption of the foregoing resolution was duly put to vote on roll call which resulted as follows:

Supervisor Clark	Voting Yes
Councilman Hicks	Voting Yes
Councilman Jarnot	Voting Yes
Councilman Osmanski	Voting Yes
Councilwoman Rudnicki	Voting Yes

The resolution was thereupon declared duly adopted.

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of TOWN OF DARIEN
Town
Village
Local Law No. 1 of the year 19 87⁺

A local law for FLOOD DAMAGE PREVENTION
(Insert title)

as authorized by the New York State Constitution, Article IX, Section 2, and
Environmental Conservation Law, Article 36.

Be it enacted by the DARIEN TOWN BOARD of the
(Name of Legislative Body)

County TOWN OF DARIEN GENESEE
City of County, N.Y. as follows:
Town
Village



(If additional space is needed, please attach sheets of the same size as this and number each)

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFR 60.3[b] & [c]) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Darien finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Darien and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (6) qualify and maintain participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, Al-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM) means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement or cellar 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" - has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of TOWN OF DARIEN

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

- ~~(1) The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the TOWN of DARIEN, of GENESEE County, New York", dated APRIL 1, 1987, with accompanying Flood Insurance Rate Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and FIRM are on file at~~

(OR)

- (2) The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 361140 A dated July 6, 1984 is hereby adopted and declared to be a part of this Local Law. The FHBM or FIRM is on file at the office of the Town Clerk, Darien, New York.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Darien from taking such other lawful action as necessary to prevent or remedy said violation.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the TOWN of DARIEN, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The ZONING ENFORCEMENT OFFICERs hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE.

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved

structures, and whether or not the structure contains a basement or cellar.

- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances, when granted, and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM, FIRM OR FBFM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of this Local Law.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of either the Development Permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certificates shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0
PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2, the requirements of Section 5.3 FLOODWAYS, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2(1) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (i) 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;
- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in

relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Enforcement Officer as established by the Town of Darien shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Enforcement Officer shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Enforcement Officer may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

- (4) In passing upon such applications, the Zoning Enforcement Officer, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Enforcement Officer may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing item (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this local law.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) 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.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Be it enacted this 1 day of APRIL, 1987 by the
TOWN of DARIEN of
GENESEE County, New York, to be effective on the date of
filing with the Secretary of the State of New York.

Stephen Ferry
Paul George
Gerald M. Reynolds
Elmer Heiman
James Burkhardt

SEAL

Jimmie E. Lushinski
 ATTEST. DARIEN TOWN CLERK

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 87.
~~County~~
of the ~~City~~ of Darien was duly passed by the Town Board
~~Town~~ (Name of Legislative Body)
~~Village~~
on April 1, 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____.
County
of the City of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19 _____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____.
County
of the City of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19 _____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19 _____. Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19 _____, in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____.
County
of the City of _____ was duly passed by the _____ on
Town (Name of Legislative Body)
Village
_____ 19 _____ not disapproved
and was approved by the _____ on
repassed after disapproval Elective Chief Executive Officer *
_____ 19 _____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19 _____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Jimmie K. Kerschenski
Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Town Clerk

Date: April 23, 1987

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF GENESEE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

.....
Signature
..... Eric T. Dadd Town Attorney
Title

Date: April 23, 1987

X County X
X City X of Darien
Town
X Village X

TOWN OF ARCADE
LOCAL LAW NO. 1 OF THE YEAR 1992
FLOOD DAMAGE PREVENTION

A LOCAL LAW PROVIDING FOR FLOOD DAMAGE PREVENTION
AND FLOOD HAZARD REDUCTION

SECTION 1.0
Statutory Authorization and Purpose

1.1 STATUTORY AUTHORIZATION

The People of the State of New York have in The New York State Constitution, Article 9, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general and welfare of its citizenry.

The Town Board of the Town of Arcade finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Arcade and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury or and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

SECTION 2.0

DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law it most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indetermined, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE OR V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (Below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" has the same meaning as "Basement".

"Costal high hazard area" means the area subject ot high velocity waters including, but not limited to, hurrican wave wash. The area is designated on a FIRM as Zone VI-30, VE, VO, or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pillings, columns (posts and piers), or shear walls.

"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 tidal waters;
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federa Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water survice elevations of the base flood.

"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 improve real property, water and sanitary facilities, structures and their contents.

"Floodway" has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water,

such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The terms does not include long-term storage, manufacture, sales or service facilities.

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

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement or cellar 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 of this Local Law.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundations when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile Home" has the same meaning as "Manufactured Home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing elevations within the flood plain.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law.

"Principally Above Ground" means that at least 51 percent of the actual chash value of the structure excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood".

"Regulatory Floodway" 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 a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or any other agencies as provided in Section 4.3-2 of this Law.

"Sand Dunes" means naturally occuring accumuations of sand in ridges or mounds ladward of the beach.

"Start of Construction" means the intiation, excluding planning and design, of any phase of a project, phsical alteration of the property, and shall include land preparation, such as clearing, grading, and filling, installation of streets and/or walkways, excavation for a basement, footing, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory building (garages, sheds), storage trailers, and building materials.

"Sttucture" means a walled and roofed building, (a manufactured home) or a

gas or liquid storage tank, that is principally above ground.

"Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repairs is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific area by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other land; and
- (6) qualify and maintain participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and;
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 3.0

General Provisions

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Town of Arcade.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Town of Arcade, NY, Wyoming Co., dated March 3, 1992 with Flood Insurance Rate Maps enumerated on Index No. 360930 0001-00010 dated March 3, 1992.

The above documents are, hereby adopted and declared to be a part of this Local Law and are filed at the Town Clerk's Office, 15 Liberty Street, Arcade, New York 14009.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This local law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing

the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provisions of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250.00 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separated offense. Nothing herein contained shall prevent the Town of Arcade from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Arcade, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility flood-proofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STATE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purpose of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility flood-proofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

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Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

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- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purpose of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for

this purpose.

- (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4)d in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3, FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances, when granted, and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FHEM, FIRM OR FBEM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual filed conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this local law.
- (2) All floodplain development found non-compliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this local law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of this local law.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, change, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of either the Development Permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certificates shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2, the requirements of Section 5.3, FLOODWAYS, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2(1), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial industrial or other non-residential structure, together with attendant utility and sanitary facilities shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) a minimum of two openings having a total net area of not less than one square foot of enclosed area subject to flooding;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed

architect or meet the following criteria:

- (i) 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;
- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular erosion forces. When floodway data is available for a particular site as provided by Section 3.2 and Section 4.3-2 all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharges.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Arcade shall hear and decide appeals and request for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing item (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acres, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this local law.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of the Section are met;
 - (ii) 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.
- (4) Variances shall not be issued within any designed flood way if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification; and;
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.


SECTION 7.0

Local Law #1 of the year 1987, "A Local Law providing for flood damage prevention and flood hazard reduction" is hereby amended and restated to read as contained in this local law.

Be it enacted this 10th day of February, 1992, by the Town Board
of the Town of Arcade, Wyoming County, New York to be effective immediately.


HOWARD W. PAYNE, Supervisor


FRED WARNER, Councilman


PAUL REDDEN, Councilman


Gerald Burton, Councilman

ABSENT
HYLAND DAY, Councilman

SEAL

ATTEST:


SANDRA DUTTON, Town Clerk

NYS DEPARTMENT OF STATE
BUREAU OF STATE RECORDS
162 Washington Avenue
Albany, NY 12231-0001

DATE: 3/25/92

MUNICIPALITY		
town of arcade		
LOCAL LAW(S) NO.	YEAR	FILING DATE
1	1992	3/23/92

Local Law Acknowledgment

TOWN OF ARCADE
TOWN OFFICE
15 LIBERTY STREET
ARCADE NY 14009

The above-referenced material was received
and filed by this office as indicated.

Additional local law filing forms will be
forwarded upon request.

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~~~City~~~~Town~~

Village

ofArcade.....

Local Law No.⁴..... of the year 19 ⁹².....

A local law Flood Damage Prevention

(Insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~County~~~~City~~~~Town~~

Village

ofArcade..... as follows:

CHAPTER 26 FLOOD DAMAGE PREVENTION

ARTICLE I STATUTORY AUTHORIZATION AND PURPOSE

- Section 26-1. Findings
- Section 26-2. Statement of Purpose
- Section 26-3. Objectives

ARTICLE II DEFINITIONS

- Section 26-4. Definitions

ARTICLE III GENERAL PROVISIONS

- Section 26-5. Lands to which this Local Law applies
- Section 26-6. Basis for establishing the areas of special flood hazard
- Section 26-7. Interpretation and conflict with other laws
- Section 26-8. Severability
- Section 26-9. Penalties for non-compliance
- Section 26-10. Warning and disclaimer of liability

ARTICLE - IV ADMINISTRATION

- Section 26-11. Designation of the local administrator
- Section 26-12. The floodplain development permit
- Section 26-13. Application for a permit
- Section 26-14. Duties and responsibilities of the local administrator

ARTICLE V PROVISIONS FOR FLOOD HAZARD REDUCTION

- Section 26-15. General standards
- Section 26-16. Anchoring
- Section 26-17. Residential structures

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1)

Section 26-18. Non-residential structures
Section 26-19. Manufactures homes and recreational vehicles
Section 26-20. Floodways

ARTICLE VI
VARIANCE PROCEDURE

Section 26-21. Appeals Board
Section 26-22. Conditions for Variances

ARTICLE I
STATUTORY AUTHORIZATION AND PURPOSE

Section 26-1. Findings

The Board of Trustees of the Village of Arcade finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Arcade and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

Section 26-2. Statement of Purpose

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- D. control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;

- F. qualify and maintain for participation in the National Flood Insurance Program

26-3. Objectives

The objectives of this local law are:

- A. to protect human life and health;
- B. to minimize expenditure of public money for costly flood control projects;
- C. to minimize the need for rescue and relief efforts associated the flooding and generally undertaken at the expense of the general public;
- D. to minimize prolonged business interruptions;
- E. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- F. to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. to provide that developers are notified that property is in an area of special flood hazard; and,
- H. to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II DEFINITIONS

Section 26-4. Definitions

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

- A. Appeal means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.
- B. Area of shallow flooding means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or

sheet flow.

- C. Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AAO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.
- D. Base flood means the flood having a one percent chance of being equalled or exceeded in any given year.
- E. Basement means that portion of a building having its floor subgrade (below ground level) on all sides.
- F. Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
- G. Building see "structure".
- H. Cellar has the same meaning as "Basement".
- I. Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO or V.
- J. Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.
- K. Elevated building means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood

waters. In the case of Zones V1-V30, Ve or V "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

- L. Existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- M. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- N. Federal Emergency Management Agency means the Federal agency that administers the National Flood Insurance Program.
- O. 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 or flooding also means 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

- P. Flood Boundary and Floodway Map (FBFM) means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.
- Q. Flood Elevation Study means an examination, evaluation

and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

- R. Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.
- S. Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- T. Flood Insurance Study see "flood elevation study".
- U. Floodplain or Flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
- V. 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 their contents.
- W. Floodway has the same meaning of "Regulatory Floodway".
- X. Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. Such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.
- Y. Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- Z. Historic Structure means any structure that is:
 - 1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 the 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.
- AA. Local Administrator is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.
- BB. Lowest Floor means lowest floor of the lowest enclosed area (including basement or cellar). 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 of this Local Law.
- CC. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle".
- DD. 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.
- EE. Mean Sea Level means, for purposes of the National Flood Insurance Program, 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.
- FF. Mobile home has the same meaning as "Manufactured Home".

- GG. National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.
- HH. New construction means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.
- II. New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- JJ. One hundred year flood or 100-year flood has the same meaning as "Base Flood"
- KK. Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
- LL. Principally Above Ground means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.
- MM. Recreational vehicle means a vehicle which is:
1. built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projections;
 3. designed to be self-propelled or permanently towable by a light duty truck; and
 4. not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- NN. 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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 26-14B of this Law.

OO. Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

PP. Start of construction includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory building (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

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

RR. 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.

SS. 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. any alteration of a "Historic structure" provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

TT. Variance means a grant of relief from the requirements of this local law which permits construction or use in a

manner that would otherwise be prohibited by this local law.

ARTICLE III GENERAL PROVISIONS

Section 26-5. Lands to which this local law applies. This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Arcade.

Section 26-6. Basis for establishing the areas of Special Flood Hazard.

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Village of Arcade, New York, Wyoming County" dated March 3, 1992 with Flood Insurance Rate Map No. 360939 005 dated March 3, 1992. The above documents are, hereby, adopted and declared to be a part of this Local Law and are filed at the Arcade Village Office, 17 Church Street, Arcade, New York.

Section 26-7. Interpretation and Conflict with other Laws. This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 26-8. Severability.

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

Section 26-9. Penalties for Non-Compliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village

of Arcade from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

Section 26-10. Warning and Disclaimer of Liability.
The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Arcade, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

ARTICLE IV ADMINISTRATION

Section 26-11. Designation of the Local Administrator.
The Village Zoning Officer is hereby appointed Local Administrator to administer and implement this local law by granted or denying floodplain development permits in accordance with its provisions.

Section 26-12. The Floodplain Development Permit.

A. Purpose

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 26-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

B. Fees.

All applications for a floodplain development permit shall be accompanied by an application fee as set in the Village fee schedule. In addition, the applicant shall be responsible for reimbursing the Village of Arcade for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more the \$500.00 to cover these additional costs.

Section 26-13. Application for a Permit.

The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- C. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- D. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 26-16C, UTILITIES.
- E. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 26-18, NON-RESIDENTIAL STRUCTURES (EXCEPT COASTAL HIGH HAZARD AREAS).

- F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 26-6, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- G. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

Section 26-14. Duties and responsibilities of the Local Administrator.

Duties of the Local Administrator shall include, but not be limited to the following.

- A. Permit Application Review
The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:
 - 1. Review all application for completeness, particularly with the requirements of subsection 26-13, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
 - 2. Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of

special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, CONSTRUCTION STANDARDS and, in particular, subsection 26-15B, SUBDIVISION PROPOSALS.

3. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, CONSTRUCTION STANDARDS, no permits shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

4. Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal Law.

B. Use of other Flood Data.

1. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 26-13H, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
2. When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

C. Alteration of Watercourses.

1. Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
2. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D. Construction State.

1. In Zones A1-A30, AE, and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of lowest flood or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
2. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

E. Inspections.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop Work Orders

1. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 26-9 of this local law.
2. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 26-9 of this local law.

G. Certificate of Compliance.

1. In areas of special flood hazard, as determined by documents enumerated in Section 26-6, it shall be unlawful to occupy or to permit the use of occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
2. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
3. Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 26-14E, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be Retained.

The Local Administrator shall retain and make available for inspection, copies of the following:

1. Floodplain development permits and certificates of compliance;
2. Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 26-14D-1 and 26-14D-2 of Section

26-14, CONSTRUCTION STAGE, and whether or not the structures contain a basement;

3. Floodproofing certificates required pursuant to sub-sections 26-14D-1 of Section 26-14, CONSTRUCTION STAGE, and whether or not the structures contain a basement;
4. Variances issued pursuant to Article VI, VARIANCE PROCEDURES; and ,
5. Notices required under sub-section 26-14C, ALTERATION OF WATERCOURSES.

ARTICLE V CONSTRUCTION STANDARDS

Section 26-15 General Standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 26-6.

A. Subdivision Proposals.

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

1. Proposals shall be consistent with the need to minimize flood damage;
2. Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
3. Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

1. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

- a. the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any

location, or,

- b. the Village of Arcade agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Arcade for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Arcade for all costs related to the final map revision.
2. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 26-6, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - a. a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - b. the Village of Arcade agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Arcade for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Arcade for all costs related to the final map revisions.

Section 56-16 Standards for all Structures.

- A. Anchoring.

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- B. Construction Materials and Methods.
 1. New construction and substantial improvements to structures shall be constructed with materials

and utility equipment resistant to flood damage.

2. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
3. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - a. 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; and
 - b. the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C. Utilities.

1. Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
2. New and replacement water supply systems shall

be designed to minimize or eliminate infiltration of flood waters into the system;

3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section 26-17 Residential Structure.

A. Elevations.

The following standards, in addition to the standards in subsections 26-15A, SUBDIVISION PROPOSALS, AND 26-15B, ENCROACHMENTS, and Section 56-16, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

1. Within Zones A1-A30, AE, and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
2. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
3. Within Zone A0, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 26-6 (at least two feet if no depth number is specified).
4. Within Zones AH and A0, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

Section 26-18 Non-Residential Structures

The following standards apply to new and substantially

improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 56-15A, SUBDIVISION PROPOSALS, and 56-15B, ENCROACHMENTS, and 56-16, STANDARDS FOR ALL STRUCTURES.

- A. Within Zone A1-A30, AE, and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - 1. have the lowest floor, including basement or cellar, elevated to or above the base flood elevations; or
 - 2. be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - 1. have the lowest flood (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - 2. together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub section 56-18A2.
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 56-18A2, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zone AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are

available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

Section 26-19 Manufactured Homes and Recreational Vehicles.

- A. The following standards in addition to the standards in Section 26-15, GENERAL STANDARDS, and Section 26-16, STANDARDS FOR ALL STRUCTURES apply in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard. Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V and VE shall either:

1. be on site fewer than 180 consecutive days,
2. be fully licensed and ready for highway use, or
3. meet the requirements for manufactured homes in paragraphs 56-15 B, D and E.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30 or VE that is on a site either:

1. outside of an existing manufactured home park or subdivision;
2. in a new manufactured home park or subdivision as herein defined;
3. in an expansion to an existing manufactured home park or subdivision as herein defined; or
4. in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall, within Zones A1-A30, AE, and AH, be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement; or, within Zones V1-V30 and VE, be elevated on a pile foundation such that the bottom of the lowest structural member of the lowest floor

(excluding pilings and columns) is elevated to or above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- C. A manufactured home to be placed or substantially improved in Zone A1- A30, AE, AH, V1-V30, or VE, in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
1. elevated in a manner such as required in paragraph 56-19B, or
 2. elevated such that the manufacture home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- D. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall have the floor elevated at least three feet above the highest adjacent grade.
- E. Within Zone A0, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 26-6 (at least two feet if no depth number is specified).

Section 26-20 Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 26-4). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 26-6 and Section 26-13B all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

ARTICLE VI VARIANCE PROCEDURE

Section 56-21 Appeals Board

- A. The Zoning Board of Appeals as established by the Village and Town of Arcade shall hear and decide appeals and requests for variances from the requirements of this local law.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of the local law.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - 1. the danger that materials may be swept onto other lands to the injury of others;
 - 2. the danger to life and property due to flooding or erosion damage;
 - 3. the susceptibility of the proposed facility and its contents of flood damage and the effect of such damage on the individual owner;
 - 4. the importance of the services provided by the proposed facility to the community;
 - 5. the necessity to the facility of a waterfront location, where applicable;
 - 6. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - 7. the compatibility of the proposed use with existing and anticipated development;
 - 8. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - 9. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 10. the costs of local governments and the dangers

associated with conducting search and rescue operations during period of flooding;

11. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 12. the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of Section 26-20D and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granted to variances as it deems necessary to further the purposes of this local law.
- F. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

26-22. Conditions for Variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-12) in Section 26-20D have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
1. the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 2. the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1. the criteria of subparagraphs A, D, E and F of this Section are met;
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variance shall only be issued upon receiving written justification of:
1. a showing of good and sufficient cause;
 2. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 7th day of January, 1992 by the Board of Trustees of the Village of Arcade, Wyoming County, New York to be effective on March 3, 1992.

Original Law

Local Law #1-1983

Adopted: April 5, 1983

Filed: April 11, 1983

Amended

Local Law #3-1987

Adopted: June 2, 1987

Filed: June 12, 1987

Amended

Local Law #5-1988

Adopted: December 6, 1988

Filed: January 23, 1989

Amended

Local Law #4-1992

Adopted: January 7, 1992

Filed:

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 1992 of the ~~(County)(City)(Town)(Village)~~ of Arcade was duly passed by the Board of Trustees on January 7, 1992, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

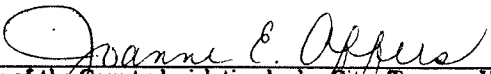
6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(Seal)

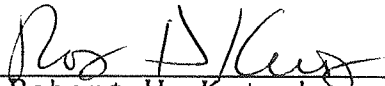


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
Joanne E. Offers, Clerk-Treas.
Date: January 8, 1992

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Wyoming

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature Robert H. Kutzuba

Attorney for Village

Title

~~County~~

~~City~~

~~Town~~

Village

of Arcade

Date: January 9, 1992

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Bennington
~~Town~~
~~Village~~

Local Law No. 1 of the year 19 89

A local law Amending Section 3.2 of the Flood Damage Preventional Local Law
(Insert title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Bennington as follows:
~~Town~~
~~Village~~

Section 3.2 of Local Law No. 1 - 1987 for the Town of Bennington entitled "A Local Law for Flood Damage Prevention as Authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conseration Law, Article 36" is hereby amended as follows:

3.2 - Basis for Establishig the Areas of Special Flood Hazard.

The areas of special flood hazard have been identified by the Federal Emergency Management Agency on Flood Insurance Rate Maps enumerated on Map Index No. 360941C 01-08 dated December 23, 1983.

The above documents are hereby adopted and declared to be a part of this local law and are filed at the Town Clerk's Office, Cowlesville, New York.

This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 89...
~~XXXX~~
~~XX~~
of the ~~Town~~ of Bennington was duly passed by the Town Board.....
~~XXXX~~ (Name of Legislative Body)
on March 2 19 89 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the ~~Town~~ of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the ~~Town~~ of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19, in accordance with the applicable
annual provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the ~~Town~~ of was duly passed by the
Village (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of 19,
in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

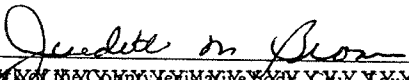
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of ~~§36~~^{§37} of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special}~~general~~ election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph¹..... above.


XX
XX
Town Clerk


Date: March²/ , 1989.

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OFWYOMING.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


.....
Signature
.....
Town Attorney
.....
Title

Date: March , 1989.

~~County~~
~~City~~ of Bennington
~~Town~~
~~Village~~

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Bennington
Town
Village
Local Law No. 1 of the year 19 87

A local law for FLOOD DAMAGE PREVENTION
(Insert title)

as authorized by the New York State Constitution, Article IX, Section 2, and
Environmental Conservation Law, Article 36.

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City of Bennington County, N.Y. as follows:
Town
Village

(If additional space is needed, please attach sheets of the same size as this and number each)

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFR 60.3[b] & [c]) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Bennington finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Bennington and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (6) qualify and maintain participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AL-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM) " means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement or cellar 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" - has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of Town of Bennington.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

- ~~(1) The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the~~
~~_____ of _____, of~~
~~_____ County, New York", dated~~
~~_____, 19____, with accompanying Flood Insurance~~
~~Rate Maps is hereby adopted and declared to be a part of this~~
~~Local Law. The Flood Insurance Study and FIRM are on file at~~
~~_____.~~

(OR)

- (2) The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FIRM), or Flood Insurance Rate Map (FIRM) No. 360941C dated December 23, 1983 is hereby adopted and declared to be a part of this Local Law. The FIRM or FIRM is on file at the office of the Town Clerk.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Bennington from taking such other lawful action as necessary to prevent or remedy said violation.

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Bennington, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Town Zoning Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE.

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved

structures, and whether or not the structure contains a basement or cellar.

- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances, when granted, and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM, FIRM OR FBIM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of this Local Law.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of either the Development Permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certificates shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0
PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2, the requirements of Section 5.3 FLOODWAYS, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2(1) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in

relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Board of Appeals as established by the Town of Bennington shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

- (4) In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing item (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this local law.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) 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.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Be it enacted this 5th day of March, 1987 by the
Town Board of Town of Bennington of
Wyoming County, New York, to be effective on the date of filing
with the Secretary of the State of New York.

SEAL

ATTEST.

CLERK

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No.1..... of 19...87
County
City of Bennington was duly passed by the Town Board
Town (Name of Legislative Body)
Village
on March 5, 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer, * or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City of was duly passed by the
Town (Name of Legislative Body)
Village
on 19..... not disapproved and was approved by the
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City of was duly passed by the
Town (Name of Legislative Body)
Village
on 19..... not disapproved and was approved by the
repassed after disapproval Elective Chief Executive Officer *
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19....., in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City of was duly passed by the on
Town (Name of Legislative Body)
Village
..... 19..... not disapproved and was approved by the on
repassed after disapproval Elective Chief Executive Officer *
..... 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
..... 19....., in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Town Clerk

Date: March 12, 1987.

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF WYOMING

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Eric T. Dadd, Town Attorney

Title

Date: March 11, 1987

County

City of Bennington

Town

Village

I, David Nelson, AN ATTORNEY-AT-LAW, ADMITTED TO PRACTICE IN THE COURTS OF THE STATE OF NEW YORK, DO HEREBY CERTIFY THAT I HAVE COMPARED THE FOREGOING WITH THE ORIGINAL AND HAVE FOUND IT TO BE A TRUE AND CORRECT COPY.

DAVID NELSON, N.Y.

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

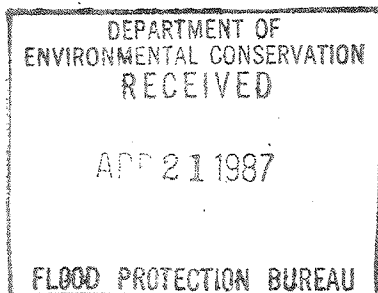
County
City
Town
Village of SAVA
Local Law No. ONE of the year 19 87

A local law for FLOOD DAMAGE PREVENTION
(Insert title)

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Town BOARD of the
(Name of Legislative Body)

County
City
Town
Village of SAVA, Wyoming County, N.Y. as follows:



(If additional space is needed, please attach sheets of the same size as this and number each)

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFR 60.3[b] & [c]) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The TOWN BOARD of the TOWN of JAVA finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the TOWN of JAVA and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (6) qualify and maintain participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE, or VI-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"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 Boundary and Floodway Map (FBFM) " means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBH)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"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 sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement or cellar 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" - has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Town of JAVA.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

- (1) The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the _____ of _____, of _____ County, New York", dated _____, 19____, with accompanying Flood Insurance Rate Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and FIRM are on file at _____.

(OR)

- (2) The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 01-71 #361244 B dated 12/23/83 is hereby adopted and declared to be a part of this Local Law. The FHBM or FIRM is on file at Town Clerk's Office - Java Centon, NY.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Zoning Officer

from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the TOWN of JAVA, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The TOWN of JAVA is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE.

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of ^{§ 36} § 37 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on _____ 19 _____ became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. _____ of 19 _____ of the County of _____, State of New York, having been submitted to the Electors at the General Election of November _____, 19 _____, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Julie Hackett

Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: *April 2, 1987*

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF WYOMING

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

J. Daniel Lember
.....
Signature
TOWN ATTORNEY
.....
Title

Date:

County
City of LAVA
Town
Village

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
~~City~~ of Sheldon
Town
Village
Local Law No. 1 of the year 19 87

A local law for FLOOD DAMAGE PREVENTION
(Insert title)

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
~~City~~ of Sheldon, Wyoming County, N.Y. as follows:
Town
Village

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS
(44 CFR 60.3[b] & [c]) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Sheldon finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Sheldon and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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- (6) qualify and maintain participation in the National Flood Insurance Program.

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The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
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- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

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"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement or cellar 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 of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Local Law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" - has the same meaning as "Base Flood."

"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 as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence 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. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Sheldon, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Zoning Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE.

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE.

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved

structures, and whether or not the structure contains a basement or cellar.

- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances, when granted, and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FHBM, FIRM OR FBEM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of this Local Law.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of either the Development Permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certificates shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0
PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be 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.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2, the requirements of Section 5.3 FLOODWAYS, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2(1) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in

relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by Town of Sheldon shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

- 60.3(b) & (c)
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing item (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this local law.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) 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.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Be it enacted this 7th day of April, 19 87 by the
Town Board of Town of Sheldon of
Wyoming County, New York, to be effective upon filing
in the office of the Secretary of State.

George Luball
Norman George
Frank Bessdorf
Michael W. Keller

Kathryn A. Wheeler

SEAL

ATTEST.

TOWN

CLERK

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1987
~~County~~
~~City~~ of the Town of Sheldon was duly passed by the Town Board
~~Village~~ (Name of Legislative Body)
on ~~March~~ April 7 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
City of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19_____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on _____ 19_____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
City of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19_____ not disapproved
and was approved by the _____
repassed after disapproval Elective Chief Executive Officer *
on _____ 19_____. Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19_____, in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
City of _____ was duly passed by the _____ on
Town (Name of Legislative Body)
Village
_____ 19_____ not disapproved
and was approved by the _____ on
repassed after disapproval Elective Chief Executive Officer *
_____ 19_____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19_____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.

Kathryn A. Wheeler
Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 4/7/1987

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF WYOMING

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

.....
Signature
Town Attorney
.....
Title
County
City of Sheldon
Town
Village

Date:

ATTACHMENTS

- A. Flood Hazard Area Development Permit Application Form.
- B. Certificate of Compliance.

FOR OFFICIAL USE ONLY

Permit No. _____

Fee Received _____ Date _____

_____ of _____

_____ County, New York

Permit Application for Development
in
Flood Hazard Areas

A. General instructions page 4 (Applicant to read and sign)

B. For assistance in completing or submittal of this application contact:

_____, Floodplain Administrator,
(Name)

(Address)
_____, NY () ____ - ____.

1. Name and Address of Applicant

(First Name) (MI) (Last Name)

Street Address: _____

Post Office: _____ State: _____ Zip Code: _____

Telephone: () ____ - ____

2. Name and Address of Owner (If Different)

(First Name) (MI) (Last Name)

Street Address: _____

Post Office: _____ State: _____ Zip Code: _____

Telephone: () ____ - ____

3. Engineer, Architect, Land Surveyor (If Applicable)

(First Name) (MI) (Last Name)

Street Address: _____

Post Office: _____ State: _____ Zip Code: _____

Telephone: () ____ - ____

PROJECT LOCATION

Street Address: _____

Tax Map No. _____

Name of, distance and direction from nearest intersection or other landmark.

Name of Waterway: _____

PROJECT DESCRIPTION (Check all applicable boxes and see Page 4, Item 3)

Structures

Structure Type

____ New Construction
____ Addition
____ Alteration
____ Relocation
____ Demolition
____ Replacement

____ Residential (1-4 family)
____ Residential (More than 4 family)
____ Commercial
____ Industrial
____ Mobile Home (single lot)
____ Mobile Home (Park)
____ Bridge or Culvert

Estimated value of improvements if addition or alteration: _____

Other Development Activities

____ Fill ____ Excavation ____ Mining ____ Drilling ____ Grading
____ Watercourse alteration ____ Water System ____ Sewer System
____ Subdivision (New) ____ Subdivision (Expansion)
____ Other (Explain)

CERTIFICATION

Application is hereby made for the issuance of a floodplain development permit. The applicant certifies that the above statements are true and agrees that the issuance of the permit is based on the accuracy thereof. False statements made herein are punishable under law. As a condition to the issuance of a permit, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless to the community from suits, actions, damages and costs of every name and description resulting from the said project. Further, the applicant agrees that the issuance of a permit is not to be interpreted as a guarantee of freedom from risk of future flooding. The applicant certifies that the premises, structure, development, etc. will not be utilized or occupied until a Certificate of Compliance has been applied for and received.

Date

Signature of Applicant

_____ of _____
Flood Hazard Development Permit

Administrative Action
Completed by Floodplain Administrator

Proposed project located in _____ "A" zone with elevation
_____ "A" zone without elevation
_____ Floodway
_____ Coastal High Hazard Area (V-Zone)

Base flood elevation at site is _____

Source documents: _____

PLAN REVIEW

Elevation to which lowest floor is to be elevated _____ ft. (NGVD)
Elevation to which structure is to be floodproofed _____ ft. (NGVD)
Elevation to which compacted fill is to be elevated _____ ft. (NGVD)

ACTION

_____ Permit is approved, proposed development in compliance with applicable floodplain management standards.

_____ Additional information required for review. Specify: (i.e, encroachment analysis)

_____ Permit is conditionally granted, conditions attached.

_____ Permit is denied. Proposed development not in conformance with applicable floodplain management standards. Explanation attached. A variance, subject to Public Notice and Hearing, is required to continue project.

Signature _____ Date _____
(Permit Issuing Officer)

This permit is valid for a period of one year from the above date of approval.

BUILDING CONSTRUCTION DOCUMENTATION

The certified "As Built" elevation of lowest floor (including basement) of structure is _____ ft. NGVD.

Certification of registered professional engineer, land surveyor or other recognized agent, documenting these elevations is attached.

CERTIFICATE OF OCCUPANCY/COMPLIANCE

Certificate of Occupancy and/or Compliance Issued:

Date _____ Signature _____

_____ of _____
_____ County, New York

Development in Flood Hazard Areas
Instructions

1. Type or print in ink
2. Submit _____ copies of all papers including detailed construction plans and specifications.
3. Furnish plans drawn to scale, showing nature, dimension and elevation of area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically the following is required: (A) NGVD (Mean Sea Level) elevation of lowest floor including basement of all structures; (B) description of alterations to any watercourse; (C) statement of techniques to be employed to meet requirements to anchor structures, use flood resistant materials and construction practices; (D) show new and replacement potable water supply and sewage systems will be constructed to minimize flood damage hazards; (E) Plans for subdivision proposal greater than 50 lots or 5 acres (whichever is least) must provide base flood elevations if they are not available; (F) Additional information as may be necessary for the floodplain administrator to evaluate application.
4. Where a non-residential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction and certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of the local floodplain management regulations.
5. No work on the project shall be started until a permit has been issued by the floodplain administrator.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory compliance.
7. Applicant will provide all required elevation certifications and obtain a certificate of compliance prior to any use or occupancy of any structure or other development.

Applicant's signature _____ Date _____

CERTIFICATE OF COMPLIANCE
for
FLOODPLAIN DEVELOPMENT

<div>_____ of _____ County, N.Y.</div> <p>(Applicant shall fill in all pertinent information in Section A including 1 or 2)</p>	
<p>SECTION A</p> <p>Premises location _____ _____ _____</p> <p>Applicant Name & Address _____ _____ _____</p> <p>Telephone No. _____</p>	<p>Permit No. _____ Variance No. _____ Date _____</p> <p style="text-align: center;">CHECK ONE</p> <p>New Building _____ Existing Building _____ Other (List) _____</p>
<p>1. I certify that I have completed the above project in accordance with the Community's floodplain management regulations and have met all the requirements which were conditions of my permit. I now request completion of this Certificate of Compliance by the program administrator.</p> <p style="text-align: right;">Signed _____ Date _____</p> <p>2. I certify that I have completed the above project in accordance with conditions of variance number _____, dated _____ to the Community's floodplain management regulations and have met all requirements which were a condition of the variance. I now request completion of this certificate of compliance by the program administrator.</p> <p style="text-align: right;">Signed _____ Date _____</p>	
<p>SECTION B (Local Administrator will complete, file, and return a copy to the applicant.)</p> <p>Final Inspection Date _____ by _____</p> <p>This certifies that the above described floodplain development complies with requirements of Flood Damage Prevention Local Law No. _____, or has a duly granted variance.</p> <p style="text-align: right;">Signed _____ (Local Administrator)</p> <p style="text-align: right;">Date _____</p> <p>Supporting Certifications: Floodproofing, elevation, hydraulic analysis, etc; (List).</p> <p>_____ _____</p>	