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FLOODING

Flooding and Land Use Planning:
A Guidance Document for Municipal Officials and Planners

WESTCHESTER COUNTY DEPARTMENT OF PLANNING
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Cover Photo: Village of Mamaroneck, April 2007

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For more information about the HMGP program and other hazard mitigation grants, please see www.fema.gov and www.semo.state.ny.us/programs/mitigation/.

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1.0 INTRODUCTION

1.1 Purpose

This manual was created for elected officials, planning and zoning board members, planners and development professionals to improve land use decisions with respect to flooding and flood damage. The manual covers the following topics as they relate to flooding:

- Flooding causes and the relationship to development
- Regulations for government agencies associated with flood control and flood hazard mitigation
- Comprehensive and watershed planning
- Stormwater management
- Successful floodplain management tools
- Local ordinances
- Site plan review tools
- Stormwater management design

The manual also includes an extensive appendix with a glossary and references, including a summary of Federal and State programs that support the items addressed.

Floods, flood damage and the impacts from development are not new concepts. In 1945 a report was presented to the Westchester County Board of Supervisors on Storm Water Control by James C. Harding, Commissioner of Public Works. Even in 1945 it was noted that "Westchester has always had a flood problem. The question has been frequently asked whether floods now are any worse than they used to be. The answer is yes. We do not have worse rain now than we had in earlier years. However, the growth of the County has increased the flood-producing characteristics of our streams with the result that one inch of rainfall now will produce several times the quantity of water flowing down a stream in a given time than was formerly the case." Subsequent reports and studies reiterate continued flooding conditions throughout the county.

There is no "silver bullet" to eliminate property damage caused by flooding. The information that this manual provides is to serve as an introduction and guide to assist land use decision makers on how best to approach the issue of flooding and flood damage and devise effective strategies to address flooding both locally and regionally. Local municipalities are encouraged to work on flood issues regionally and should adopt specific standards only after careful evaluation.

Hurricane Floyd washes out road in the Town of Cortlandt, 1999.

Flooding is the most common disaster in New York State. Since 1954, there have been 80 Presidential Declarations in New York State:

59 Major Disasters, including:
35 named flooding events
8 hurricanes and tropical storms
2 attacks on World Trade Center (1993 & 2001)
4 Ice storms (1991, 1998, 2003 & 2008)
1 Earthquake

19 Emergencies, including:
11 Snow
2 Love Canal
1 West Nile Virus Vector Control
1 Power Outage (2003)
1 Ice Storm (2008)

2 Fire Management Assistance
West Point complex (1999)
Sunrise Fires, Long Island (1995)

"The floodplain is defined as the flat bordering a stream, constructed by the river in the present climate and inundated during periods of high flow"

– Luna Leopold

1.2 The Basics of Flooding

A. Flooding Defined

Several definitions of flooding exist. According to the Federal Emergency Management Agency (FEMA), flooding is defined as "a general and temporary condition where two or more acres of normally dry land or two or more properties are inundated by water or mudflow." The USGS defines flooding as "any relative high streamflow that overtops the natural or artificial banks of a river." To most property owners, however, any damage at all from stormwater is considered flooding.

B. Why Does It Flood?

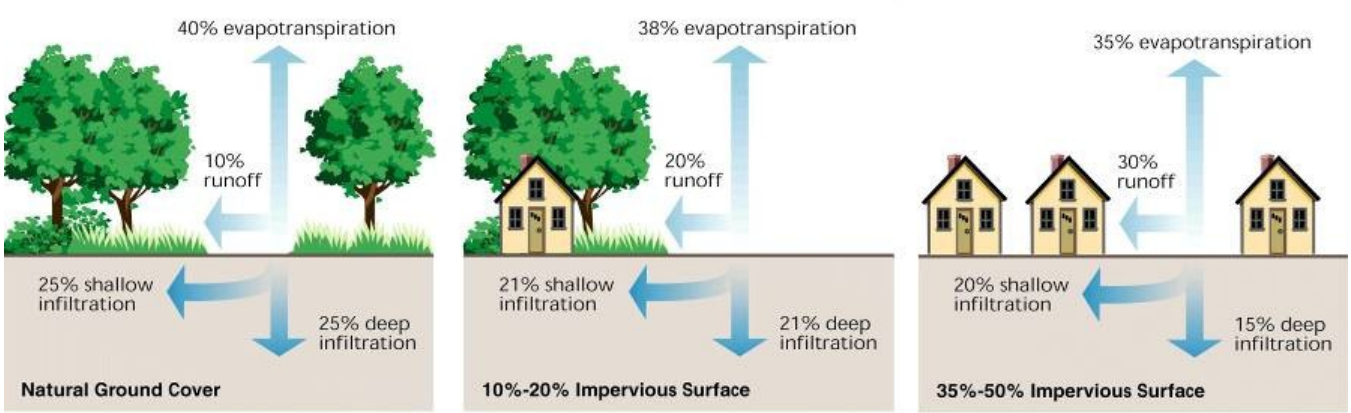
When it rains, flooding occurs when streams overflow their banks and floodwaters fill the floodplain adjacent to the stream. Storm intensity can impact flooding. Even though total rainfall may not be significant, short, intense storms can sometimes cause localized flooding and flood damage.

Development in floodplains decreases their ability to store water. Displacement of the flood storage capacity of a floodplain may result in an expansion of the floodplain boundaries or an increase in the elevation of floodwaters. Altering wetlands and soils can also increase stormwater runoff and reduce the land's natural ability to store water. As urbanization has occurred, soils were covered over and compacted, vegetation was removed, wetlands were lost, floodplains were filled and streams were channelized. As the amount of impervious surfaces in a watershed increases, stormwater runoff also increases (Figure 1-1).

In less developed areas, water is more likely to be absorbed into the ground instead of draining quickly to a stream. Urbanization results in both more total surface runoff volume as well as decreased travel time to entering a stream. Increased stream velocity and higher water elevations also result in greater likelihood for erosion and debris transport, which can cause blockages in narrow portions of the stream channel, causing flooding. Debris from storms can clog watercourses and cause flooding in areas that are not usually flooded. Rather than storing the rainfall in wetlands and soils and letting it move through the watershed slowly, more of the storm's water is in one place at one time.

While storms with large rainfall amounts often cause flooding, small intense storms

Figure 1-1: Impervious Surfaces Prevent the Natural Infiltration of Rainfall, Increasing Runoff



Source: *Stream Corridor Restoration: Principles, Processes, and Practices (10/98)*, Federal Interagency Stream Restoration Working Group (FISRWG).

can also cause flooding. Rain events during late winter or early spring are exacerbated by frozen ground conditions or melting snow and ice. Repeated storms may have devastating effects on areas as attempts to recover from the initial storm are thwarted by a following storm, which may also be compounded by saturated soil conditions.

1.3 Regional Cost of a Local Flood

Many towns in Westchester were developed around rivers, lakes and the Long Island Sound because they provided a source of water, transportation and energy for early settlers. As these early communities grew, floodplains were filled to provide more land for expanding communities and opportunities to increase flood storage were lost. Compounding the loss of flood storage, additional stormwater runoff was being generated from the newly created impervious surfaces. In addition, weather data indicates that storm intensity has been increasing, resulting in greater volumes of water in a shorter period of time. With more water and fewer places for it to go, the frequency and extent of flooding has increased.

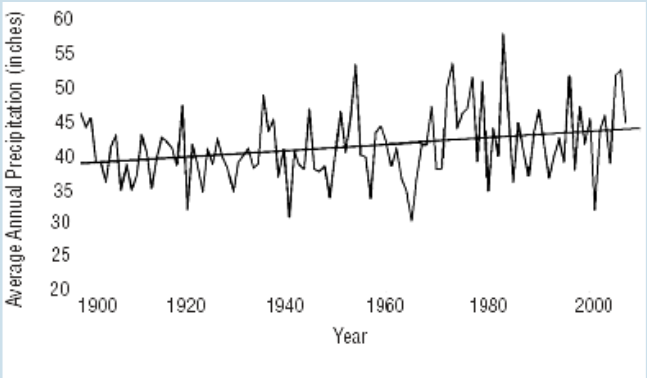
With increasing flooding, there has also been an increase in flood damage. In April 2007, a strong Nor'easter caused tens of millions of dollars in damage to Long Island Sound communities in Westchester. The cost of flood damage is not limited to just real and personal property. The cost of local flooding impacts us as a region. Closed highways due to flooding are not just an inconvenience. Closed highways can impact access to local businesses and efficient access to life-saving emergency medical facilities. When businesses are closed because of flooding there are lost tax revenues. Regional costs include overtime for police, fire and emergency services in flooded areas. The flood damage that occurs to public facilities, schools, roads, bridges, and parks impact the entire community. Everyone pays, whether their property is flooded or not.

New York is a home-rule state where most land use decisions that create or exacerbate flooding or flood risk or have the potential to reduce flooding or flood damage rest with local municipalities. However, stormwater does not stop at a municipal boundary. Flooding is a watershed-wide issue that usually involves more than one municipality. Analysis of flooding and flood damage and development of strategies to reduce it are most effective at the watershed scale, requiring cooperation and coordination among each of the watershed communities.

Northeast Average Annual Precipitation 1900-2007

Graph shows the average annual precipitation from 1900-2007 for the 11 long-term stations in the Northeast. The trend line shows an increase in the average annual precipitation since 1900.

~Trends in Extreme Precipitation Events for the Northeastern United States; University of New Hampshire



2007 April Nor'easter Costs Westchester County

Damage to homes:

Inaccessible	5
Minor damage	1,141
Major damage	1,106
Destroyed	209

Approximately **$27 million dollars** in response costs and damages was applied for in Westchester County through FEMA's Public Assistance program for county, municipal governments, school districts, fire districts, private and non-for-profits.

1.4 Government Framework

Flooding and flood damage prevention are regulated at the federal, state and local levels. At the federal and state level there are multiple agencies that may regulate or provide assistance for flood mitigation and flood damage. Contact information for each agency can be found in Appendix 3.

A. Federal

United States Army Corps of Engineers (USACE)

USACE oversees civil engineering projects such as dams, levees, dikes and other flood control measures to include river deepening, channel widening, lock expansion, dam operations, and dredged material disposal. The Flood Control Act of 1950 authorized USACE involvement in emergency operations and flood preparedness. USACE also works with municipalities to help develop floodplain management plans during the course of a feasibility study.

National Flood Risk Management Program: The Corps developed the National Flood Risk Management Program in May 2006 to coordinate its flood risk management programs and activities. The goals of the program include:

- Providing current and accurate floodplain information to the public and decision makers
- Identifying and assessing flood hazards caused by aging flood damage reduction infrastructure
- Improving public awareness and comprehension of flood hazards and risk
- Integrating flood damage and flood hazard reduction programs across local, state, and federal agencies, and
- Improving capabilities to collaboratively deliver and sustain flood damage reduction and flood hazard mitigation services to the nation.

Federal Emergency Management Agency (FEMA)

FEMA, in association with the NYSDEC, is charged with coordinating the federal response to floods, earthquakes, hurricanes, and other natural or man-made disasters and providing disaster assistance to States, communities and individuals. The agency's initial response occurs when the President of the United States declares a disaster, which involves a request from the governor of the impacted State. Once a disaster is declared, FEMA activates the Federal Response Plan and coordinates its response with other agencies in emergency situations. The Federal Response Plan provides a structured framework for delivering a coordinated response for any major disaster or emergency.

National Flood Insurance Program (NFIP): FEMA administers the NFIP. The NFIP program goals are to reduce the risk of flood damage to properties and reduce federal expenditures for uninsured properties that are damaged by floods. The three components of NFIP are:

Reversing Flooding Trends

The National Flood Insurance Program's minimum requirements alone will not reverse the trend of increased flooding because they:

- **Do not take to account future conditions such as sea level rise, changing storm patterns or development in the watershed.**
- **Do not address all hazards such as coastal erosion.**
- **Do not protect against large flood or storm surge events.**

Association of State Floodplain Managers, 2007

1. Floodplain identification and mapping
2. Floodplain management, and
3. Flood insurance.

Floodplain identification and mapping is provided through the program to create awareness of flood hazards. The mapping provides data for flood management programs and flood insurance rates for new construction. Specifically, Flood Insurance Rate Maps (FIRM) delineate base flood elevations and identify flood risk zones including Special Flood Hazard Areas (SFHAs). The SFHA is the land area that is subject to a one percent or greater chance of flooding in any given year. These high risk areas are where the NFIP's floodplain management regulations must be enforced and where the mandatory purchase of flood insurance applies. Properties located outside of these high risk areas are still subject to flooding and owners have the option of purchasing flood insurance to protect themselves from flood risks.

Environmental Protection Agency (EPA):
Clean Water Act: Regulatory Requirements Section 404 of the Clean Water Act (CWA) established a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities). Filling in a wetland results in the loss of areas that provide storm and flood water storage and contributes to flooding.

The USACE administers the day-to-day program, including individual and general permit decisions; conducts or verifies jurisdictional determinations; develops policy and guidance; and enforces Section 404 provisions.

The EPA develops and interprets policy, guidance and environmental criteria used in evaluating permit applications; determines scope of geographic jurisdiction and applicability of exemptions; approves and oversees State and Tribal assumption; reviews and comments on individual permit applications; has authority to prohibit, deny, or restrict the use of any defined area as a disposal site (Section 404(c)); can elevate specific cases (Section 404(q)); and enforces Section 404 provisions.

Coastal Zone Management Act: The Coastal Zone Management Act provides for a unique federal-state partnership that is a proven basis for protecting, restoring, and responsibly developing the nation's important and diverse coastal communities and resources, thus ensuring their protection for future generations while balancing competing national economic, cultural and environmental interests. (www.nyswaterfronts.com)

National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (OCRM): The Coastal Zone Management Act of 1972 is administered by the Coastal Programs Division (CPD) within the OCRM. The CPD is responsible for advancing national coastal management objectives and maintain-

Cortlandt Lake Dam, failure and repair, 1999.

New York State Department of State
Coastal Management Program

COASTAL POLICIES ON FLOODING AND EROSION HAZARDS

- Building and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.
- Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting features including beaches, dunes, barrier islands and bluffs.
- The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.
- Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.
- Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.
- Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.
- Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

Excerpted from the State of New York Coastal Management Program and Final Environmental Impact Statement, Section 6, August 1982 with changes made to incorporate routine program changes approved in 1983 and 2001.

ing and strengthening state and territorial coastal management capabilities. It supports states through financial assistance, mediation, technical services and information, and participation in priority state, regional, and local forums.

B. New York State

NYS Emergency Management Office (SEMO)
Flood Hazard Mitigation Program (FHMP): SEMO administers FEMA's Hazard Mitigation Assistance (HMA) grant programs, all of which include project types for flood mitigation. Staff provides technical support for communities who are developing hazard mitigation plans and applications for grants, and implements grant funding provided through the HMA grant programs. For further information on hazard mitigation planning, please see Section 2.0.

NYS Department of Environmental Conservation (DEC)
National Flood Insurance Program (NFIP): The DEC, in association with FEMA, administers the NFIP and community assistance to municipalities in the NFIP. The DEC has three model local laws for flood damage prevention that communities can adopt to join the program: one for communities without mapped flood hazards, one for communities with standard mapped flood hazards, and another for communities with coastal flood hazard areas. The DEC performs audits to determine if participating communities comply with the NFIP requirements. The 43 municipalities with land use authority in Westchester County all participate in the NFIP and have flood management ordinances based on the model ordinances.

Floodplain Mapping Program: The NYSDEC cooperates with FEMA to update Flood Insurance Rate Maps (FIRM) throughout New York State. The new Digital Flood Insurance Rate Maps (DFIRMs) provide floodplain managers, municipal planners, and other professionals with a tool for mitigation and planning. DFIRM data can be viewed or downloaded by going to FEMA's Map Service Center at: msc.fema.gov or giswww.westchestergov.com.

Dam Protection: The DEC Bureau of Flood Protection and Dam Safety within the Division of Water regulates and issues permits for dams in order to protect people against loss of life and property from flood and dam failure. The DEC also provides technical support to

local governments and owners of dams. Technical support provided by the DEC consists of technical reviews of proposed dam construction or modification, periodic safety inspection of dams, and emergency preparedness within communities. Additionally, the DEC oversees dam maintenance, operation and repair, and monitors remedial work for compliance with dam safety criteria in order to prevent dam failure.

Mamaroneck, March 2007
Photo credit: Peggy Jackson

Flood Control: The DEC also facilitates permitting, construction and rehabilitation of structural flood control projects. Flood control projects include channel improvements, closures, drainage structures, levees, floodwalls, ice control structures, ponding areas, pumping stations, clearing and snagging, and streambank stabilization and shoreline protection. The DEC acts as the local partner with USACE on flood control projects.

Coastal Erosion: The Coastal Erosion Hazard Areas Act gives the DEC the authority to identify and map coastal erosion hazard areas and to adopt regulations to control certain activities and development in those areas. The DEC established a permitting system for development and construction activities in erosion hazard areas including structural hazard and natural protective feature areas. Specifically, a coastal erosion management permit is required for the construction or placement of a structure, or any action or use of land which materially alters the condition of land, including grading, excavating, dumping, mining, dredging, filling or any disturbance of soil within a coastal erosion hazard area.

MS4 Program: A Municipal Separate Storm Sewer System ("MS4") is defined as "a conveyance or system of conveyances owned by a State, City, Town, Village, or other public entity that discharges to the Waters of the United States and is:

- designed or used to collect or convey stormwater (includes gutters, pipes, ditches)
- not a combined sewer
- not part of a Publicly Owned Treatment Works (i.e. sewage treatment plant)"

The NYS SPDES Phase II General Permit requires that Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) be regulated and that municipalities develop and implement a Stormwater Management Program. Updated stormwater design standards require runoff reduction, and many stormwater Best Management Practices (BMPs) can also be used to address issues of flooding.

New York State Department of State (DOS):
The Division of Coastal Resources: The Division works with partners in the public, business and non-profit sectors to foster appropriate use of coastal areas.

MS4 Toolbox
The NYSDEC created a Toolbox and is located online at:
www.dec.ny.gov/chemical/8695.html

Large portions of Long Island Sound communities were flooded during the April 2007 Nor'easter.

Local Waterfront Revitalization Program (LWRP):
Under the Federal Coastal Zone Management Act, the state created the Local Waterfront Revitalization Program (LWRP). An LWRP is both a plan and a program. The term refers to both a planning document prepared by a community, as well as the program established to implement the plan.

As a planning document, an LWRP is a locally prepared land and water use plan and strategy for a community's natural, public, working, or developed waterfront through which critical issues are addressed. In partnership with the Division of Coastal Resources, a municipality develops community consensus regarding the future of its waterfront and refines State waterfront policies to reflect local conditions and circumstances. Once approved by the New York Secretary of State, the Local Program serves to coordinate State and federal actions needed to assist the community to achieve its vision.

As a program, an LWRP is the organizational structure, local laws, projects, and ongoing partnerships that implement the planning document.

The LWRP may be comprehensive and address all issues, including flooding, that affect a waterfront community or it may address the most critical issues facing a significant portion of its waterfront. Communities with shared interests or resources are encouraged to cooperate or to prepare a common program. The issue areas that should be considered for inclusion in an LWRP are:

- waterfront redevelopment and land use
- historic resources
- scenic resources
- flooding and erosion
- water quality
- fish and wildlife habitats
- public access and recreation
- water dependent uses and harbor management
- agriculture

An LWRP provides numerous benefits to communities who choose to become involved. These include:

- Clear direction - An LWRP reflects community consensus. As such, it can significantly increase a community's ability to attract appropriate development that will respect its unique cultural and natural characteristics.

- Technical assistance - An LWRP establishes a long-term partnership among local government, community based organizations, and the State, providing a source of technical assistance to prepare and implement a local program.

- State and federal consistency - State permitting, funding, and direct actions must be consistent with an approved LWRP. Within federally defined coastal areas federal agencies activities are also required to be consistent with an approved LWRP. This "consistency" provision is a strong tool that helps ensure

all government levels work in unison to build a stronger economy and a healthier environment.

- Financial assistance - A LWRP presents a unified vision; it therefore increases a community's chances to obtain public and private funding for projects. Funding for both the development and implementation of Local Waterfront Revitalization Programs is available from the New York State Environmental Protection Fund, among other sources.

C. Westchester County

County staff work with a variety of partners to mitigate and reduce flood damage and reduce flood damage costs:

Flood Action Task Force (FATF): The Task Force is comprised of community leaders and experts with specific knowledge of flooding issues in Westchester County. The FATF assists municipalities who seek funding for flood mitigation projects and guides the development of comprehensive flood planning efforts.

Department of Planning (WCDP): The WCDP conducts a comprehensive work program and shapes and influences growth and development in Westchester County in order to improve quality of life and protect the environment, resulting in more livable and sustainable communities.

Three of the five specialized sections of the department – Land Use and Development, Housing and Environmental Planning – focus on the initiatives that carry out this mission. They utilize the technical expertise of the department's two other sections – Design and Administration – to produce quality products and plans in the most cost-effective manner for county residents.

The WCDP provides technical planning and policy services to municipalities,

"The NFIP's minimum requirements are just that — minimums! The minimums set construction standards that often do not provide sufficient protection from all local flood hazards nor do they account for the effects of urbanization on future flood levels. They will allow floodwater conveyance areas to be reduced; essential valley storage to be filled; or velocities to be increased; all of which can adversely affect others in the floodplain and watershed. It is important that local communities recognize the need to go beyond national and state minimums and take charge of their own flooding issues."

No Adverse Impact
A Toolkit For Common Sense Floodplain Management
(Full document found in Resource Section)
Association of State Floodplain Managers, 2003

county departments and other governmental agencies and individuals regarding natural resource protection and flood and flood damage mitigation. The Department provides a lead role, including administrative and technical support for watershed planning efforts in the county, including the Flood Task Force. WCDP works with local municipal partners to educate the public about stormwater and also constructs best management practices as demonstrations for controlling stormwater to prevent pollution and mitigate flooding.

The Westchester County Soil & Water Conservation District (SWCD) is a special purpose district created to develop and carry out a program of soil, water and related natural resources conservation. Environmental planners and other WCDP staff provide support to the seven-member citizen Board of Directors. The SWCD has developed a program with a distinct urban/suburban conservation orientation and considers a wide range of soil and water resources conservation concerns.

Department of Information Technology (DoIT): The Westchester County Department of Information Technology (DoIT) offers its expertise and services to municipalities, schools and special districts in several areas, including digital printing, network and office systems services, geographic information systems (GIS) and emergency support, to name a few. The county has developed these services with the goal of reducing local costs, increasing efficiency and reducing duplication of services.

There are a number of GIS-related services, including development of GIS databases, Internet mapping, data warehousing and tax map maintenance. The criminal justice and EMS shared services applications have fast become key resources to police departments and emergency responders throughout the county. Mapping is a key component in preparing flood and flood damage mitigation plans and DoIT can provide:

- Internet Mapping Programs integrated with the County's primary web-based mapping application, Mapping Westchester County
- Guidance on emerging Internet mapping programs such as Google Earth and Microsoft Virtual Earth
- Geospatial Data Warehousing – making local datasets available "on-line" as part of Mapping Westchester County and ready for download.
- Recommendations and design of key GIS database development efforts
- Conducting Local Government GIS User Needs Assessments and project implementations
- Customized Web-based and desktop GIS applications
- Tax map maintenance strategies
- Mobile mapping programs
- Technical Support and User Training
- GIS Project and Consultant Selection/Management
- Recommendations on CAD and GPS Development/Integration
- Assistance in obtaining grant funding for "Start-Up" projects

Office of Emergency Management (OEM): The Westchester County Office of Emergency Management (OEM) is responsible for coordinating Westchester County's response to requests for emergency disaster assistance from municipalities

throughout the county. This assistance can include:

- On-scene support to local incident commanders during emergencies
- Use of the county's Emergency Operations Center to manage assets and resources deployed in a large-scale disaster
- Serving as a conduit for acquiring assistance and support at the state and federal levels

Additionally, OEM is responsible for Westchester County's preparedness activities. OEM works daily with local, state, federal and private sector partners in emergency management to plan and prepare for large-scale, multi-jurisdictional responses to all natural or man-made disasters.

D. Local Municipal

Local municipalities can participate in state and federal programs including preparing an LWRP. All municipalities in Westchester County are regulated MS4s and must prepare a Stormwater Management Plan.

Participation in the National Flood Insurance Program (NFIP): By choosing to participate in the NFIP, a municipality enables homeowners, business owners and renters in participating communities to purchase federally-backed flood insurance. This insurance is designed to provide an alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods.

Municipalities that experience flooding, particularly repetitive flood damage, are also obligated to undertake the activities described in the Code of Federal Regulations that guide the NFIP, in particular 44 CFR Part 60.22, Planning Considerations for Flood-Prone Areas. The activities described in this section include long range planning, directing development away from flood hazard areas and other activities intended to reduce flood damage.

Municipalities that participate in the NFIP agree to adopt and enforce ordinances that meet or exceed FEMA requirements provided in 44 CFR Part 60.3 to reduce flooding including strict floodplain management regulations. These regulations provide requirements for structures that are built within high risk flood areas to minimize damage to these structures and prevent obstructions to the natural flow of floodwaters. It is important to note that the NFIP and floodplain ordinances are intended to reduce damage from flooding. They do so by setting standards for development that occurs within floodplains. They do not protect floodplain storage capacity or reduce the volume of floodwater. The first course of action should always be to direct development away from flood-prone areas.

Community Rating System (CRS): CRS is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS:

- Reduce flood losses;
- Facilitate accurate insurance rating; and
- Promote the awareness of flood insurance. (FEMA)

Flood Insurance Rate Maps (FIRM): Municipalities are required to make copies of the FIRM maps available to the public. The FIRM maps in Westchester were most recently updated by FEMA in 2007. The 2007 update included a modernization of the maps to a digital format, copies of which are available on the County interactive mapping website: giswww.westchestergov.com/gismap/viewer.aspx or on the FEMA Map Service Center website (click on FIRMettes). Municipalities are also required to make available the flood insurance study that accompanies the maps and should keep records of any map amendments or revisions that have been made to the maps. While the County is also a repository for the FIRM, the local municipalities are the repository for amendments and revisions and as such are the most current and accurate source of information.

Local Law: In New York State, through the state enabling legislation, municipal planning and land use controls are delegated to the local legislative body. Zoning is one of the most important tools available to a community to implement the land use policies set forth in a municipality's comprehensive plan and to mitigate flooding and flood damage. Through the adoption of land use regulations, the effects of development and management of land on watersheds and floodplains can be addressed. Land uses that create a high risk, such as residential or uses that may cause hazardous conditions or pollution if flooded, should be discouraged within or close to Special Flood Hazard Areas. Sections 2.0 through 5.0 provide detailed information on how municipalities can integrate flooding concerns into their local laws and land use decision-making process.

1.5 Public Outreach and Involvement

A. Education and Outreach

A municipality that has suffered from flooding, particularly repetitive flooding, should implement a proactive education and outreach campaign. Municipalities can post information on their website or community cable channel, include flyers with bills, conduct direct mailing campaigns focused on flood-prone properties, or distribute flyers at public buildings and events. Working with homeowners organizations and the real estate industry is another effective way to educate the industry

Local Municipal NFIP Responsibilities

- **Enact and enforce development regulations**
- **Adopt and enforce floodplain management ordinance**
- **Issue or deny floodplain development/building permit**
- **Estimate flood elevations not determined by FEMA**
- **Require residential structures to be elevated at or above the 100-year base flood elevation (BFE)**
- **Conduct field inspections and cite violations**
- **Establish variance procedures**
- **Advise FEMA when map updates are needed**

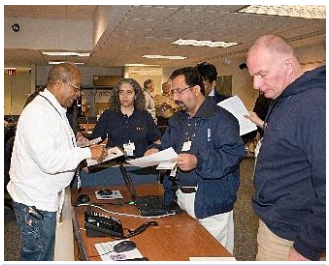
and homeowners about flooding and flood damage reduction. A municipality that undertakes efforts such as these to provide information and education to residents with the intent on reducing flood damage will receive additional points under the Community Rating System, resulting in reduced insurance rates for its residents.

Flooding is traumatic and a lack of timely information only worsens an already tense situation. Informing homeowners of flooding, flood risk, and the steps they can take before, during and after a flood can significantly reduce flood damage. Information from websites such as FloodSmart.gov and Ready.gov helps homeowners prepare for floods and other disasters.

Westchester County can be used as a resource to provide information to the public about flooding and flood damage reduction. The County's website has information on flood hazards, weather information, flood prone areas and information for homeowners. Links to state and federal resources are also provided. The County's interactive mapping website includes many useful data layers such as soils data and the Special Flood Hazard Areas from the 2007 FEMA Flood Insurance Rate Maps. Refer to the resources section of this document for links to applicable pages of the County website.

The National Flood Insurance Act of 1968 created the National Flood Insurance Program to:

- **Transfer the costs of private property flood losses from tax payers to floodplain property owners**
- **Distribute responsibility to all level of government**
- **Set national standards for regulating new development in floodplains**
- **Identify flood-prone areas**
- **Reduce flood damages using structural and non-structural measures**



When property owners receive financial assistance from the Federal Government following a Presidentially declared disaster, they may be required to purchase flood insurance coverage.

~FEMA

B. Public Involvement

Public hearings are a matter of course for municipalities as part of the permit process. However, too often stormwater management, flooding and floodplain management are left as a condition of an approval, the presumption being that a solution can be worked out so long as the floodplain management ordinance is complied with. This not only removes the issues from the public review, but also from the review of local planning and zoning boards.

Stormwater management and flooding should be included as part of the site development plan review. The process should allow for alternative site development scenarios that often occur during the public site plan review process. When the public, planning boards, zoning boards and conservation boards have the ability to review projects, a more thorough review of the site plan and analysis of potential impacts from flooding can occur. Section 5.0 will provide more details on improving the site development review process.

2.0 LONG RANGE PLANNING AND FLOODPLAIN MANAGEMENT

The paving of 80 percent of a single quarter-acre lot may seem insignificant, but the cumulative impact of paving 80 percent of the quarter acre lots across a 500 acre zoning district in a watershed could result in a significant increase in flooding downstream if adequate stormwater controls are not in place.

Solutions to flood and flood damage mitigation can be hard to achieve because the issues are complex and the solutions can be expensive. Many flood issues require further studies, and it is essential for communities to plan ahead and strategize funding solutions.

Floodplain management is the operation of a community program of corrective and preventative measures for reducing flood damage. These measures take a variety of forms and generally include requirements for zoning, subdivision or building, and special-purpose floodplain ordinances. (FEMA.GOV)

Each $1 spent on mitigation saves society an average of $4, with positive benefit-cost ratios for mitigation activities related to wind (e.g. coastal storm, hurricane, tornado, severe storm), flooding, and earthquakes. In addition to socioeconomic benefits, the federal treasury can redirect an average of $3.65 for each dollar spent on mitigation, as a function of disaster relief costs and tax losses avoided.

~Multihazard Mitigation Council, 2005

A community's agreement to adopt and enforce floodplain management ordinances, particularly with respect to new construction, is an important element in making flood insurance available to home and business owners. Currently over 20,100 communities nationwide voluntarily adopt and enforce local floodplain management ordinances, including all 43 municipalities with land use authority in Westchester County that have adopted local floodplain management ordinances based on the DEC's model ordinances.

Long range planning and floodplain management are interrelated as many floodplain management strategies include the adoption of local laws to address flooding and flood damage mitigation. Flooding and flood damage prevention are complex problems and long range plans are often necessary tools to create effective solutions. The long range planning process often results in the recommendation of adopting local laws and ordinances to address flooding problems. Municipalities are encouraged to incorporate flooding, flood damage prevention and stormwater issues into all their long range planning efforts. Long range planning tools include comprehensive planning, watershed planning, capital improvement plans and hazard mitigation plans.

2.1 Comprehensive Plans

According to local New York State law, a comprehensive plan is defined as the "materials, written or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development" of a town, city or village. A comprehensive plan should include a description of existing conditions and clear vision for the future of a community. It should

FEMA estimates that the National Flood Insurance Program (NFIP) building standards and floodplain management measures reduce flood losses by $1 billion per year

FINMA, 2002

CHAPTER 307. ZONING, § 307-2. Authority and purpose.
A. Pursuant to the laws of the United States of America, the State of New York and the Town of Cortlandt and the authority and power granted by Article 16 of the Town Law of the State of New York, the purpose of this chapter is to promote the health, safety, morals and general welfare of the community by establishing regulations and restrictions with respect to height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the sizes of yards and other open spaces, the density of population and the location and use of structures and land.

B. The regulations contained herein have been made in accordance with a comprehensive plan (the 1991 Master Plan) and have been designed to lessen congestion in the streets; **to secure safety from fire, flood, panic and other dangers;** to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations have been made with reasonable consideration, among other things, as to the character of the districts and their peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

C. The Town Board recognizes that all policies of the 1991 Master Plan are not implemented by this chapter and that full implementation of the Master Plan will require extensive time, study and deliberation. Nonetheless, the Town is committed to Master Plan policies, and any proposal for housing or other development which is presented to the Town and which is consistent with the Master Plan but not expressly provided for in this chapter will be given full consideration by the Town Board.

~Town of Cortlandt, New York

set clear goals and objectives and specific strategies to implement these objectives. A good plan is developed by working closely with residents and property owners to get their input and feedback. The municipality must hold public hearings if the comprehensive plan is to be adopted by a municipality.

New York State law requires that zoning be adopted in accordance with a well-considered comprehensive plan. This requirement reflects both underlying constitutional considerations and a public policy that views zoning as a tool to plan for the future of communities. Zoning is the most important tool available to a community to implement the land use policies set forth in a municipality's comprehensive plan. Many tools to mitigate flood damage can be implemented through local municipal zoning ordinances. Often one statement of the authority and purpose of the zoning code, as in the Town of Cortlandt, is "to secure safety from fire, flood, panic and other dangers".

The comprehensive plan should include a thorough inventory of the natural resources and also identify the interrelationships between these resources. Resources typically included in this section that can affect flooding include:

- Wetlands, streams and waterbodies
- Stormwater, drainage and waterways
- Water quality, watersheds, floodplains and aquifers

Comprehensive Plan Vision Statement and Goals for Natural Resources
Yorktown's natural resources are integral to the long-term health, safety, and well-being of not only Yorktown but also neighboring towns and the region. The Town should expand efforts to preserve open space and natural resources throughout Yorktown. The ecological integrity of Yorktown's natural resources, including groundwater, streams and wetlands, trees and woodlands, steep slopes, and areas rich in bio-diversity, must be maintained and protected, even as new development occurs.
7.2 GOALS
Goal 7-A: Protect the health, safety, and welfare of Yorktown residents by conserving natural resources to the greatest extent possible, including woodlands, water resources, wetlands, threatened and endangered species, and habitat areas for plants and wildlife.
Goal 7-B: In particular, protect and maintain the supply and quality of groundwater and surface water resources, including underground aquifers, the New Croton Reservoir, and the streams that feed the reservoir.
Goal 7-C: Promote sustainable development patterns, which consume less open space and result in less automobile-dependent land uses.
Goal 7-D: Ensure that permitted land uses and development intensities are suitable with respect to groundwater and surface water resources.
Goal 7-E: Limit development on steep slopes and reduce the potential for soil erosion.
Goal 7-F: Protect the health, safety, and welfare of Yorktown residents by reducing the potential of new development to impact downstream flooding.

~Town of Yorktown Draft Comprehensive Plan

- Wildlife, plants and woodlands
- Topography and steep slopes
- Soils

The plan should also include a description of current land use, including identification of impervious surfaces and an open space inventory. For flood mitigation, it will be important to map floodplains and identify flood hazard and flood prone areas using FIRM maps and other data. FEMA and SEMO can assist in compiling this information. A build-out analysis can also be completed to determine if future development could potentially occur in flood prone areas.

Once these resources have been identified, specific goals and objectives should be identified that spell out the overall vision for natural resource management within the community. If development in flood prone areas is a problem, goals can be developed to address this.

2.2 Watershed Plans

(This section adapted from ***Watershed Plans, Protecting and Restoring Water Quality***, NYSDOS).

Watersheds are geographic features; they do not reflect local political boundaries. More often than not a watershed will cover several counties and many towns and villages. Watershed planning focuses on the relationship between land use and land cover, the movement and storage of water, and water quality. A watershed plan can provide a set of land use management tools for municipalities that recognizes the relationships between economic, social, and natural processes that keep drainage

pathways functional and the water that flows through them clean and safe.

Watershed planning allows communities to integrate water resource protection and restoration with growth management at the local level, balancing environmental, economic and safety factors.

The watershed planning process provides an opportunity for a community to reach out to its residents and businesses, building support for water quality improvements while planning for economic and community growth. Watershed planning is an ongoing and flexible process that is successful when there is collaboration between all who live and work in the watershed. It cannot be done well without broad public participation. A successful watershed plan will answer a series of questions as it guides the protection, restoration and management of a community's water resources. From the plan a municipality should be able to identify why, where, what, when, who, and how much. That is - why the watershed plan is needed; where the existing problems, threats, and opportunities are located; what actions and projects are recommended to address the problems and threats and to take advantage of the opportunities; when the recommendations will be advanced; who will take the lead in making it happen; and how much it will cost to implement the plan. In terms of floodplain management, the plan should identify areas impacted by flooding, opportunities for flood mitigation and recommendations to reduce flood damage.

"Flood damage in the United States continues to escalate. From the early 1900's to the year 2000, flood damage in the United States has tripled, approaching $6 billion annually. This has occurred despite billions of dollars spent on flood control and other structural and non-structural measures."

An important step in the watershed planning process is to identify the local controls, programs and practices utilized by the municipalities that are located within the watershed. Specifically, local regulations pertain-

Mamaroneck, NY
March 2007
Photo credit: Peggy Jackson

Indian Brook Croton Gorge Watershed Conservation Plan

"A large portion of the R-2A district in Cortlandt does not have stormwater infrastructure. **Sheet flow serves as the primary transportation method for stormwater runoff. If there is enough pervious surface for the water to infiltrate and water is not directed down steep slopes, sheet flow should not be a major concern. However, if development is to increase, flooding and pollutant loading from untreated stormwater runoff can become a major water quality issue.** The primary areas of sheet flow concern are near the Croton River and waterbodies."

-- An excerpt from the comprehensive watershed plan developed for the Indian Brook-Croton Gorge watershed in Westchester County. The Westchester County Department of Planning produced the report in close collaboration with the towns of Cortlandt, New Castle, Ossining and the villages of Croton-on-Hudson and Ossining.

ing to land use, erosion and sediment control, stormwater management and floodplain management should be evaluated. Coordination of ordinances and development standards at the watershed scale is an effective management strategy to achieve goals such as stormwater management and flood damage reduction. Reference to a community's Hazard Mitigation Plan (discussed later in this section) and stormwater management plan is recommended.

A successful watershed plan will be informed by available data and driven by consensus. It will characterize the physical aspects of the watershed and assess municipal controls in place to ensure future water quality. Recommendations can cover corrective and preventive actions to restore and protect water quality as well as addressing stormwater, flood and flood damage mitigation concerns.

2.3 Drainage Districts

A stormwater utility district or other mechanism can be created to generate funding specifically for stormwater management. Currently under NYS law a stormwater utility district can be formed as a drainage district where property owners within the district pay a stormwater fee and the revenue thus generated directly supports construction, maintenance and upgrade of storm drain systems.

Cities, towns, villages and counties may also construct drainage facilities under other sections of law, and General Municipal Law (GML) Article 5-E provides express authorization for the "construction and development of capacity in excess of its own needs for the purpose of conveying and disposing of storm waters and other surface or sub-surface waters collected by another public corporation or improvement district."

The practical effect of this provision is to allow construction of intermunicipal drainage facilities. The authority given under GML Art. 5-E is additional authority for intermunicipal drainage construction without the necessity to create a "district," as illustrated in the Local Law from Elmira, New York (located in Appendix 2).(NYSDEC)

2.4 Stormwater Management Plans

As part of the Phase II Stormwater Program, MS4 municipalities are required to develop a Stormwater Management Plan. Municipal stormwater management shares many goals and techniques with other municipal programs, in particular land use controls and environmental conservation programs. To integrate stormwater management

Local Law for Utilization of the Beecher Creek Detention Facility

Statement and Purpose

The purpose of this Local Law is to provide a mechanism by which developers of property located upstream of the Beecher Creek Detention Facility can utilize the EXCESS CAPACITY of this facility to manage the increased stormwater runoff that results from their development activities. Permission to utilize the Beecher Creek Detention Facility will be granted by the Town of Elmira to developers who pay a UTILIZATION FEE to the Town, as specified in this Local Law. Participating developers will retain responsibility for preparing a stormwater management plan meeting stormwater quality standards, implementing interior drainage, and managing stormwater flow into the Beecher Creek Detention Facility. Developers who chose not to utilize the EXCESS CAPACITY of the Beecher Creek Detention Facility will be responsible for managing stormwater runoff in some other manner, as required by Town of Elmira Zoning Ordinance, Subdivision Regulations, and Local Laws.

The anticipated benefits to upstream developers include:
(1) reduced costs for the design of stormwater management systems,
(2) reduced costs for construction of stormwater management structures,
(3) increased ability to utilize property since space need not be preserved for on-site retention/detention of stormwater, and
(4)reduced maintenance responsibilities since the Town of Elmira has assumed responsibility for maintenance of the Beecher Creek Detention Facility.

~Town of Elmira

with these existing local programs, municipalities should amend local laws or ordinances that regulate subdivision, site plan and/or zoning by means of a local law that requires a Stormwater Pollution Prevention Plan (SWPPP) to be submitted with any application for discretionary land use approvals. The language of the sample Stormwater Management Local Law in Appendix 1 accomplishes this integration. All MS4 municipalities in Westchester have adopted this law as required by their MS4 Permit.

The ultimate goal of the stormwater management plan is to maintain the health of streams, lakes and aquatic life as well as provide opportunities for human uses of water by mitigating the effects of development. To achieve this goal stormwater management strives to maintain the natural hydrologic cycle, prevent an increased risk of flooding, prevent undesirable stream erosion, and protect water quality. MS4s municipalities work to keep their stormwater management plans current and update-to-date as required by their MS4 Permit.

2.5 Local Waterfront Revitalization Plans

Flooding, erosion and flood damage prevention can also be addressed in a municipalities' Local Waterfront Revitalization Plan (LWRP). Other topics for a LWRP include:

- Waterfront redevelopment and land use
- Historic resources
- Scenic resources
- Water Quality

- Fish and wildlife habitats
- Public access and recreation
- Water dependent and harbor management
- Agriculture

Municipal partners can apply for funding for LWRP implementation projects through the Environmental Protection Fund. For more information about developing an LWRP, go to www.nyswaterfronts.com/aboutus_lwrp.asp

2.6 Capital Improvement Plans

An effective, but often overlooked, tool in watershed and floodplain management is a municipality's capital budget and capital plan. A typical Capital Improvement Plan (CIP) identifies physical projects or other capital expenditures to be implemented over a five year period, with itemized costs and funding information. The capital planning process relies on other studies and efforts to identify projects. A watershed-wide analysis should be undertaken to evaluate a variety of projects that can be implemented independently or in concert. From this list, projects can be prioritized and worked into a capital program. In such an effort, it is often beneficial to work with neighboring municipalities on projects that may impact both.

In preparing a CIP to address flooding, it is important to keep in mind the resources available to a community and develop an implementation strategy that is in keeping with those resources. Phasing is not uncommon, and successful small projects can generate public support for larger expenditures and also be used to demonstrate effectiveness of the program to state and federal agencies and other grant sources.

When developing and reviewing capital programs it is important to set objectives and stick with them. Public demand for projects that address flooding may wane in years where there is little flooding, but effective solutions may take years to design and construct. It is important to remember that flooding can occur in any year and solutions require time and persistence to implement.

A CIP can also be used to identify planned projects that may have the potential to incorporate flood storage components. For example, a parking lot or ball field project can be redesigned to provide flood storage. A bridge reconstruction project can be redesigned to improve the flow of floodwaters. Opportunities to address issues such as flood mitigation should be evaluated as a part of any capital program or project.

2.7 No Adverse Impact (NAI) Floodplain Management

(This section adapted from ***NAI Toolkit***, ASFPM, 2003. The full document is located in the Resource Section.

No Adverse Impact (NAI) is a managing principle of floodplain management that was developed by Association of State Floodplain Managers (ASFPM). NAI was created to address the shortcomings of the typical local floodplain management program. Rather than depending

No Adverse Impact: A Toolkit For Common Sense Floodplain Management

is located in Appendix 3 of this manual. It is also available online at the ASFPM website at www.floods.org/NoAdverseImpact/NAI_Toolkit_2003.pdf.

on minimum requirements of federal or state programs, NAI provides tools for communities to provide a higher level of protection for their citizens and to prevent increased flooding now and in the future. (ASFPM, 2003)

NAI floodplain management is an approach that ensures the action of any community or property owner, public or private, does not adversely impact the property and rights of others. An adverse impact can be measured by an increase in flood stages, flood velocity, flows, the potential for erosion and sedimentation, degradation of water quality, or increased cost of public services. NAI floodplain management extends beyond the floodplain to include managing development in the watersheds where floodwaters originate. NAI does not mean no development. It means that any adverse impact caused by a project must be mitigated, preferably as provided for in the community or watershed based plan. (ASFPM, 2003)

A No Development Policy?

By adopting the NAI approach, your community is not saying "no" to new development, it is only clarifying that developers will be required to find solutions to the potential problems that their projects may cause. This clear and predictable approach lets businesses to do what they do best—find solutions.

State of Massachusetts
Office of Coastal Zone Management

Mamaroneck, NY March 2007
Photo Credit: Peggy Jackson

No Adverse Impact (NAI) is a principle, not a specific set of standards, requirements or practices. The objective is to incorporate the NAI concept into all ongoing local community activities. There are many ways a municipality can do this. A municipality can incorporate the approaches into community plans, adopt specific regulatory or policy language, initiate individual projects, start or revise entire programs or prepare a master plan that addresses all activities that impact flooding.

The CRS and NAI go hand in hand. Most of the tools in the NAI Toolkit are recognized by one of the CRS activities. The Community Rating System (CRS) is a part of the NFIP. It is designed to encourage communities to implement floodplain management programs above and beyond the minimum NFIP criteria. This is done by scoring the community's activities according to formulas that measure their impact on flood losses and flood insurance rating. Flood insurance premium rates are discounted in increments of 5% according to the CRS classification of the municipality.

The ASFPM created the NAI Toolkit to help local officials and citizens incorporate the NAI principle into local community's ongoing programs and land use decisions. The tools consist of a variety of activities that can improve floodplain management programs. The entire toolkit, entitled ***No Adverse Impact, A Toolkit For Common Sense Floodplain Management*** is located in Appendix 3 of this manual. It is also available online at the ASFPM website at www.floods.org/NoAdverseImpact/NAI_Toolkit_2003.pdf.

2.8 Multi-Hazard and Flood Hazard Mitigation Plans

(Adapted from ***Local Multi-hazard Mitigation Planning Guidance***, FEMA, 2008. The full document is located in the Resource Section)

The development of a hazard mitigation plan serves as a long-term strategy towards reducing damage from natural disasters. Local governments are advised to develop a hazard mitigation plan in accordance with Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5165, as amended by the Disaster Mitigation Act of 2000 (DMA) (P.L. 106-390).

"The NFIP has slowed the increases in flood damage, but it has not stopped or reversed it. The reason is that most communities adopt and enforce only the minimum national and state floodplain management requirements, which focus on protecting new buildings, not what the impact of that construction will do to others."

Association of State Floodplain Managers, 2003

In order to be eligible for project funds under the Flood Mitigation Assistance (FMA) program authorized by the National Flood Insurance Act of 1968, communities are required under 44 CFR Section 79.6(d)(1) to have a mitigation plan that addresses flooding. Communities that have formally adopted a FEMA-approved mitigation plan are eligible to apply for and/or receive project grants. Although communities are not required to have a multi-hazard mitigation plan for the FMA program, they are encouraged to consider all hazards that could impact their community. Addressing all hazards within the mitigation plan will allow communities to be eligible for several hazard mitigation assistance programs including:

1) Hazard Mitigation Grant Program (HMGP)
2) Pre-Disaster Mitigation (PDM)
3) Flood Mitigation Assistance (FMA)
4) Repetitive Flood Claims (RFC), and
5) Severe Repetitive Loss (SRL)

Local Multi-hazard Mitigation Planning Guidance, prepared by FEMA in 2008 has a chapter dedicated solely to preparing a flood hazard mitigation plan. The document is located in Resource Section of this manual and is also available on FEMA website.

The guide also has a section dedicated to multi-jurisdictional mitigation plans. Stormwater and flood issues are better addressed by evaluating hazards comprehensively at the watershed level. While certain elements are common to all jurisdictions that participate in a multi-jurisdictional plan, there are some elements that are unique to each participating jurisdiction, including:

- Risks, where they differ from the general planning areas
- Mitigation actions must be identified for each jurisdiction
- Participation in the planning process (attending meetings, contributing research data, commenting on drafts of the plan, etc.)
- Each jurisdiction must formally adopt the plan

Hazard Mitigation Grant Program

The Hazard Mitigation Grant Program (HMGP) provides grants to States and local governments to implement long-term hazard mitigation measures after a major disaster declaration. Authorized under Section 404 of the Stafford Act and administered by FEMA, HMGP was created to reduce the loss of life and property due to natural disasters. The program enables mitigation measures to be implemented during the immediate recovery from a disaster.

~FEMA

Multi-hazard and flood hazard mitigation plans, whether prepared individually or through a multi-jurisdictional effort, should be used to help a municipality identify opportunities and strategies for pre-disaster mitigation as well as emergency response and recovery needs.

3.0 LOCAL CODES TO ADDRESS FLOODING

Municipalities implement recommendations included in comprehensive and watershed plans through the adoption of codes, ordinances and regulations. Through the adoption and enforcement of land use regulations, the effects of development and management of land on watersheds and flood plains can be addressed.

Land uses that create a high risk, such as residential or uses that may cause hazardous conditions or pollution if flooded, can be discouraged within or close to Special Flood Hazard Areas. If possible, these areas should be zoned open space, recreation or non-residential uses. Low Impact Development (LID) practices, Better Site Design, stormwater management Best Management Practices (BMPs) and maintenance requirements can be introduced into local regulations as well as site plan and subdivision regulations to improve stormwater and floodplain management. More information about these practices can be found in Section 5.0.

Flooding Costs over $650 million per year in New York State

Source: FEMA Policy Claim Data from 1999 through 2003

Local municipalities must adopt one of the state's model flood damage prevention ordinances to enable their residents who have property within a designated special flood hazard area to purchase federally backed flood insurance. However, adoption of the model flood damage prevention ordinance alone will not mitigate flooding and flood damage. To reduce flooding, municipalities need consider flooding issues for all development in their community and protect key resources during development, minimize impervious cover and require stormwater management and erosion and sediment controls. Municipalities can improve flood mitigation and reduce flood damage through the passing of local laws that aid in reducing the volume of stormwater that flows downstream. Topics addressed in such laws include:

- Protection of streams
- Tree preservation
- Steep slope protection
- Pervious coverage limits
- Set back from wetlands
- Allowing pervious paving alternatives
- Stormwater best management practices

Appendix 2 has sample ordinances from Westchester County and around New York State that illustrate land use tools that address flooding and flood damage mitigation. Full local codes and ordinances can be found and searched at www.generalcode.com.

During a 30-year mortgage, a house located in 100-yr floodplain has a 26% chance of being impacted by a 100-year flood.

That same house has a 1-2% chance of catching fire and is 27 times more likely to experience a flood than having a fire.

3.1 Flood Damage Prevention

Municipal floodplain management ordinances include the rules and regulations for developing within floodplains identified on the Flood Rate Insurance Maps (FIRM). In addition to regulating activities within the flood zones in conformance with Federal Emergency Management Agency (FEMA) standards, flood ordinances can be modified to address additional concerns, including reducing storage volumes within the floodplains. The ordinance can also be modified to regulate activities that increase the floodwaters that flow to flood zones as a result of development activities.

The NYSDEC has three model local laws: one for communities without mapped hazard areas, one for communities with non-coastal hazard areas and one for communities with coastal hazard areas. These model local laws can be found on the DEC website at www.dec.ny.gov/lands/39341.html. There are two important standards included in the floodplain ordinance that a community can increase to provide additional measures of protection from flooding and also reduce impacts to the floodplain.

For streams with detailed studies (AE-zones), the 1% annual chance (or 100-year) floodplain has been divided into two zones, the floodway and the floodway fringe. The floodway is that area that must be kept open to convey flood waters downstream. The floodway fringe is that area that can be developed in accordance with FEMA standards as adopted in the floodplain management ordinance. Any proposed development within the floodway requires a hydraulic analysis to determine if and how much the development will impact the base flood elevation. The minimum standard included in the model ordinance allows for zero increase in base flood elevation. Any proposed development within the floodway (not the floodway fringe) would need to demonstrate no increase in the base flood elevation. Another standard included in the model ordinance involves the distance between the base flood elevation and the finished floor elevation of a structure. The model ordinance requires a minimum of two feet. This may impact building height, and it is important to evaluate the amount of fill that may be placed around an elevated structure located within any portion of the floodplain.

Floodplain management ordinances can also be modified to include additional language such as a clause to require compensatory flood storage for flood storage lost due to development. More information on how to modify the model local law is available in Appendix 2: Optional Additional Language, Model Local Law for Flood Damage Prevention from the New York State Department of Environmental Conservation.

It is important to remember that the National Flood Insurance Program and the model floodplain management ordinances are intended to reduce the damage and risk caused by flooding by providing minimum standards for development within flood prone areas. Municipalities have long been urged by both state and federal agencies to adopt standards that go beyond the minimum requirements. The most effective way to reduce the amount of flooding and risk of flood damage is to avoid development and filling within any portion of the floodplain.

3.2. Wetlands, Streams and Watercourses

Wetlands are unique ecosystems that often occur where land meets lakes, ponds, streams, rivers and bays. Wetlands are neither perennially dry nor perennially flooded to depths of several feet or more. Wetlands play an important role in stormwater and flood control. Wetlands clean stormwater by trapping sediment, removing nutrients and detoxifying chemicals. They help control flooding by storing and then slowly releasing stormwater runoff.

Wetlands that are 12.4 acres or larger are regulated by NYS. Wetlands smaller than 12.4 acres may be protected if they are considered of unusual local importance. Further protecting wetlands can help a municipality address flooding and flood damage

Key Elements of Wetland and Watercourse Protection Ordinance:

Regulated Buffers or Setbacks:

- At least 100 ft. horizontally from and paralleling the outermost boundary of a wetland or point of mean high water for watercourse.
- Regulated Buffers for Steep Slopes: Additional distance should be added to buffer to account for steep slopes.
- Ideal Recommendation are for 15-17% slope add 20 feet to buffer; 18-20% add 30 feet; 21 -23% add 50 feet; 24-25% add 60 feet. (Center for Watershed Protection)

Mitigation Requirements: Mitigation plans for wetland/watercourse impacts are part of the permit process and are required before commencement of activity.

No Minimum Size of Regulated Wetlands: All wetland regulations should consider all land that exhibits characteristics of a wetland to be recognized as a wetland. Many municipalities in Westchester do not have a minimum size. New York State regulated wetlands are defined as being at least 12.4 acres in area; municipalities have the power to regulate smaller areas of land.

Replacement Ratios for Mitigation: The required amount of restoration of wetland after disturbance.

- 1.5 acres of wetlands need to be restored/created for each 1.0 acre of wetland that is impacted.

Wetland and Watercourse Buffer Zone Prohibitions and Restrictions: Establishes the prohibitive and restricted activities in the buffer areas. Work conducted in a prohibitive or regulated activity zone should be limited and only permitted if the impact of the proposed activity upon the public's health, safety and welfare, flora and fauna, water quality, and additional wetland functions is minimized or can be mitigated.

Mitigation sequencing: (a no net loss objective) is essential for an effective wetlands ordinance, requiring that wetland permit applicants need to:

1. Demonstrate that wetland impacts cannot be entirely avoided
2. Demonstrate that unavoidable impacts have been minimized, and
3. Compensate for any remaining impacts.

mitigation. The Westchester County Model Ordinance for Wetland Protection recommends that municipalities regulate all wetlands within their jurisdiction, regardless of size.

It is recommended that all mitigation should be conducted in the same subwatershed as the original wetland disturbance. This will produce the best no net loss objective. Minimum standards should be included in ordinances and regulations for activities requiring permits in the buffer zones including filling, excavating, diverting, altering, obstruction, dumping, vegetation, animal waste and animal grazing.

3.3 Steep Slopes and Erosion Control

Land use activity or development on steep slopes can result in accelerated runoff of stormwater. The destruction of vegetation and the creation of impervious surfaces on steep slopes only increases the problems of runoff on steep slopes that can lead to increased flooding and erosion.

Key Elements of a Steep Slopes Ordinance:

Steep Slope Definition:

- Those areas with an average slope equal to or greater than 15%, as measured in accordance with the slope measurement criteria, with minimum 500 sq ft.

Steep Slope Restrictions:

- Land that includes a slope equal to or greater than 15% that has a request to be developed and/or regraded or stripped of vegetation will require a permit. The percentage of land that can be possibly developed should vary depending on the steepness of the land.

Ideal Recommendations:

- Sloped land slope = 15% requires permit;
- Sloped area from 15%-20% not more than 25% of the area may be disturbed;
- Sloped area slope = 20%, no more than 10% of that area may be disturbed;
- Sloped area slope = 25% may not be disturbed.

Cut and Fill of Steep Slopes:

- Cut and Fill provisions should be included for all steep slope activity. Cut and fill slopes does not exceed a slope of one vertical to three horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Town Engineer are used.

Mitigation Measure:

- Proper completion of the proposed activity in accordance with the approved plans. The restoration of the area to its natural condition as far as practicable and protection of adjoining property owners from damage resulting from steep slope disturbances.

Permit Requirements:

Permits should be required when developing, regrading or stripping land slope is equal to or greater than 15% slope.

3.4 Subdivision Regulations

Subdivision regulations set out a framework for the process of subdividing land so that it can be used safely for building purposes without danger to health or peril from fire, flood or other threats. Additionally, the general purpose of subdivision regulations is to ensure that land subdivision is part of the plan for the orderly, efficient, and economical development of the local municipality. Subdivision regulations can lay out the process such that lands to be subdivided be of a character such that they provide adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health, and welfare of the citizens within a community. Adequate provisions can also be demonstrated for public infrastructure, in-

cluding drainage and other needed improvements, as determined by the approving agency.

In order for a subdivision review to successfully ensure the avoidance of increased flooding and flood damage, the subdivision regulations should include land use tools that can assist a municipality in mitigating flooding and flood damage. These land use tools include:

- Deducting lot area within floodplain hazard areas for residential development
- Requiring flood and stormwater easements for watercourses, lakes, ponds and wetlands.
- Empowering the planning board to apply flood mitigation requirements in areas known to flood and possibly outside special flood hazard areas.
- Establishing design guidelines to address flooding and stormwater
- Requiring planning board review for compliance with the flood damage prevention ordinance.

CHAPTER 94. SUBDIVISION OF LAND
ARTICLE III. Design Standards § 94-12.
A. Character of land. Land which cannot be used without danger to health or peril from fire, **flood** or other menace shall not be subdivided for residential purposes nor for such other uses as may increase danger to health, life or property or **aggravate a flood hazard**, but such land shall be set aside for such uses as shall not be endangered by periodic or occasional flooding or shall not produce satisfactory living conditions.

~ Village of Mount Kisco, NY

3.5. Stormwater and Erosion Control Ordinance

Generally the purpose of a stormwater and erosion control ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within a municipality. The purpose is also to address the impacts of land development activities and associated increases in site impervious cover that often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition. Additionally, improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing stream bank erosion and sedimentation. All Westchester municipalities were required to adopt the NYSDEC model stormwater erosion and control ordinance as part of their MS4 permit compliance. It is important that municipalities properly enforce and cross reference this ordinance to help mitigate local flooding and flood damage.

3.6 Environmental Quality Review (SEQR)

(Adapted from ***The SEQR Handbook***, NYSDEC)
Municipalities must provide for the environmental quality review of actions which may have a significant effect on the environment as pursuant to New York State's Environmental Quality Review Act (SEQRA),

The Purpose of SEQR

When the New York State Legislature enacted SEQR, it stated that its intent was:

"...to declare a state policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and enhance human and community resources; and to enrich the understanding of the ecological systems, natural, human and community resources important to the people of the state."

SEQR establishes a process to systematically consider environmental factors early in the planning stages of actions that are directly undertaken, funded or approved by local, regional and state agencies. By incorporating environmental review early in the planning stages, projects can be modified as needed to avoid adverse impacts on the environment.

~NYSDEC

Article 8 of the New York Environmental Conservation Law and Part 617 of the New York Code of Rules and Regulations. Municipalities may implement this requirement through the adoption and enforcement of an Environmental Quality Review ordinance in which the purpose is to incorporate environmental factors in the planning and decision-making processes of the municipality.

SEQR is both a procedural and a substantive law. In addition to establishing environmental review procedures, the law mandates that agencies act on the substantive information produced by the environmental review. This often results in project modifications and can lead to project denial if the adverse environmental impacts are overriding and adequate mitigation or alternatives are not available.

The initial step in assessing a proposed action is to determine whether SEQR applies. The SEQR process must be applied whenever an action is directly undertaken by an agency; involves funding by an agency; or requires one or more new or modified discretionary approvals from an agency or agencies.

If the decision is made that the activity is one that is subject to SEQR review, the next step in the process is to determine what classification of action is being analyzed. The action will fall into one of the following categories:

- Type I – a list of actions, described in Section 617.4, that experience has shown are more likely to have significant adverse environmental impacts;
- Type II – a list of actions described in Section 617.5, that have been determined not to have a significant adverse environmental impact.; or
- Unlisted – all actions that are not Type I or Type II. This is the vast majority of actions that come under SEQR review.

CHAPTER 200. ENVIRONMENTAL QUALITY REVIEW
ARTICLE IV. Type I Actions

Pursuant to 6 NYCRR 617.4, the following areas within the Town are hereby designated as critical areas of environmental concern and are thereby deemed Type I actions in addition to those set forth at § 617.12:

A. Freshwater wetlands, as defined in the Freshwater Wetlands Law of the Town of Greenburgh. Editor's Note: See Ch. 280, Freshwater Wetlands.

B. Floodplains, as defined in Article 36 of the Environmental Conservation Law.

C. Areas with slopes of 20% or greater where development would impact same.

D. Tarrytown Lakes, watershed area.

~Town of Greenburgh, NY

For Type I and Unlisted actions, the next step is to systematically consider environmental factors involved with the action to make a reasoned determination regarding the likelihood that the action may have a significant adverse impact on the environment. The initial SEQR tool used to make this determination is the Environmental Assessment Form (EAF). If a significant adverse impact is likely to occur, an Environmental Impact Statement (EIS) is prepared to explore ways to avoid, reduce or adequately mitigate adverse environmental impacts or to identify a potentially less damaging alternative. If, on the other hand, the determination is made that the proposed action will not significantly impact the environment, then a Negative Declaration is prepared which ends the SEQR process.

A. Ways to Modify SEQR in a Local Environmental Review Ordinance To Better Address Flooding

- Require Coordinated Review: The SEQR process can provide for a coordinated review that leads to better solutions for mitigating flooding and flood damage.

- Expand Type I List: A municipality can expand the statewide Type I list by including any Unlisted action as Type I in its own SEQR procedures under 617.14. Such lists must include the statewide Type I list, be no less environmentally protective than the statewide list, and be adopted consistent with 617.14 (a), (b) and (f). In addition to including specific new items on their Type I lists, agencies may adjust thresholds for statewide Type I actions to make them more protective. These additional actions are Type I for the agency that listed them as such and any other agency involved with the listing agency in a specific action. Local municipal Type I lists may not include actions from the adopted statewide Type II list [617.5(c)] because such actions have been defined on a statewide basis as never having a significant adverse impact on the environment, and therefore never requiring an EIS under SEQR.

3.7 Trees

(Adapted from ***The Tree Resource Guide***, www.patrees.org)

Trees and forests play an incredible role in reducing stormwater in several ways and removing or filtering pollutants that would otherwise wind up in our waterways. The removal of forest canopy and replacing it with roads, parking lots, driveways, homes, patios, pools (impervious surfaces) and even grass, immediately impacts the watershed and receiving streams (or lakes). With the increased amount of impervious surfaces, water runs off the land, traveling on the surface towards the streams. As this stormwater runoff travels to the streams it collects pollutants and increases speed. Such changes to the landscape not only increase the volume of water that goes to the stream but also shortens the amount of time it takes the water to get to the stream. This can increase base flow velocity as well as lead to flooding, streambank erosion, widening of streams, sedimentation in streams, loss of fish habitat and decline in water quality. A tree ordinance should address:

- Cutting or removal of trees on public and private land
- Mitigation of tree loss by planting trees or other vegetative material to offset the negative effects of tree or vegetative clearing

Trees Reduce Runoff!

Tree canopies intercept and capture rainfall, reducing the amount that reaches the ground. In urban and suburban settings, a single deciduous tree can intercept between 500 and 760 gallons per year, while a mature evergreen can intercept over 4,000 per year.

Tree roots and forest soils allow for better infiltration of rainfall with rates of up to 15 inches per hour. The leaf littered forest floor acts like a giant sponge, allowing for slow infiltration into soils before releasing it to natural channels and recharging ground water.

Trees consume stormwater through a process called evapotranspiration. Water is taken up by roots and move up through the tree until it is transpired back into the atmosphere as water vapor. A single mature oak tree can consume (transpire) over 40,000 gallons of water each year.

3.8 Other sources

Other resources on the local codes to mitigate flooding and flood damage exist. FEMA has a variety of information and guidance materials available specifically for the land use planning community. The Planners Advisory Service of the American Planning Association has published a number of bulletins on flooding and hazard mitigation planning. An excellent resource for land use planners in New York is the New York State Department of Environmental Conservation, Floodplain Management Section. DEC staff can provide assistance to municipalities in researching ordinances and standards to reduce flooding and flood damage and improve local procedures to facilitate flood reduction activities. Prior to adopting a new ordinance or amendments to an existing ordinance, it is recommended that any proposed language be reviewed by the DEC to ensure that the language will effectively achieve the desired result without conflicting with any other provisions of state or federal laws or programs. Resource contact information is provided at the end of this manual.

4.0 ZONING CODE

Zoning encompasses the division of a municipality into districts or zones and the regulation of the use of land and the size of the buildings within each of those districts. Zoning is one of the most important tools available to a community to implement the land use policies set forth in a municipality's comprehensive plan as well as to mitigate flooding and flood damage.

Sample Codes

Appendix 2 has sample codes from Westchester County and cities and towns in New York State that illustrate land use tools that address flooding and flood damage mitigation.

Full local codes and ordinances can be found at: www.generalcode.com

4.1 Zoning Districts

Zoning can be used to effectively direct development away from flood hazard areas or areas that store floodwaters. A zoning district is a mapped geographic area that is subject to a specific set of municipal land use controls over types of land uses, density, and lot requirements. For mitigating flooding and flood damage, the City of Utica created a zoning district that was defined by the boundary of the special flood hazard area. The following are examples of zoning districts in NYS that were created specifically for Special Flood Hazard Areas. The associated local laws can be found in Appendix 2.

- Floodplain Management District, Town of Union
- Land Conservation District, City of Utica
- Conservation Zone, Town of Ithaca
- Floodplain District, Village of Oxford

4.2 Overlay Zones

Overlay zones or overlay districts are special zoning districts that can be created to address special conditions or features that may pertain to several zoning districts. Overlay zone provisions typically impose greater restrictions on the development of land, but only regarding those special conditions or features for which the overlay zone was created. An overlay district may impose restrictions, but also may provide zoning incentives and waivers to encourage certain types and styles of development. Overlay zones are used for mitigating flooding and flood hazards by placing additional requirements on flood prone land. Overlay zones can also be used to place

The NYSDEC Floodplain Management Section is an excellent resource. DEC staff can provide assistance to municipalities in researching ordinances and standards to reduce flooding and flood damage and improve local procedures to facilitate flood reduction activities.
Online at: www.dec.ny.gov/lands/24267.html

Ideal Setbacks
1/2 acre residential lot

- **front yard should be 20 feet or less**
- **rear yard should be 25 feet or greater**
- **side yard should be 8 feet or less**
- **street frontage should be 80 feet or less.**

~Center for Watershed Protection

additional requirements on environmentally sensitive lands, such as wetlands and stream corridors, that can help to mitigate flooding. For example, in the Town of New Hartford, a Stream Corridor Overlay Zone prohibits the relocation of perennial or intermittent watercourses, clear-cutting of timber or the removal of topsoil or the removing of vegetation within 35 feet of the mean high water mark. An overlay zone could also require the development of an aquatic buffer where one does not exist. Westchester County developed ***A Guide to Aquatic Buffers*** as a guidance document on aquatic buffers and a copy is located on the Resource CD.

Overlay zones can be used to not only address flooding issues but protect other environmental or special resources. The following local laws address flooding through overlay zones and the full local law can be found in Appendix 2.

- Environmental Protection Overlay Districts, Town of Owasco
- Flood Hazard Overlay District, Village of Cobleskill
- Environmental Protection Overlay Zone, Town of New Castle

4.3 Dimensional Requirements

Dimensional regulations can be adopted to help mitigate flooding and flood damage. Pavement and buildings decrease the area in which rain can naturally seep into the ground. Stormwater, flooding and flood damage can be mitigated through proper and thoughtful design by minimizing the amount of impervious surfaces. Opportunities exist for flood protection through:

- Irregular lot shapes can allow for flexibility in the design to protect environmentally sensitive areas.
- Minimum requirements can be set to promote the most efficient flexible site

Land Conservation District (Sec. 2-29-251 — Sec. 2-29-257)
Sec. 2-29-251 Purpose and establishment.

(a) Purposes. The land conservation district is established for the following purposes:
(1) To protect the public health, safety and welfare.
(2) To minimize public and private property damage.
(3) To minimize public expenditure for costly flood control projects.
(4) To minimize the need for rescue and relied efforts at public expense.
(5) To protect the ecosystem of the floodplain.
(6) To preserve and protect artifacts of archeological significance.
(7) To minimize prolonged interruption of business and governmental services.
(8) To put potential home buyers, property owners, and tenants on notice that a particular piece of property is in a flood-prone area.
(9) To protect the public and private water supply from contamination.

~City of Utica, NY

design. This includes minimizing front and side setbacks while maximizing rear setbacks which will result in increasing contiguous pervious surfaces.

- Maximum percent lot coverage requirements by zoning district should include calculations for all impervious surfaces including buildings and paved surfaces including but not limited to driveways, parking areas, porches, sidewalks and tennis courts.

4.4 Driveways, Parking Lots and Sidewalks

Stormwater runoff can be minimized through the actual dimensions, location and paving materials of parking spaces. Locating buildings and facilities as close to the road as possible, with consideration for other environmental features such as wetlands, can minimize the length of a paved driveway. Local municipalities can incorporate many of the tools listed below into their codes to allow for flexibility in parking lot and driveway design:

- Pervious Paving: Pervious material, such as gravel, grass or porous pavers, should be allowed as an option for parking, driveway and sidewalk pavement.
- Parking Structure Incentives: Incentives should be provided to developers that design parking within garages instead of surface parking.
- Landscape Requirements: Landscaping should be part of parking lot design and required in the design plans.

CHAPTER 125. ZONING
§ 125-115. Compact cars.

A. For office, manufacturing, warehousing, multifamily and other uses with similar long-term parking characteristics and in those cases where at least 25 off-street parking spaces are required, the Planning Board, as part of its site plan review, may approve the designation of not more than one-third (1/3) of the spaces as compact car parking spaces, subject to the following conditions:

(1) Compact car parking spaces shall be conveniently located for both vehicular and pedestrian access. Such spaces shall be located in groups of not fewer than five contiguous spaces and shall be identified by appropriate signage.

(2) Prior to Planning Board approval, the applicant shall submit a plan for full-size parking spaces in compliance with the requirements of the Town Code. This plan must receive Planning Board approval.

(3) If the compact car spaces create a serious problem, the Building Inspector may require the construction of all or part of the original full-size spaces on the land reserved for this purpose.

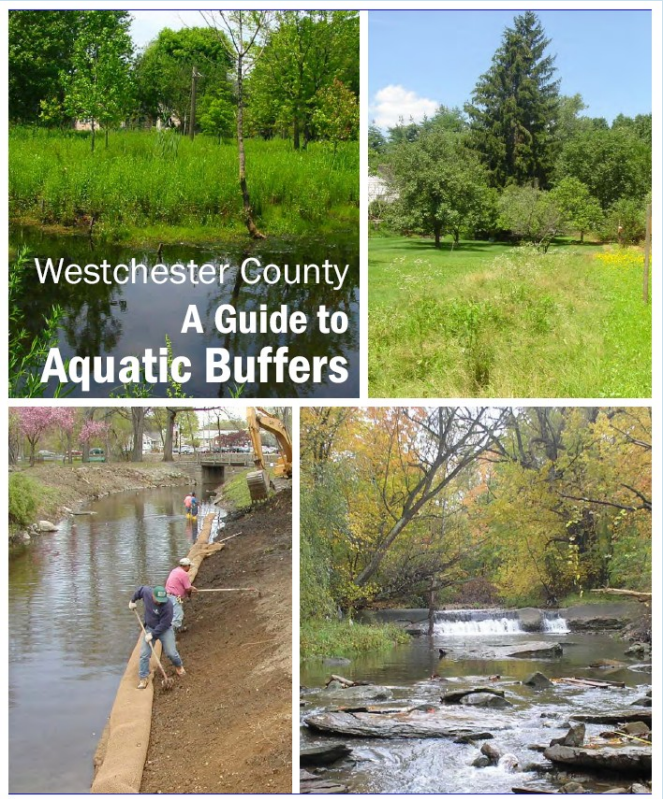
B. This authorization shall not be construed as allowing additional parking on a property; rather, it is **for the purpose of making more environmentally sensitive use of the land.**

~Town of Bedford, New York

- Parking Requirements: Design the site for required maximum parking spaces but only build what is required for average daily demand. Use pervious paving for overflow or peak demand parking. Shared parking should be permitted and encouraged.
- Minimum Parking Space Size: The length and width allowed for parking spaces should be minimized. The size can be further reduced on some spaces by providing bumper overhang area in landscaped buffer area and specially marked spaces for compact cars.
- Maximum Driveway Width: Requirements should be set to minimize impervious surfaces while allowing for most efficient site design. Ideal maximum driveway width should be 9 feet for each lane.

Aquatic Buffers and Flood Control

Flooding is a natural event of stream and river systems that is essential to floodplain health and maintenance. However, human development can increase the occurrence and severity of floods, often causing property damage. Riparian and other aquatic buffers provide an undeveloped, vegetated, natural area in the floodplain where floodwaters can be slowed, stored and gradually released. The dense vegetation of buffers increases surface roughness of the floodplain and slows the velocity of overland flow while promoting shallow groundwater recharge, depressional surface storage, and vegetative uptake. The reduced velocity and volume of water translates into reduced flood peaks and improved base flows resulting from the slow release of water stored in floodplain soils.



A Guide to Aquatic Buffers is located in the Resource CD.

5.0 IMPROVING SITE PLAN AND SUBDIVISION REVIEW

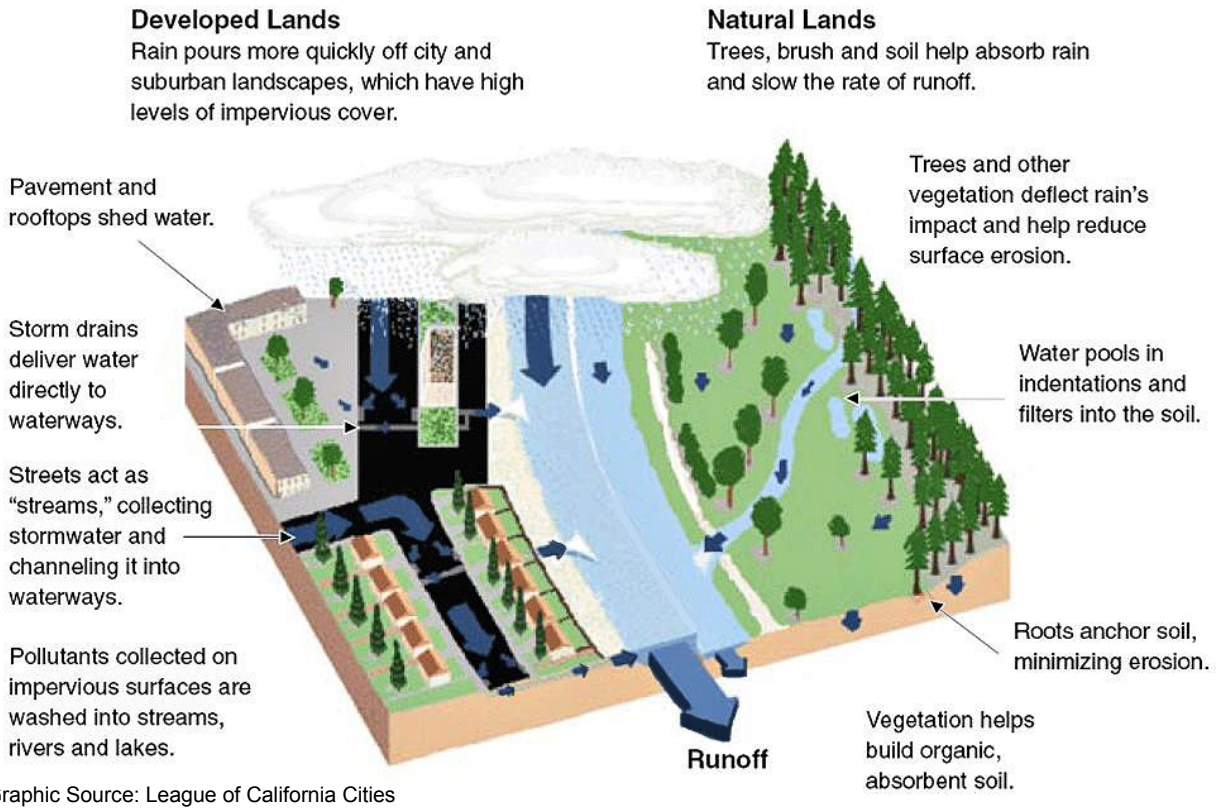
Site plan and subdivision review are powerful regulatory tools that guide the development of land. Impervious surfaces associated with development can increase the amount of stormwater runoff generated from a site, potentially creating or exacerbating flooding or flood risk. Through its site plan and subdivision review regulations and processes, a municipality may set standards to minimize the potential impacts from development such as limiting the amount of impervious surface allowed on a site. Additional tools that a community can utilize to address flooding issues in the site plan and subdivision review processes are described below.

Site Plan Approval
Site plan review is the assessment of the arrangement, layout and design of a proposed use of a single parcel of land. Generally, site plan review and approval is required for office, retail, multi-family, institutional, industrial and commercial uses. Typically, the zoning ordinance or another local law specifies the types of uses subject to site plan review and details the application procedure and submission requirements. In some municipalities, provisions of the land subdivision regulations also apply to site plan applications. Site plan review should be coordinated for consistency with a flood management ordinance.

5.1 Avoidance as a First Measure

As mentioned previously, the most effective way to minimize flood risk and reduce flooding is to use zoning to direct development away from flood prone areas and environmentally sensitive lands that can naturally mitigate flooding. However, many municipalities have grown around streams and waterbodies and are limited in their ability to significantly reduce the amount of

How Development Affects Runoff



Graphic Source: League of California Cities

development within flood hazard areas. For these communities, avoidance may not be an option and a focus on minimization and mitigation takes precedence. Control measures on sites outside known flood hazard areas to reduce downstream impacts becomes even more critical. Municipal planners and local officials should nevertheless always investigate and evaluate ways to avoid disturbance to floodplains and other flood storage areas first and include such among the alternatives evaluated as part of any development review.

5.2 Site Plan and Subdivision Standards

One way for a municipality to manage development is to incorporate specific standards into its development ordinances and regulations, some of which are discussed in Sections 3.0 and 4.0. Such restrictions are usually performance based, setting a standard but leaving the means to achieve that standard largely to the designer. Regulations can also be prescriptive, specifying both the standard and the means to achieve it. When dealing with flooding and flood damage, a municipality may want to consider both performance standards as well as more prescriptive standards. Standards and guidelines can include methods of analysis and design processes to

Design Guidelines
§ 190-39. Special permitted uses and site plan approval.

D. Standards applicable to all special permitted uses. All special permitted uses require site plan review and a public hearing; however, the public hearing may be waived at the option of the Planning Board if all the following standards and conditions have been satisfied:

1. Necessary provisions have been made to assure that all surface runoff to adjacent properties does not exceed levels in existence prior to construction.
2. In addition, **when making a determination concerning a special use within a floodplain area, the Planning Board shall consider the following factors**:

(a) The danger to life and property due to increased flood velocities caused by encroachments.
(b) The danger that materials may be swept onto other lands to the injury of others.
(c) The susceptibility of the proposed facility and its contents to flood damages and the effect of the damages on the individual owners.
(d) The importance of the services provided by the proposed facility to the community.
(e) The availability of alternative locations, not subject to flooding damages, for the proposed use.
(f) The compatibility of the proposed use with existing and anticipated development.
(g) The safety of access to the property in times of flood for ordinary and emergency vehicles.
(h) The expected height, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
(i) The cost of providing governmental services during and after the flood conditions, including maintenance and repair of public utilities and facilities such as sewer, electric and water systems, and streets and bridges.

~Town of Highland, NY

be followed, lists of specific stormwater management practices to be used, or sets of performance standards for structures or site development activities. To ensure that flooding issues are considered during the design process, the site plan review or subdivision ordinance should provide a reference that the local board review the proposal for compliance with the local flood management ordinance.

5.3 Design Guidelines

Design guidelines are typically less stringent or prescriptive but can nevertheless be a valuable tool in guiding development. Design guidelines typically have examples of what types of development or best management practices the municipality prefers. This gives an applicant a better understanding of what is expected before the applicant expends resources developing a plan that might not be well received. Dealing with flooding and other complex issues can be expensive, and it is not uncommon that an applicant may feel forced into defending a development proposal because they have already expended a significant amount of resources on the plan and the additional resources required to prepare a new design would be too costly. One of the benefits of design guidelines is that they are made available to prospective applicants prior to preparing an application. The designer is put on notice of what the community expects from a development proposal and can plan accordingly.

5.4 Better Site Design

(Adapted from the NYSDEC Hudson River Estuary Program website)

Better site design is an approach to development that utilizes a set of design principles that protect natural areas, reduce impervious surfaces, and better integrate stormwater management in development projects. Better management of stormwater can help mitigate flooding and decrease potential flood damage.

By delineating and protecting natural areas and wildlife habitat, communities and development projects are enhanced and stormwater management costs are reduced. By managing water on-site with attractive practices, groundwater aquifers are replenished, flooding is reduced, and pollutants in stormwater are treated before entering local waterways, providing long-term benefits to a community.

Better site design and low impact development (LID) are really the same set of practices, with somewhat more emphasis on hydrology and engineering in low impact development, and somewhat more emphasis on changing municipal codes in better site design.

Better site design is implemented in two ways: in development projects and in municipal codes. Developers, builders, engineers and landscape architects can incorporate better site design practices in the design

Better Site Design General Categories and Specific Practices

Preservation of Natural Features and Conservation Design

- Preservation of undisturbed areas
- Preservation of buffers
- Reduction of clearing and grading
- Locating sites in less sensitive areas
- Open space design

Reduction in Impervious Cover

- Roadway reduction
- Sidewalk reduction
- Driveway reduction
- Cul-de-sac reduction
- Building footprint reduction
- Parking reduction

Utilization of Natural Features and Source Control for Stormwater Management

- Vegetated buffer/filter strips
- Open vegetated channels
- Bioretention and raingardens
- Infiltration
- Rooftop runoff reduction mitigation
- Stream daylighting
- Tree planting

Case Study: Better Site Design for a Residential Subdivision

In a conventional subdivision most of the parcel is developed. The entire site is cleared and mass graded, and no attempt is made to fit the road layout to the existing topography. Because of the clearing and grading, all of the existing tree cover and vegetation and topsoil are removed, dramatically altering both the natural hydrology and drainage of the site. The wide residential streets create unnecessary impervious cover and a curb and-gutter system that carries stormwater flows to the storm sewer system.

Conventional Design

- **Site is mass graded**
- **Natural drainage patterns destroyed**
- **Existing tree cover removed**
- **Character of site destroyed**

Rather than relying on a single, large basin that only partially mitigates a portion of the runoff, following better site design practices reduces runoff volume by minimizing disturbance and encouraging the use of natural systems to store and infiltrate stormwater. A residential subdivision employing stormwater better site design practices is presented below. This subdivision configuration preserves a quarter of the property as undisturbed open space and vegetation. The road layout is designed to fit the topography of the parcel. The natural drainage patterns of the site are preserved and are used to provide natural stormwater treatment and conveyance. Narrower streets reduce impervious cover, and open vegetated channels provide for treatment and conveyance of roadway and driveway runoff. Bioretention islands at the ends of cul-de-sacs also reduce impervious cover and provide stormwater treatment functions.

Better Site Design

- **Natural drainage patterns guide layout**
- **Only building envelopes are graded**
- **Character of site preserved**
- **No storm drain system required**
- **Impervious cover reduced**
- **Provides open space for community**

Source: Georgia Stormwater Manual, 2001

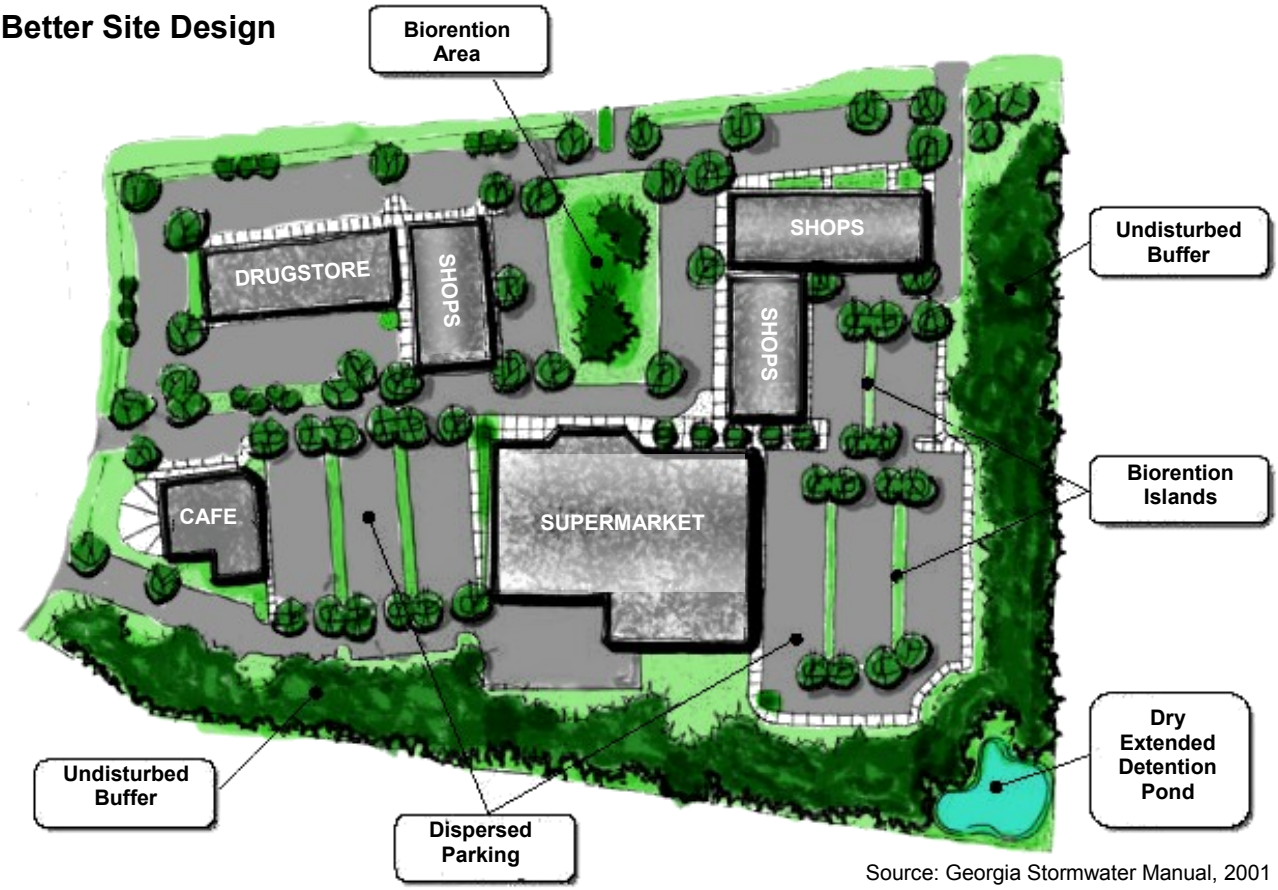
Case Study: Better Site Design for Commercial Development

In a conventional commercial development containing a supermarket, drugstore, smaller shops and a restaurant on an adjacent lot, the majority of the parcel is a concentrated parking-lot area. The only pervious area is a small, replanted vegetation area acting as a buffer between the shopping center and adjacent land uses. Stormwater quality and quantity control are provided by a wet, extended-detention pond in the corner of the parcel.

In a better site-design commercial development, the retail buildings are dispersed on the property, providing more of an "urban village" feel, with pedestrian access between the buildings. The parking area is broken up, and bioretention areas for stormwater treatment are built into parking-lot islands. Parking areas are paved with pervious pavers. A large bioretention area which serves as open green space is located at the main entrance to the shopping center. A larger undisturbed buffer has been preserved on the site. Because the bioretention areas and buffer provide water-quality treatment, only a dry, extended-detention basin is needed for water-quantity control.

Conventional Design

Better Site Design



Source: Georgia Stormwater Manual, 2001

and construction of development projects. Some of these practices are required, some are voluntary. Municipalities can amend local codes to allow for more flexible site design.

A. Required practices

The New York ***SPDES General Permit*** ***for Stormwater Discharges from Construction Activities***, GP-02-01 (SPDES Permit), requires that all development projects causing one acre of soil disturbance or more, or those in certain watersheds, must incorporate practices that reduce the impacts of stormwater from the site. New York Standards and Specifications for Erosion and Sediment Control and the NYS Stormwater Management Design Manual provide the standards for stormwater management practices in construction projects. To offer flexibility, the Stormwater Design Manual has details for 25 practices in six different categories, including bioretention, infiltration and swales. The NYS Stormwater Management Design Manual can be found in the Resource section and online at: www.dec.ny.gov/chemical/29072.html. Runoff reduction requirements are anticipated to be adopted by the DEC in 2010.

B. Optional practices for better site design

The NYSDEC has issued a guidance document titled ***Better Site Design***. This document provides guidance for developers, engineers and designers to plan for and implement 18 different better site design practices for new development and redevelopment. In addition, a new Chapter 9 of the New York State Stormwater Management Design Manual provides detailed specifications for five of these better site design practices approved for redevelopment projects: rain gardens, cisterns, green roofs, stormwater planters and permeable paving. These practices can be considered for new development through a 60-day NYSDEC review process when used in a Stormwater Pollution Prevention Plan. This guidance document is located in Resource section of this manual.

C. Optional planning to incorporate stormwater credits

Stormwater control practices that take advantage of the natural landscape and vegetation of a site (non-structural practices) are being used more frequently in

Has Better Site Design been implemented in New York?

The Towns of Clinton and Wappinger in Dutchess County conducted Better Site Design roundtables in 2005 resulting in two documents, which are both found online and in the Resource section:

Town of Clinton: ***Recommended Model Development Principles for the Protection of Natural Resources in the Hudson River Estuary Watershed***

Town of Wappinger: ***Recommended Model Development Principles for the Conservation of Natural Resources in the Hudson River Estuary Watershed***

In July 2007, the Town of Wappinger adopted 22 out of the 36 local code changes recommended by the roundtable participants. In other states, municipalities in the Chesapeake Bay watershed and the Tennessee Valley Authority's watershed have used the Code and Ordinance worksheet and Better Site Design Roundtables to identify and come to consensus on local code changes to protect their water resources.

environmentally-sound development. ***Use and Implementation of Stormwater Credits***, provides guidance on six non-structural site-level design options that can reduce or eliminate structural stormwater practices depending on soils, topography and other factors. These design options also require a 60-day NYSDEC review process when used in a Stormwater Pollution Prevention Plan.

5.5 Low Impact Development

(Adapted from the EPA's ***Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices***, 2007 and the full document is located in the Resource section)

Low Impact Development (LID) is a stormwater management approach and set of practices that can be used to reduce runoff and pollutant loadings by managing the runoff as close to its source as possible. A set or system of small-scale practices, linked together on the site, is promoted by LID. LID approaches can be used to reduce the impacts of development and redevelopment activities on water resources. In the case of new development, LID is typically used to achieve or pursue the goal of maintaining or closely replicating the predevelopment hydrology of the site. In areas where development has already occurred, LID can be used as a retrofit practice to reduce runoff volumes, pollutant loadings, and the overall impacts of existing development on receiving waters.

In general, implementing integrated LID practices can result in enhanced environmental performance while at the same time reducing development costs when compared to traditional stormwater management approaches. LID techniques promote the use of natural systems, which can effectively remove nutrients, pathogens, and metals from stormwater. Cost savings are typically seen in reduced infrastructure because the total volume of runoff to be managed is minimized through infiltration and evapotranspiration. By working to mimic the natural water cycle, LID practices protect downstream resources from adverse pollutant and hydrologic impacts that can degrade stream channels and harm aquatic life. It is important to note that typical, real-world LID designs usually incorporate more than one type of practice or technique to provide integrated treatment of runoff from a site. For example, in lieu of a single, large treatment pond serving a new subdivision, planners might incorporate a

Low Impact Development (LID) Site Planning and Management Practices

Construction site practices:

- **Minimize land disturbance**
- **Preserve natural areas (wetlands, streams, lakes, steep slopes, floodplains, vegetated riparian buffers, large forested tracts)**
- **Avoid compacting heavy soils**
- **Erosion prevention and sediment control**

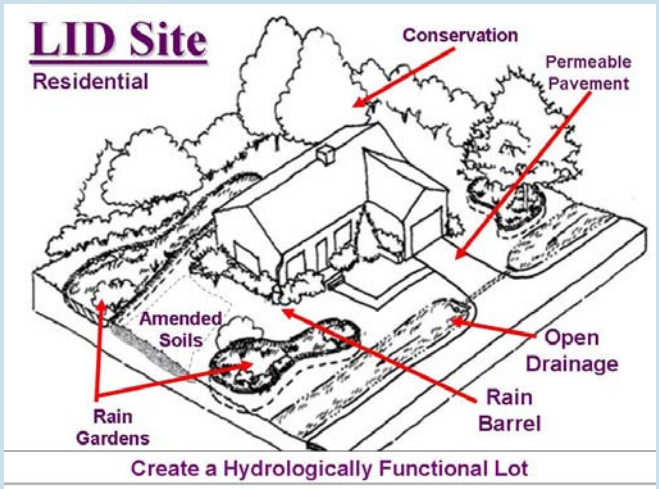
Design considerations:

- **Narrow roads**
- **Shorter driveways**
- **Mixed-use parking**
- **Reduced building footprint**

Stormwater management practices:

- **Bioretention/infiltration – rain gardens**
- **Vegetated swales**
- **Sub-surface gravel wetlands**
- **Permeable pavement**
- **Cisterns and rain barrels**

~Vermont League City and Town News, April 2009



http://www.haywood.edu/

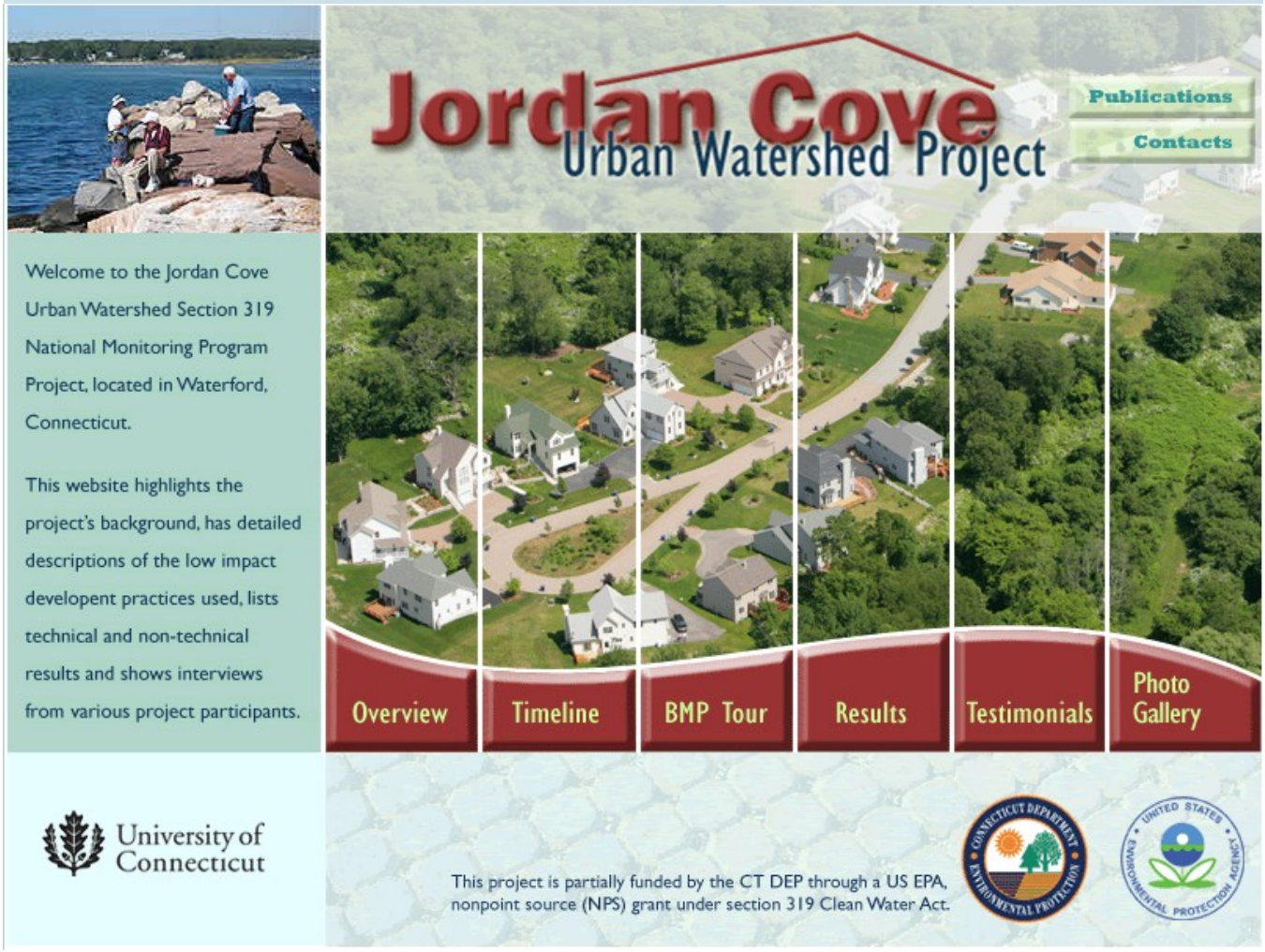
Residential Subdivision — Low Impact Development Case Study

The Jordan Cove Urban Watershed Section 319 National Monitoring Program Project is located in Waterford, Connecticut along the coast of Long Island Sound. The study began in 1995, and was designed to determine water quantity and quality benefits of using pollution prevention Best Management Practices (BMPs) in a residential subdivision. Monitoring took place for 10 years.

The project is located in the watershed of Jordan Cove, which is a small estuary in Long Island Sound fed by Jordan Brook. The Cove has impaired water quality based on excess bacteria. Long Island Sound suffers from hypoxia related to excess nitrogen.

The key project goal was to measure the effectiveness of urban stormwater BMPs in reducing runoff and protecting water quality. The specific objectives were to reduce sediment, bacteria, nitrogen, phosphorus and stormwater runoff quantity during and after construction. The project demonstrated and evaluated residential BMPs.

The complete study and analysis is available online at www.jordancove.uconn.edu.



bioretention area in each yard, disconnect downspouts from driveway surfaces, remove curbs, and install grassed swales in common areas. Integrating small practices throughout a site instead of using single, large basins to control runoff from a subdivision is the basis of the LID approach.

5.6 Site Plan Review Procedure

(adapted from ***Site Development Plan Review, NYSDOS James A. Coon Local Government Technical Series***. The full document is located in the Resource section.)

The site development review process permits municipalities to analyze development proposals in terms of their impacts on local growth and the need for facilities and services. Within a development site, the prime concerns might include minimizing ecological disturbances, including flooding; provision of separate parking and loading arrangements; and ensuring pedestrian safety and the aesthetic relationship of the proposed structures to the site.

A three-phase procedure can be used for reviewing proposed site development plans that includes:

1. Pre-application meeting and submission
2. Preliminary submission
3. Final submission phases

A. Pre-Application Meeting

The purpose of the pre-application meeting is to give both the municipality and the applicant an opportunity to gain a better perspective on the ramifications of the proposal. This step does not constitute formal submission of an application. It is beneficial to both parties because the community will gain knowledge of the developer's intent and the developer will learn his/her responsibilities before either is committed to significant outlays of time and money. The pre-application meeting will give the applicant the opportunity to receive feedback concerning the development proposal before performing detailed design work and calculations.

At this meeting the applicant should provide the reviewing board with basic data regarding the proposal. The minimum basic site plan elements should include:

1) Legal information
2) Impact on the environs
3) Natural features
4) Existing man-made features
5) Proposed development

This information can then form the basis with which the municipality can advise the applicant on the next steps required for final site development plan approval and of the necessary data that will have to be provided with the application. Sample detailed check lists of everything that should be included on the site plan are located in Appendix 2.

Site Development Plan Components

- Watercourses, water bodies, wetlands
- Areas subject to potential flooding
- Existing drainage and stormwater management features
- Areas of steep slopes and contour lines
- Rock outcroppings
- Tax parcel boundaries
- Existing utilities
- Existing district boundaries - Zoning, flood hazard, sewer, water, etc.
- Easements
- Existing state, county or local road
- Man-made features - buildings, fences, stone walls, pavement, etc.
- Major features of the proposed development

Site Development Plan Approval: General criteria and standards of review.

The following criteria and standards shall be used by the Planning Board in reviewing applications for site development plan approval. They are intended to provide a framework within which the designer of the site development is free to exercise creativity, invention and innovation. The Planning Board shall not specify or favor any particular architectural style or design or assist in the design of any of the buildings submitted for approval. Participation by the Board shall be restricted to a reasonable, professional review, and, except as otherwise provided in the following subsections, full responsibility for design shall be retained by the applicant.

A. Ecological considerations. The development shall, insofar as practicable:

(1) Result in minimal degradation of unique or irreplaceable land types and in minimal adverse impact upon the critical areas, such as streams, wetlands, areas of aquifer recharge and discharge, steep slopes, highly erodible soils, areas with a high water table, mature stands of mature vegetation and extraordinary wildlife nesting, feeding or breeding grounds.

(2) (2) Conform to existing geological and topographic features to the end that the most appropriate use of land is encouraged.

B. Landscape. The landscape shall be preserved in its natural state, insofar as practicable and environmentally desirable, by minimizing tree and soil removal. If development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacements or to other landscape treatment. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.

C. Relation of proposed structures to environment. Proposed structures shall be related harmoniously to themselves, the terrain and to existing buildings and roads in the vicinity that have a visual relationship to the proposed structures. The achievement of such harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.

(1) Proposed structures shall be so sited as to minimize any adverse impact upon the surrounding area and particularly upon any nearby residences by reason of:

(a) Building location, height, bulk and shadows.

(b) Location, intensity, direction and times of use of outdoor lighting.

(c) Likelihood of nuisances.

(d) Other similar considerations.

(2) Appropriate natural or artificial screening may be required to minimize any such adverse impact.

D. Scenic, historic, archaeological and landmark sites. Scenic, historical, archaeological and landmark sites and features that are located on or adjacent to the proposed development shall be preserved and protected insofar as practicable.

E. Surface water drainage.

(1) A proposed development shall be designed so as to provide for proper surface water management through a system of controlled drainage that, wherever practicable, preserves existing natural drainage patterns and wetlands and enhances groundwater recharge areas and **that protects other properties** and existing natural and artificial drainage features **from the adverse effects of flooding,** erosion and the depositing of silt, gravel or stone. The design shall be in conformance with Chapter 186, Flood Damage Prevention.

(2) In addition to the foregoing, for site plan proposals within the Beaver Swamp Brook - Brentwood Brook Watershed, as indicated on the Village Map, the following criteria shall apply:

(a) The United States Department of Agriculture Soil Conservation Service Type III storm distribution, one-hundred-year event will be used for the design of all stormwater management facilities. This requirement may be waived or modified in certain instances only after review by the Municipal Engineer in consultation with the Westchester County Soil and Water Conservation District and pursuant to the Beaver Swamp Brook Comprehensive Watershed Management Plan prepared by Satterthwaite & Associates, Inc., for the Village of Mamaroneck, City of Rye, Town of Harrison and Westchester County.

(b) Future **discharge rates for any development shall not exceed the existing values for each of the two-, ten-, twenty-five-, fifty- and one-hundred-year storm events** unless so specified by the Village Engineer in consultation with the Westchester County Soil and Water Conservation District.

(c) All hydrologic calculations will be performed pursuant to the methodology prescribed in the United States Department of Agriculture Soil Conservation Service Technical Release No. 55, or any modifications and/or revisions thereof.
(d) The Westchester County Soil and Water Conservation District will be consulted prior to final approval of any proposed development for review and comment.
(e) No earthmoving or land-disturbance activities shall commence on any development site before final approval of the stormwater management plan and sediment and erosion control plan has been issued by the Village.

F. Driveway connections to public streets. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow and so as to afford maximum safety to traffic on the public streets. All such entrances and exits shall be located and designed to:
(1) Conform to municipal sight triangle requirements at corners.
(2) Achieve maximum practicable distance from street intersections and from existing and proposed access connections from adjacent properties.
(3) Minimize left-hand turns, other turning movements and backing movements.
(4) Discourage the routing of vehicular traffic to and through local residential streets.

G. Traffic effects. The site development proposal generally shall minimize adverse traffic effects on the road networks serving the area in question.

H. Pedestrian safety. Insofar as practicable, pedestrian and bicycle circulation shall be separated from motor vehicle circulation. Safe and convenient pedestrian circulation, including appropriate sidewalks, shall be provided on the site and its approaches. The pedestrian circulation plan shall be designed to minimize adverse effects of vehicular traffic upon sidewalks and bicycle paths.

I. On-site parking and circulation. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. Insofar as practicable, separate rows or aisles in parking areas shall be divided by trees, shrubbery and other landscaping devices. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape. Provision shall be made for access by police, fire and emergency vehicles.

J. Utility services. Electric, telephone and other wire-served utility lines and service connections shall be underground insofar as feasible and subject to state public utilities regulations. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and to the site.
K. Disposal of wastes. There shall be adequate provision for the disposal of all solid, liquid and gaseous wastes and for the avoidance of odors and other air pollutants that may be generated at the site. All applicable federal, state, county and local pollution control standards shall be observed.

L. Noise. All applicable federal, state and local regulations dealing with the control of outside noise which is expected to be generated at the site shall be complied with.

M. Advertising features. The size, location, height, design, color, texture, lighting and materials of permanent signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures or of the surrounding properties.

N. Special features. Outside storage areas, service and machinery and structures, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings and other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

~Village of Mamaroneck, NY

B. Preliminary review

The purpose of the review process is to facilitate evaluation of a development proposal within the framework of a local government's goals. The previously described submission requirements present the basic information needs, and the review standards set the parameters for determining the adequacy of the proposal. The NYSDOS ***James A. Coon Local Government Technical Series*, *Site Development Plan Review,*** provides excellent guidance on site plan review. This document is located in the Resource section of this document.

The following steps focus on how to mitigate flooding and flood damage as part of the site plan review process.

Evaluating Environmental Constraints

The environmental constraints of a site and surrounding area should be depicted on a map. This early identification of environmental constraints will provide for a more efficient and timely review process by avoiding conflicts during the final stages of review. Some examples include:

- Soil permeability
- Floodways and floodplains
- Watercourses
- Wetlands and buffers
- Steep Slopes – Defined differently in many communities but typically greater than 20% slopes

In evaluating the environmental data, the municipality should pay particular attention to the source of the data and the scale and accuracy standards used in collecting the data. NRCS Soils Maps are very useful in providing a general characterization of the soil conditions on a large site or throughout a watershed, but more site specific data should be required in order to evaluate potential impacts or the effectiveness of mitigation practices. Similarly, the level of accuracy of data used to develop steep slopes maps should be evaluated.

Minimize Disturbance

The first step in reducing runoff is to avoid impacts to the site as much as possible. This is accomplished by preserving natural features and undisturbed areas of the site, particularly those areas that are sensitive resources such as floodplains or may provide opportunities to mitigate development impacts such as soils with high rates of permeability. Impacts to soils during construction is often not accounted for in the analysis of a development plan. ***The New York State Stormwater Management Design Manual*** requires that the post-construction hydrologic soil group must change by one level to a less permeable group to factor in infiltration loss due to compaction, soil disturbance or equipment traffic during construction.

Reduce Impervious Cover

The second step is to reduce the impervious cover proposed on-site. Many municipalities have engineering and planning requirements regulating the amount of impervious surfaces on a site, typically through bulk regulations in zoning codes and site coverage limits. More recently, communities are beginning to look at these regulations more closely and begin to reduce the amount of impervious surfaces permitted on a site. Reduced roadway widths, promotion of porous paving

Site Plan Approval Applicable Standards

In acting on any site plan application, the Planning Commission, in addition to all other applicable laws, shall take into consideration the following standards:

A. Traffic access and roads. All proposed traffic access and roads are adequate but not excessive in number, adequate in width, alignment and visibility, and not located too near street corners or other places of public assembly. Necessary traffic signalization and other safety controls, devices and facilities have been properly given consideration and duly provided wherever appropriate or warranted.

B. Circulation and parking. Adequate off-street parking and loading spaces are provided to prevent the parking in public streets of vehicles of any persons connected with or visiting the site, and the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.

C. Screening and landscaping. All playground, parking, loading, public and other service areas are reasonably screened by a double row of hemlocks or equivalent, five feet in height and four feet on center, at all seasons, from the view of adjacent lots and streets, and the scale and quality of the landscaping or fencing of the site enhances the character of the neighborhood.

D. Natural and other significant features. All water bodies, wetlands, steep slopes, hilltops, ridgelines, trees, outstanding natural topography, significant geological features and other areas of scenic, ecological and historic value are preserved insofar as possible, and **flood hazard is minimized.**

E. Fire protection. All proposed structures, equipment or material shall be readily accessible for fire protection.

F. Drainage.

(1) A storm drainage system which demonstrates affirmative compliance with the form, scope and substance of all applicable design criteria shall be provided to accommodate expected loads from the tributary watershed when developed to the maximum density permitted under the existing zoning standards. Drainage shall be conducted to a point of adequate and suitable disposal.

(2) On sites of 10,000 square feet or more and in other instances determined by the Planning Commission to be appropriate after consultation with the Village Engineer, development shall be so designed and executed as to **limit overflow from the site to zero increase in the rate of runoff and to create zero decrease in the rate of upstream runoff into the site, as related to existing conditions,** except that the Planning Commission, after consultation with the Village Engineer, may substitute a different requirement for a particular site if it determines that the substituted requirement will be more effective in controlling flooding and erosion at the site and at other locations.

(3) On parcels of five acres or more, the Planning Commission may require that development is so designed and executed as to reduce the rate of runoff by a stipulated percentage not to exceed 20%, as compared with existing conditions, through drainage systems, water retention and/or the maintenance of open spaces, both those required under ordinary circumstances and such additional open spaces as may be required for this purpose, but without reducing the rate of runoff into the site from upstream. Such a requirement shall not be applied unless the Planning Commission determines that it is an appropriate and important means of preventing an increase in erosion and flooding at the site and/or at other locations. In making such determination, the Planning Commission shall consult with the Village Engineer and with the Westchester County Soil and Water Conservation District, who shall respond within the time limits set by this chapter. Failure to respond within such time limits shall be deemed approval by such agencies.

~Village of Larchmont, NY

Development Guidelines

The following guidelines are intended to ensure that stormwater runoff is safely conveyed through a development site, to minimize streambank erosion, to maintain groundwater recharge, and **to reduce flooding related to land development**:

(a) Any alteration of the hydrology of the site shall be designed to minimize adverse impacts on water quality, peak discharge, groundwater recharge, and drainage patterns.

(b) The quantity, quality, and timing of stormwater runoff during and after development shall not be substantially altered from predevelopment conditions.

(c) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in the surface waters of the State of New York.

(d) Preservation of natural watercourses and drainage patterns is generally preferable to the construction of drainage channels or the diversion of flow into other drainageways.

(e) Maintaining existing stormwater systems. Any existing stormwater management system, including a swale, ditch, basin, pond, dry well, catch basin, stream or other system component, shall be maintained in such a manner as to be functional or replaced by a system that meets or exceeds the standards of the existing system. No building or structure shall be erected, altered or moved within any drainagecourse, including a swale, ditch, or stream.

~Town of Horseheads

materials, land banking and shared parking are among the many ways to reduce the amount of impervious surfaces associated with development. Restoring previously paved areas associated with redevelopment projects is another way to reduce impervious surfaces.

Limiting disturbance of site soils and vegetation is also another way to reduce imperviousness of the site. Soil compaction is an often overlooked issue when discussing stormwater management. Construction work areas, including stockpiling of excavated soil and building material storage, should be minimized but also need to be feasible, particularly if the soils will be relied on for infiltration as mitigation. Scarification of soils prior to project completion is becoming a more common requirement in development approvals.

Use Natural Features for Stormwater Management

The traditional approach has been to collect all of the stormwater runoff and treat it in one large basin. Natural features should be used to disconnect impervious areas and manage the stormwater runoff as close to the source as possible. Examples include utilizing grassed swales instead of piping, disconnecting foundation drains from the stormwater system, and splitting the site into a number of stormwater management areas. This promotes controlling stormwater at the source and incorporating features already planned for the site such as site landscaping as stormwater practices. By separating types of runoff and managing each appropriately, a wider variety of management practices are available to the designer allowing more flexibility in site design. Practices such as green roofs, rain gardens, and bio-retention landscaped islands are becoming more common as both a functional and aesthetic elements of site design.

Evaluating Stormwater Management Plans
Municipalities can limit the amount of fill or impervious surfaces allowed and can also require that all or a portion of the runoff generated from the development be detained on-site. Municipalities can increase building standards within special flood hazard areas, but increasing design flexibility in flood prone areas may also be an effective approach, encouraging creativity from the designer.

Municipalities may also create standards to guide the stormwater analysis and design process. Municipalities can define what methods are used to delineate sub drainage basins and design points and what standards should be met at individual design points for the site. In addition to evaluating how the site is divided into smaller areas for stormwater analysis, the municipality should also evaluate the assumptions made and variables used in the stormwater computations. The most widely used set of procedures to estimate stormwater runoff volumes and peak discharges in small watersheds is laid out in ***Technical Release 55*** developed by the Soil Conservation Service (now the Natural Resources Conservation Service) in 1975. The procedures include a number of assumptions, such as a uniform distribution of rainfall throughout a watershed, and generalized values, such as a range of curve numbers based on qualitative assessments of land cover. Land cover is one of the most important values included in TR-55, influencing both curve numbers and time of concentration value. The quality of the land cover chosen can dramatically impact the results of the study: choosing a poor existing condition and good condition after development can unrealistically minimize the impact of the development. Municipalities should pay close attention to qualitative variables used in the stormwater management analysis and may even consider restricting the range of values that can be used. As when developing any standards, involve the professional staff or consultants.

Stormwater Models

As a plan reviewer, you must at least be able to identify that the decisions concerning the input data are conservative and in line with the municipality's flood reduction goals!

Always remember that models only consider specific scenarios which may or may not represent real world conditions. Input variables used in the model may distort results. With changing weather conditions, model results may not be accurate.

It is important to note that even though a large amount of data and numbers are created from the analysis, the analysis is primarily relative. Due to the number of assumptions included in the analysis, it may not reflect real world conditions. A municipality may wish to compare the storms that are causing flooding and compare them to the rainfall distribution and assumptions used in the TR-55 model and require appropriate adjustments to it. The computer version of the model (WinTR-55) allows substantial modification to rainfall distributions and other variables. It is also very important to analyze cumulative impacts of proposed development. A cumulative impact analysis should also include other proposed or potential development within the watershed. More information about stormwater management plans can be found in Appendix 6.

Filling and Grading
Filling and grading within flood prone areas or any other impacts to areas that have flood storage capacity, such as wetlands, should be avoided to the maximum extent practical. Any filling or grading should be carefully evaluated for impacts to flood storage capacity or alteration of drainage patterns that may have impacts either on-site or off. In the event that filling or grading cannot be avoided, a municipality

should require compensatory storage, using a formula to provide additional storage capacity for every unit lost to the development. Off-site storage may also be permitted though impacts to the surrounding area should be carefully evaluated to ensure no adverse impact and an increased amount of storage capacity for off-site mitigation may be appropriate.

Increased building standards within flood prone areas require that the lowest floor elevation be located a minimum height above the base flood elevation. This may prompt the addition of large amounts of fill around the proposed buildings in order to meet building height regulations, often measured from the average grade around the home. Even if not shown on a development plan, municipalities should consider the likelihood of fill being brought to a site after construction by the property owner to address a wet yard. Municipalities should consider the impacts of both proposed and potential fill and may wish to provide alternatives for applicants that result in a minimization of the amount of fill brought onto a site. Information should be filed on the land records or other means to put property owners on notice of the floodplain restrictions.

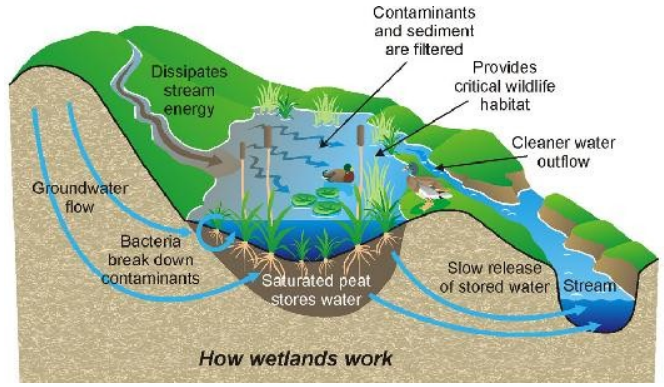
Infiltration and Recharge

Some practices for managing stormwater runoff are preferred over others because of their effectiveness in handling both rate and volume. The preferred approach is infiltration/recharge, which encourages the absorption of runoff into the soil to compensate for that lost when the land use cover was changed. Infiltration/recharge and other runoff reduction techniques are promoted in the ***New York State Stormwater Management Design Manual*** as effective strategies to manage stormwater runoff and improve water quality. However, care must be taken with infiltration/recharge practices to avoid groundwater contamination or unsuitable geologic conditions. Infiltration/recharge practices should not be utilized for activities that have the potential for concentrated pollution, such as runoff from an automobile service station, without adequate pre-treatment devices.

Stormwater Wetlands

Stormwater wetlands are a standard best management practice for the treatment of stormwater runoff. Stormwater wetlands can also be designed with large fringe areas that can accommodate periodic standing water and function as flood control devices. Unlike the large, typically square retention basins of the past, newer site plan designs incorporate stormwater wetlands in a variety of shapes and sizes that can be incorporated throughout the subdivision or site plan and also function as an aesthetic design element and site amenity. Stormwater wetlands can also be a mix of hardscape and natural designs to accommodate a variety of aesthetics and functions. Websites such as artfulrainwaterdesign.net illustrate how stormwater management practices can be incorporated into even very urban and dense developments.

How Wetlands Work



C. Final Submission

The approving board should require that all approvals be contingent upon compliance with flood management laws. To ensure a development does not increase

flooding or flood damage, thoughtful and careful site analysis must be done on each review.

Preservation of existing vegetation not only helps keep the character of a site but also helps to minimize erosion. The amount of grading on the site should be kept to a minimum. The less the soil is disturbed, the greater the survival of existing plant materials and the less chance of erosion.

It is important to preserve water features which contribute to the beauty of a site's layout and can also function as stormwater management practices. Using water and other natural features to achieve a variety of objectives can be achieved through careful and creative design. Certain man-made features such as stone walls, fences, roads, etc., can be used to enhance a development and should follow ridges and vales rather than straddle hills perpendicular to contours. Areas with poor drainage should be avoided because they necessitate more bridges, culverts and other drainage works.

Incorporating Better Site Design and Low Impact Development policies into the site plan review will work towards minimizing regional and local flood issues.

In some instances, mitigating potential flooding and flood damage cannot be included in a site development plan. Impact fees could potentially be charged in these instances. Payment of fees in lieu of provision of mitigation is generally not recommended unless a municipality has in place a flood management plan that specifies capital projects, and those projects are included in the municipality's capital program with a definitive time schedule. In addition, the area to be benefited from the capitol project should include the area impacted by the development. Municipalities must also remember that participation in the National Flood Insurance Program requires the implementation and diligent enforcement of regulations to reduce flood damage and impacts to floodplains. In addition, enhanced standards of site plan and subdivision review can be used to improve a municipality's score as part of the Community Rating System, reducing the insurance premium rates for its residents.

Rain Garden

Water accumulates in the lowest parts of a rain garden at depths to six inches. Within 24-36 hours after a rain event, the stormwater infiltrates into the soil.

For more information on Rain Gardens, go to: www.westchestergov.com/stormwater

garden-michigan.com/images/Michigan-Rain-Garden.jpg

Operation and maintenance plans are central to the long term success of any mitigation measure, particularly structural practices for which effectiveness will diminish over time. Municipalities may require a reasonable measure of over-design and should require practices to be designed and sized for a reasonable inspection and maintenance period (a minimum of one year is recommended). Under-designed practices will require frequent inspections and maintenance and increase the chances for failure.

In addition to maintenance frequency, the operation and maintenance plan should also specify methods of inspection and maintenance, including any specialized equipment that may be necessary. Anticipated amounts of debris requiring removal should be included along with cost estimates for both inspection and maintenance. Plans should be reviewed to ensure that access to the practices is reasonable and practical. It is best for practices to be located where they can be easily inspected by a passersby in the event of failure. By-passes of practices are not recommended without a warning system of some kind. Municipalities should also require, as part of site plan or subdivision approval, methods to ensure that adequate financing is in place to ensure that required inspections and maintenance are performed in accordance with the operation and maintenance plan. Inspection and maintenance reports should be filed with the municipality at least annually.

April 2007 Nor'easter Old Wilmot Road, Eastchester

APPENDIX 1.0 GLOSSARY

AGRICULTURAL ACTIVITY: The activity of an individual farmer or other landowner in: grazing and watering livestock; making reasonable use of water resources for agricultural purposes; harvesting the natural products of wetlands, excluding peat mining and timber harvesting; and selective cutting of trees. Agricultural activity does not mean clear cutting of trees; filling or deposition of spoil; mining; or draining for growing agricultural products or for other purposes.

ALTER: To change, enlarge or rearrange the structure or parts of the existing facilities of a structure, or to move a structure from one location or position to another on the same lot.

ALTERATION: As applied to a building or structure:
(1) An enlargement by increasing in height or by extending on a side, front, or back;
(2) Moving from one location or position to another;
(3) Any change, addition, or removal of the structural parts; or
(4) Any change, addition, or removal of partitions, or any change in walls, ceiling, windows, or doors.

APPLICANT: A person who files an application for permit under this local law and who is either the owner of the land on which the proposed regulated activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such person.

APPROVAL AUTHORITY: The municipal or administrative board or public official or municipal employee empowered to grant or deny permits under this local law, to require the posting of bonds as necessary, and to revoke or suspend a permit where lack of compliance to the permit is established.

APPROXIMATE FLOOD AREAS: Approximate methods are used. BFEs are not determined.

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. (NYSDEC)

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 l00-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." (NYSDEC)

ARMY CORP OF ENGINEERS (USACE): The United States Army Corps of Engineers is a federal agency within the Department of Defense with the mission to provide vital public engineering services in peace and war to strengthen our nation's security, energize the economy, and reduce risks from disasters.

AQUIFER: A geologic unit capable of yielding usable amounts of water.

AQUIFER PROTECTION ZONE: An area designated on the a map as a primary recharge area for an aquifer yielding usable amounts of water for existing or potential water.

BMP: Best Management Practice

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. (CITY OF YONKERS)

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. (NYSDEC)

BOUNDARY OF A WETLAND: The outer limit of the soils and/or vegetation as defined under "Wetland/ Freshwater Wetland."

BUFFER AREA: Land which, when required by this chapter, contains evergreen plantings or structural components such as fences or berms for the purpose of screening or blocking vision, noise pollutants or negative influences in addition to maintaining the attractiveness of the community.

CAPITAL IMPROVEMENT PLAN: A Capital Improvement Plan identifies physical projects or other capital expenditures to be implemented over a five year period, with itemized costs and funding information.

CATCH BASIN: A cistern or vault at the point to catch solids where a street gutter discharges into a stormwater sewer.

CLEAR CUTTING: Any cutting of more than 30 percent of trees six (6) inches or more in diameter at breast height (dbh) over any 10-year cutting cycle as determined on the basis of wetland area per lot or group of lots under single ownership, including any cutting of trees which results in the total removal of one or more naturally occurring species, whether or not the cut meets or exceeds the 30 percent threshold.

COASTAL HIGH HAZARD AREA: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone Vl-V30, VE, VO or V. (NYSDEC)

COMMUNITY RATING SYSTEM: The Community Rating System (CRS) is part of the NFIP. When communities go beyond the NFIP's minimum standards for floodplain management and participate in the CRS, discounts may be available on flood insurance premiums for policy holders in those communities.

CLUSTER DEVELOPMENT: A residential area developed at a higher density than that allowed in the zoning district in which the site is located, provided that the remaining undeveloped land shall be reserved and improved for permanent open space use.

DAM: Dams are man-made barriers constructed to impound water. Dams are usually designed with timber, rock, concrete, earth, steel or a combination of these materials. The Department conducts technical reviews of proposed dam construction or modification, performs periodic safety inspection of dams, and works with communities on emergency preparedness. To prevent costly failure, DEC oversees dam maintenance, operation and repair, and monitors remedial work for compliance with dam safety criteria. (NYSDEC website)

DAMS AND WATER CONTROL MEASURES: Barriers used, or intended to, or which, even though not intended in fact do, obstruct the flow of water or raise, lower, or maintain the level of water.

DEC: The New York State Department of Environmental Conservation (NYS DEC) in association with FEMA administers the National Flood Insurance Program.

DEPOSIT: To fill grade, discharge, emit, dump, or place any material or the act thereof.

DETAILED FLOOD AREAS: Detailed methods (analysis, models) are used. BFEs and velocities are determined.

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.

DIRECT RECHARGE: The process by which the precipitation replenishes a stratified-drift aquifer by natural infiltration through the unsaturated zone to the water table.

DISCHARGE: The emission of any water, substance, or material into a wetland or wetland buffer whether or not such substance causes pollution.

DOMINANT SPECIES: A dominant species is either the predominant plant species (i.e. the only species dominating a vegetative unit) or a co-dominant species (i.e. when two or more species dominate a vegetative

unit). Dominant species are considered to be those with 20 percent or more area coverage in the plant community. The measures of spatial extent are percent area cover for all vegetation units other than trees, and basal area for trees. In this ordinance, dominance refers to the spatial extent of a vegetative species because spatial extent is directly discernible or measurable in the field.DRAIN: To deplete or empty of water by drawing off by degrees or in increments.

DREDGE: To excavate or remove sediment, soil, mud, sand, shells, gravel, or other aggregate.

ELEVATION CERTIFICATE: The Elevation Certificate is an administrative tool of the National Flood Insurance Program (NFIP) to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F). The Elevation Certificate is required in order to properly rate post-FIRM buildings. The expiration date for this form is March 31, 2012.

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 -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. (NYSDEC)

EXCAVATE: To dig out and remove any material from a wetland, watercourse or wetland/watercourse buffer.

FACULTATIVE SPECIES: Vegetative species that can occur in both upland and wetland systems. There are three subcategories of facultative species: facultative wetland, straight facultative, facultative upland. Under natural conditions, a facultative wetland species is usually (estimated probability of 67 percent to 99 percent) found in wetlands, but occasionally in uplands; a straight facultative species has basically a similar likelihood (estimated probability of 34 percent to 66 percent) of occurring in both wetlands and uplands; a facultative upland species is usually (estimated probability of 67 percent to 99 percent) found in uplands, but occasionally in wetlands.

FEDERAL EMERGENCY MANAGEMENT AGENCY: The Federal Emergency Management Agency (FEMA) is an independent federal agency charged with coordinating the federal response to floods, earthquakes, hurricanes, and other natural or man-made disasters and providing disaster assistance to States, communities and individuals.

FERROUS IRON: The reduced form of iron found in waterlogged soils.

FILL: See “Deposit.”

FIRM: Flood Insurance Rate Map

FIRMETTE: A FIRMette is a full-scale section of a FEMA Flood Insurance Rate Map (FIRM) that can be created online and is formatted to fit on most printers.

FIRM ZONES:

- "V" zones are coastal flood hazard zones subject to wave runup in addition to storm surge.
- "A" zones include all other special flood hazard areas.
- "VE" zones, "AE" zones, "V" zones, or "A" zones followed by a number are areas with specific flood elevations, known as Base Flood Elevations.
- A zone with the letter "A" or "V" by itself is an approximately studied flood hazard area without a specific flood elevation.

Within an "AE" zone or a numbered "A" zone, there may be an area known as the "regulatory floodway," which is the channel of a river and adjacent land areas which must be reserved to discharge the 100-year flood without causing a rise in flood elevations.

FIVE - HUNDRER YEAR FLOOD: The flood having a 0.2% or greater annual probability of occurring.

FLASH FLOOD WATCH: Flash flooding is possible. Be prepared to move to higher ground; listening area should tune in to NOAA Weather Radio, commercial radio, or television for information.

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" 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. (NYSDEC)

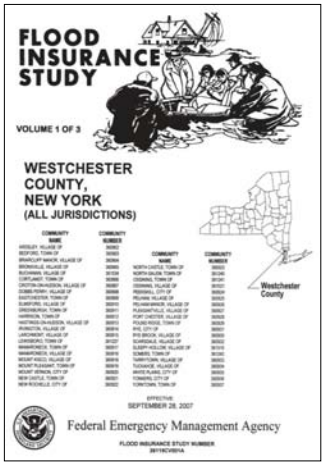
According to the Federal Emergency Management Agency (FEMA), flooding is defined as "a general and temporary condition where two or more acres of normally dry land or two or more properties are inundated by water or mudflow." The USGS defines flooding as "any relative high streamflow that overtops the natural or artificial banks of a river." To most property owners, however, any damage at all from stormwater is considered flooding.

There are a variety of programs that address either flood reduction or flood damage reduction. These are very different terms. Examples of flood reduction methods include levees and dams. Examples of flood damage reduction methods include building and land use regulations. In urban watersheds, the cost of flood reduction may be prohibitive, necessitating flood damage reduction.

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. (NYSDEC)

FLOOD HAZARD BOUNDARY MAP: 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. (NYSDEC)
FLOOD INSURANCE STUDY:
A flood insurance study (FIS) is a compilation and

FIRM Zones	
Zone A The 100-year floodplain. There are six types of A zones:	**A :** Approximate floodplain; No base flood elevations (BFE) are determined. **AE:** Base floodplains where BFEs are determined. **AO:** Base floodplain with sheet flow, ponding, or shallow flooding. Base flood depths are provided. **AH:** Shallow flooding base floodplain. BFEs are provided. **A99:** Area to be protected from the base flood by levees or Federal Flood Protection Systems under construction; No BFEs **AR:** The base floodplain that results from the decertification of a previously accredited flood protection system that is in the process of being restored to provide a 100-yr or greater level of flood protection.
Zone V and VE	**V:** The coastal areas subjected to wave action; No BFEs **VE:** The coastal areas subjected to wave action; BFEs are provided
Zone B and Zone X (Shaded)	Area of moderate flood hazard, usually the area between the limits of 100-, and 500-yr floods.
Zone C and Zone X (Unshaded)	Area of minimum flood hazard; Usually depicted above 500-yr flood level.
Zone D	Area of undetermined but possible flood hazards.


FLOOD INSURANCE STUDY

VOLUME 1 OF 3

WESTCHESTER COUNTY, NEW YORK (ALL JURISDICTIONS)

Westchester County

EFFECTIVE SEPTEMBER 28, 2007

Federal Emergency Management Agency

FLOOD INSURANCE STUDY NUMBER 36119CV001A

presentation of hydrologic and hydraulic determinations made for specific water courses within a municipality. The FIS delineates flood hazard areas and establishes flood elevations thereby serving as the basis for regulating floodplain development and providing flood insurance. The FIS, frequently contains a narrative of the flood history of a community and discusses the engineering methods used to develop the FIRMs. The study also contains flood profiles for studied flooding sources and can be used to determine Base Flood Elevations for some areas. The FIS:

- Appraises a community's flood problems
- Estimates flood flow frequency
- Establishes flood elevation profiles
- Plots floodplain boundaries
- Provides data to delineate floodways
- Establishes insurance risk zones

FLOOD INSURANCE RATE MAP: The Flood Insurance Rate Map (FIRM) is the official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. The FIRM is used to:

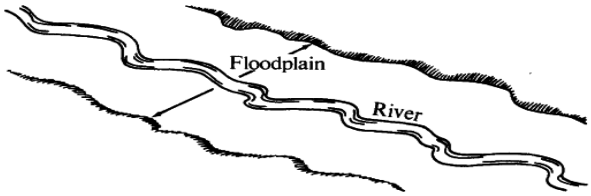
- Identify Special Flood Hazard Areas (SFHA)
- Identify the location of a specific property
- Estimate flood elevation at a specific site
- Determine the location of the floodway

Private citizens and insurance and brokers use the FIRM to locate properties and buildings in flood insurance risk areas. Community officials use the FIRM to administer floodplain management regulations and to mitigate flood damage. Lending institutions and federal agencies use the FIRM to locate properties and buildings in relation to mapped flood hazards, and to determine whether flood insurance is required when making loans or providing grants following a disaster for the purchase or construction of a building.

FLOODPLAIN OR FLOOD PRONE AREA:
A floodplain is the land areas surrounding a stream or river that regularly floods when water volume within the stream or river exceeds its banks. Floodplains store water during storm events. Figure 2-2 shows a diagram of a typical floodplain. The USGS defines floodplains as the "relatively flat lowland that borders a river, usually dry but subject to flooding."

When a floodplain is displaced with fill or structures, the flood storage capacity is reduced. This can cause the base flood elevation (the term base flood elevation, or BFE, refers to the highest elevation of the water within the floodplain during a normal storm) to increase, which may also result in higher velocities within the floodplain. Figure below shows what happens when a floodplain is filled.

FLOODPLAIN MANAGEMENT: Floodplain management is the corrective and preventative measures for reducing flood damage.



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. (CITY OF YONKERS)

FLOOD PROOFING CERTIFICATE: A Floodproofing Certificate (FEMA Form 81-65) is a certificate that can be issued after the flood-proofing of a non-residential building is completed as an alternative to elevating to or above the Base Flood Elevation.

FLOOD WATCH: Flooding is possible. Listening area should tune in to NOAA Weather Radio, commercial radio, or television for information.

FLOOD WARNING: Flooding is occurring or will occur soon; if advised to evacuate, do so immediately.

FLASH FLOOD WARNING: A flash flood is occurring; seek higher ground on foot immediately.

FLOODWAY: The floodway is the stream channel and that portion of the floodplain that must remain open to permit the passage of the 100-yr flood.

FRESHWATER WETLANDS MAP: The final freshwater wetlands maps for Westchester county promulgated by the Commissioner of the New York State Department of Environmental Conservation pursuant to subdivision 24-0301.5 of the New York State Freshwater Wetland Act, or such map as has been amended or adjusted, and on which are indicated the approximate locations of the actual boundaries of wetlands regulated pursuant to Article 24 of the Environmental Conservation Law.

FMA: Flood Mitigation Assistance

GRADING: To adjust the degree of inclination of the natural contours of the land, including leveling, smoothing, and other modification of the natural land surface.

GREEN AREA: That portion of any lot treated in such a manner as to provide light, air and landscaped open space for the recreational and visual enjoyment of the occupants of any dwelling built on said lot. Green areas may include lawns, trees, shrubbery, garden areas, footpaths, play areas, fountains, pools, watercourses and wooded areas but shall not include required parking spaces and service areas or vehicular surfaces other than access drives which are not used for vehicular parking.

GROUNDWATER: Water in the subsurface area beneath the water table in which all open spaces are filled with water.

GROUNDWATER RECHARGE AREA: That area from which water is added to the saturated zone by natural processes, such as infiltration or precipitation, or artificial processes, such as induced infiltration.

GROWING SEASON: The portion of the year when soil temperatures are above biologic zero (5 degrees C); the growing season for Westchester County is March through October.

HEC-2/HEC-RAS MODEL: Computes flood depths and velocities.

- Input includes: Flows, Stream Geometry, Boundary Condition and Roughness Coefficients (Manning's n etc)
- Output Includes: Flood depths (Profiles), Flow velocities.

HAZARD MITIGATION PLAN: A hazard mitigation plan includes adoption by the local governing body, documentation of the planning process, risk assessment, identification of a mitigation strategy, and developing a plan maintenance process. The risk assessment process includes the identification of hazards and conducting a vulnerability assessment. The mitigation strategy includes development of local hazard mitigation goals, identification and analysis of mitigation actions, and implementation of mitigation actions.

HEC: Hydrologic Engineering Center

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 prelimin-arily 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 signifi-cance of a registered historic district or a district preliminarily deter-mined 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 Interi-or; 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. (NYSDEC)

HISTOSOLS/ORGANIC SOILS: A taxonomic order composed or organic soils (mostly peats and mucks) that have organic materials in over half the upper 32 inches unless the depth to rock or to fragmented rock materials is less than 32 inches (a rare condition), or the bulk density is very low, and as further defined under "Wetland."

HYDRAULIC STUDY: Determines flood elevations and floodway. (GRAPHIC)

HYDROLOGY STUDY: Determines the amount of water at a given location

HYDROLOGIC ANALYSIS: Hydrologic analysis determines flood flows and frequencies (1-yr flow, 100-yr flow etc)

HYDRIC SOIL: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part and as further defined under "Wetland."

HYDROPHYTIC VEGETATION: Macrophytic plant life growing in water, soil or substrate that is at least periodically deficient in oxygen as a result of excessive water content.

INDUCED INFILTRATION: The process by which water in a stream or lake or any other water body moves into an aquifer because of a hydraulic gradient from the surface water body toward a pumping well or wells.

INFILTRATION: The process by which precipitation and groundwater percolates into soil. Infiltration rates are impacted by development, land cover and impervious surfaces.

ILLICIT CONNECTION: Discharge of pollutants or non-storm water materials into a storm sewer system via a pipe or other direct connection. Sources of illicit connections may include sanitary sewer taps, wash water from laundromats or carwashes, and other similar sources.

ILLICIT DISCHARGE: Discharge of pollutants or non-storm water materials to storm sewer systems via overland flow or direct dumping of materials into a catch basin. Some examples of illicit discharges include the overland drainage from a carwash or dumping used motor oil in or around a catch basin.

IMA: Intermunicipal Agreement.

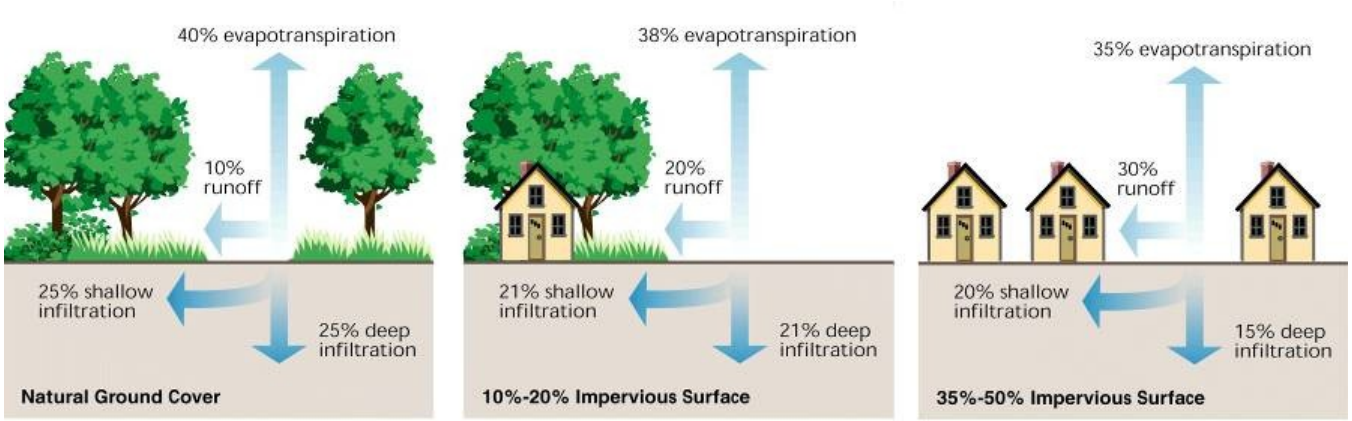
IMPERVIOUS SURFACE: Impervious surfaces most commonly are mainly constructed surfaces such as rooftops, sidewalks, roads, and parking lots, that are covered by impenetrable materials such as asphalt, concrete and stone. These materials cover the ground, repel water and prevent precipitation from infiltrating soils. Soils compacted by urban development can also be also highly impervious.

LOMC: A LOMC (Letter Of Map Change) is a letter which reflects an official revision to an effective Flood Insurance Rate Map. LOMCs are issued in place of the physical revision and republication of the effective map.

LONG DURATION: A duration class referring to flooding or inundation in which inundation for a single event ranges from 7 days to 1 month.

LID: Low Impact Development "uses various land planning and design practices and technologies to simultaneously conserve and protect natural resource systems and reduce infrastructure costs.

NO ADVERSE EFFECTS ANALYSIS: The local Flood Damage Prevention law defines "adversely ef-



fected" as any physical damage to an adjoining or other property. It is not the intent of the National Flood Insurance Program regulations to require a detailed engineering analysis for all developments within the floodway fringe. However the local floodplain administrator may require a "no adverse effect" analysis for larger projects that can potentially result in physical damage to other property. (NYSDEC)

NO RISE: 0.00-feet difference in the computed BFE's at each modeled cross-section.

MATERIAL: Liquid, solid, or gaseous substances including but not limited to soil, silt, gravel, rock, clay, peat, mud, debris, and refuse; any organic or inorganic compound, chemical agent or matter; sewage sludge or effluent; or industrial or municipal solid waste.

MICROSITE: A small site supporting facultative or obligate vegetation anomalous within the context of the larger vegetative unit. Microsites may be drier or wetter than surrounding areas as a result of altered drainage, incidental topographic variation or a related characteristic.

MMMS: Map Modernization Management Support

MHIP: The Multi-Year Flood Hazard Identification Plan (MHIP) describes the strategy, schedule, and budget developed by FEMA for producing flood hazard data and maps to administer the NFIP. It is a living document that is updated annually through a collaborative process to engage stakeholders. (NYSDEC)

LWRP: Local Waterfront Revitalization Program

MINERAL SOIL: A soil consisting predominantly of, and having its properties determined predominantly by, mineral matter. Mineral soils usually contain less than 20 percent organic matter by weight.

MUNSELL SOIL COLOR CHARTS: A soil color designation system that specifies the relative degree of the three simple variables of color: hue, value, and chroma, produced by the Kollmorgen Corporation, 1992, or as amended or updated from time to time.

NATIONAL FLOOD INSURANCE PROGRAM: The National Flood Insurance Program (NFIP) was created by Congress through the National Flood Insurance Act of 1968. The goals of the program are to reduce the risk of flood damage to properties and reduce federal expenditures for uninsured properties that are damaged by floods. The National Flood Insurance Program, managed by the Federal Emergency Management Agency, is made up of three components including floodplain identification and mapping, floodplain management and flood insurance.

NOAA: National Oceanic and Atmospheric Administration, part of the U.S. Department of Commerce.

NYSDEC: New York State Department of Environmental Conservation

NYSDOS: New York State Department of State

NYSFMM: New York State Floodplain Management Map.

OBLIGATE UPLAND SPECIES: Plant species that, under natural conditions, always occur in uplands (i.e. greater than 99 percent of the time). The less than 1 percent difference allows for anomalous upland occurrences (i.e. occurrences that are the result of human-induced disturbances and transplants). Obligate wetland species for New York State are listed in “Wetland Plants of the State of New York 1986” published by the U.S. Fish and Wildlife Service in cooperation with the National and Regional Wetland Plant List Review Panels and as updated from time to time.

ONE-HUNDRED YEAR FLOOD: 100-yr (base) flood has a “1% chance of occurring in any given year” as determined in the U.S. Department of Housing and Urban Development Federal Insurance Administration Flood Insurance. One could experience “100-yr flood” two times in the same year, two years in a row.

PERMEABLE SURFACE: Any surface that permits the infiltration of water into soil. Grass pavers can be used as an alternative to traditional paving materials.

PERMIT: That form of written Municipal approval required by this law for the conduct of a regulated activity within a wetland, watercourse or wetland/ watercourse buffer.

POLLUTION: Any harmful thermal effect or the contamination or rendering unclean or impure of any wet-

land or waters by reason of erosion, or by any waste or other materials discharged or deposited therein.

PROJECT: Any proposed or ongoing action which may result in direct or indirect physical or chemical impact on a wetland, including but not limited to any regulated activity.
REMOVE: To dig, dredge, suck, bulldoze, dragline, blast, or otherwise excavate or grade, or the act thereof.

RETENTION BASIN: A best management practice (BMP) to prevent flooding and downstream erosion. Also referred to as a wet pond or wet detention basin, it is an artificial lake with vegetation around the perimeter and includes a permanent pool of water in its design.

RIPARIAN BUFFER: The vegetated transition zone between upland areas and a stream. The buffer absorbs and mitigates the impacts stormwater from land use. In the absence of aquatic buffers, these impacts are magnified and become more damaging.

RIVER BED: The surface upon which the river flows.

RIVER BANKS: The banks are the sides that hold the river in bounds. The right bank is on the right looking downstream; the left bank on the left looking downstream.

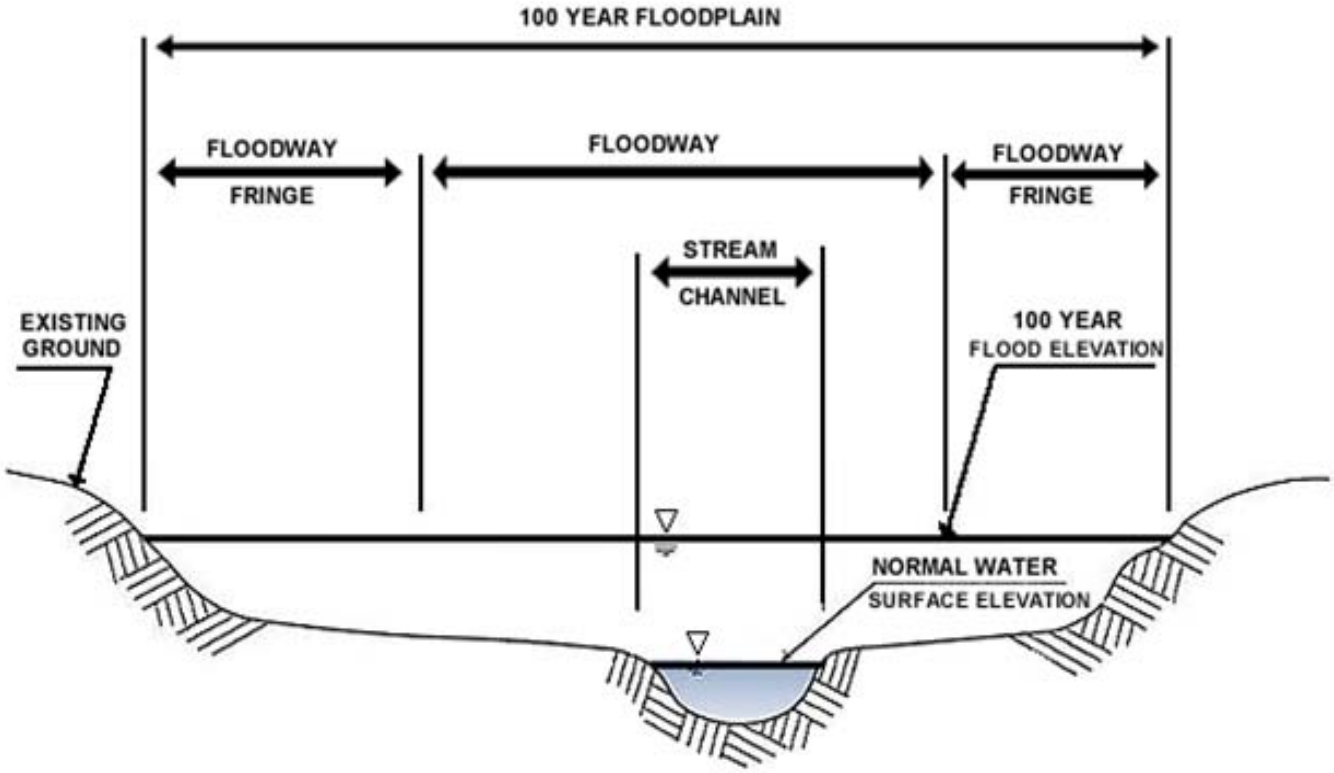
SEMO: The New York State Emergency Management Office (SEMO) administers FEMA's Flood Hazard Mitigation Program.

SEVERABILITY: Ensures that in the event that any part of the ordinance is ruled to be invalid, the remainder of the ordinance retains validity unless it is separately also ruled to be invalid.

SITE COVERAGE: That percentage of the lot area covered by the combined area of all buildings, structures and off-street parking and loading facilities, including access drives, patios, terraces, plazas, sidewalks or other improved surfaces on a lot inhibiting natural runoff from permeating into the soil, whether paved or unpaved.

SFHA: Special Flood Hazard Area

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR): The law pursuant to Article 8 of the New York State Environmental Conservation Law providing for environmental quality review of actions



which may have a significant effect on the environment.

STRATIFIED-DRIFT AQUIFER: Unconsolidated sediment composed of layers of sand, gravel, silt or clay or similar deposits that are capable of yielding usable amounts of water, potentially in amounts greater than household supply wells.

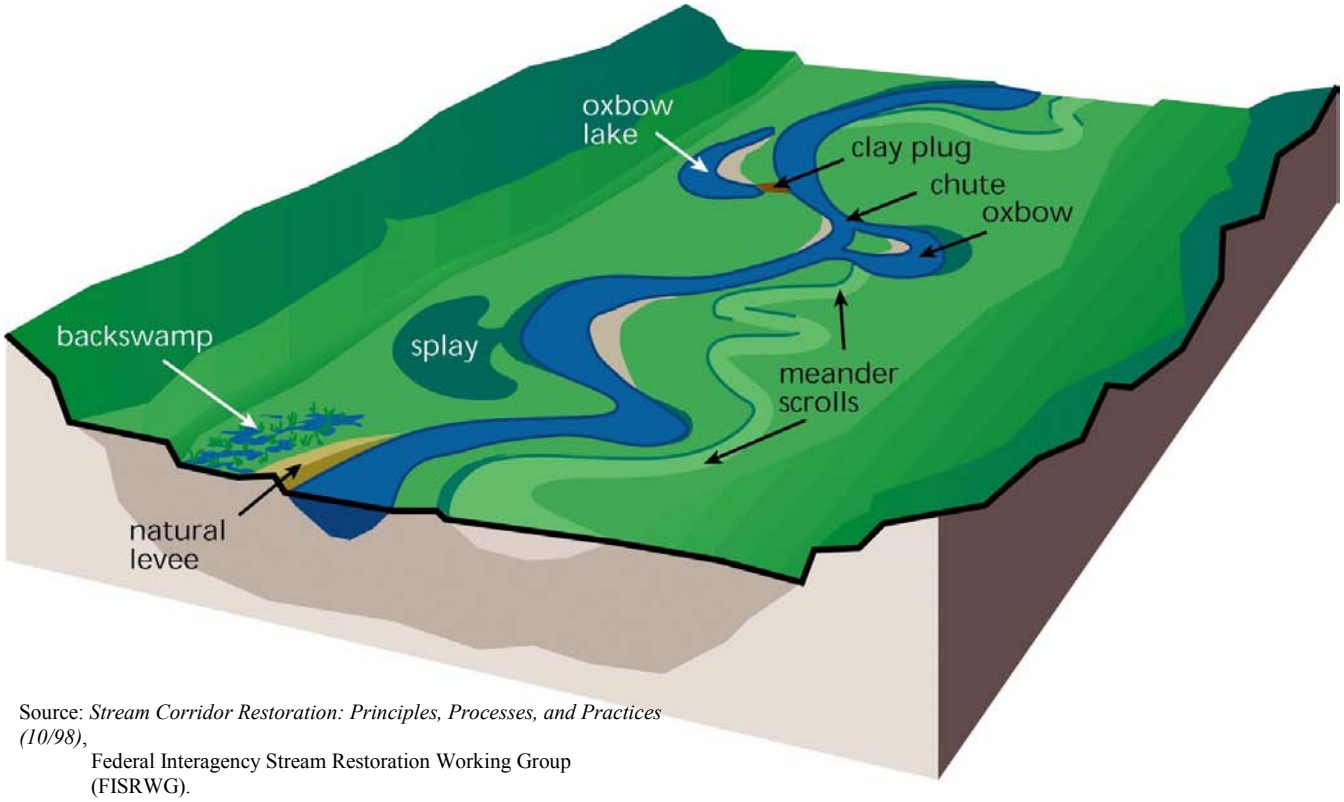
STORM INTENSITY AND DURATION: Streams can flood after large storm events. While storms with large rainfall amounts can cause flooding, small intense storms can also cause flooding. A hydrograph shows how stream flow reacts to a storm event (Figure 2-6). The bars on the hydrograph measure rainfall and the lines measure stream flow. The more intense the storm, the larger the spike in stream flow. The wider the curve, the longer the duration of the storm. The difference between the spikes in the bars and the spikes in the lines is called lag time and shows how fast a watershed responds to a rain event (urban watersheds typically have short lag times).

STREAM: Streams are flowing bodies of water that empty into larger waterbodies. Streams naturally follow a meandering course (Figure 2-4). This meandering course slows the water, allowing the watershed to drain over a long period of time. Consequently there is less of the storm's water on one place at one time, reducing the chance for flooding.

STREAM COMPONENTS: Components of a stream include meanders, oxbows, natural levees, chutes and backswamps.

STRUCTURE: Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including but not limited to buildings, tennis courts, and swimming pools.

SUBDIVISION: Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy, including any grading, road construction, installation of utilities, or other modifications or any other land use and development preparatory or incidental to any such division, by any person or by any other person controlled by, under common control with, or controlling such person, or by any group of persons acting in concert as part of a common scheme or plan. "Subdivision" of land shall



Source: *Stream Corridor Restoration: Principles, Processes, and Practices (10/98)*,
Federal Interagency Stream Restoration Working Group (FISRWG).

include any map, plat or other plan of division of land, whether or not previously filed. "Subdivision" of land shall not include the lease of land for open space recreational use and shall not include the division of land by bona fide gift, devise or inheritance. "Subdivision" shall include the creation of units in the condominium form of ownership and the creation of leaseholds in a cooperative.

SUSTAIN: SUSTAIN (System for Urban Stormwater Treatment and Analysis Integration) is a decision support system to facilitate selection and placement of Best Management Practices (BMPs) and Low Impact Development (LID) techniques at strategic locations in urban watersheds. It was developed to assist stormwater management professionals in developing implementation plans for flow and pollution control to protect source waters and meet water quality goals. From an understanding of the needs of the user community, SUSTAIN was designed for use by watershed and stormwater practitioners to develop, evaluated, and select optimal BMP combinations at various watershed scales on the basis of cost and effectiveness.

SUSTAIN was developed by the US EPA Office of Research and Development, National Risk Management Research Laboratory, Water Supply and Water Resources Division, Urban Watershed Management Branch under contract with Tetra Tech, a consulting engineering, program management, construction and technical services firm focusing on resource management and infrastructure. (EPA)

TRIBUTARY: A river or stream that flows into another water body.

UNSATURATED ZONE: The subsurface area above the water table. In this area, open spaces are only partially filled with water.

VERY LONG DURATION:: A duration class referring to flooding or inundation in which inundation for a single event is greater than 1 month.

WATERSHED: A watershed is defined as the area of land that drains into a waterbody. While even a small pond does have a defined drainage area, the term watershed is typically used in association with a large waterbody. For example, the Bronx River Watershed is the area of land that drains into the Bronx River, and the Long Island Sound Watershed is the area that drains into the Long Island Sound. There are six major watersheds in Westchester County.

WATERSHED PLAN: A watershed plan is a comprehensive study that provides an assessment of a geographically defined watershed. The plan typically identifies goals and recommendations for the protection, management and restoration of the watershed. It serves as a strategy for improving water quality, reducing flood damage, and protecting natural resources that may be impaired from future land use development.

WATER TABLE: The zone of saturation at the highest average depth during the wettest season.

WATERCOURSE: Any natural or artificial, intermittent, seasonal or permanent, and public or private water body or watercourse. A water body is intermittently, seasonally or permanently inundated with water and contains a discernible shoreline and includes ponds, lakes and reservoirs. A watercourse includes rivulets, brooks, creeks, streams, rivers and other waterways flowing in a definite channel with bed and banks and usually in a particular direction.

WETLAND CREATION: To construct a new wetland, often by excavating and/or flooding land not previously occupied by a wetland.
WETLAND/FRESHWATER WETLAND: Any area which meets one or more of the following criteria: Lands and waters of the State that meet the definition provided in subdivision 24-0107.1 of the New York State Freshwater Wetlands Act (Article 24 and title 23 of Article 71 of the Environmental Conservation Law) and have an area of at least 12.4 acres or, if smaller, have unusual local importance as determined by the Commissioner pursuant to subdivision 24-0301.1 of the Act. The approximate boundaries of such lands and waters are indicated on the official freshwater wetlands map promulgated by the Commissioner pursuant to subdivision 24-0301.5 of the Act, or such a map that has been amended or adjusted pursuant to section 24-0301.6 of this Title.

One of the most important functions of wetlands is their ability to reduce flooding. Wetlands act as nature's sponge. They reduce flooding by storing floodwater and releasing it slowly over time. This sponge-like action reduces the amount of floodwater during a

storm and helps to provide a consistent flow of water to streams and aquifers during periods of little rain. Wetlands also improve water quality and serve as important habitat for wildlife.

All areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of hydrophytic vegetation as defined by the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989) prepared by the Federal Interagency Committee of the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and U.S.D.A. Natural Resources Conservation Service.

WETLAND/WATERCOURSE BUFFER: The wetland/watercourse buffer is a specified area surrounding a wetland or watercourse that is intended to provide some degree of protection to the wetland or watercourse from human activity and other encroachment associated with development. The wetland buffer shall be subject to the regulations for wetlands as defined in this ordinance and shall be determined to be the area extending 100 feet horizontally away from and paralleling the outermost boundary of a wetland and/or point of mean high water of a watercourse, or greater than 100 feet where designated by either the Commissioner of the New York State Department of Environmental Conservation or the local Approval Authority.

WETLAND HYDROLOGY: The sum total of wetness characteristics in areas that are inundated or have saturated soils for a sufficient duration to support hydrophytic vegetation.

WETLAND PLANTS OF THE STATE OF NEW YORK: In the National List of Plant Species That Occur In Wetlands: Northeast (1988), the list of facultative and obligate upland and wetland plant species with appropriate indicator status developed by the U.S. Department of the Interior, Fish and Wildlife Service, for the National Wetland Inventory, as amended and updated from time to time.

WETLAND SCIENTIST: A person having special knowledge by reason of education and work experience in natural, physical and biological sciences related to the identification, assessment and management of wetlands to a degree acceptable to the Approval Authority.

Appendix 2. Sample Ordinance

These Codes are provided for informational purposes only. For the official version of each Code, please contact the municipality.

1. Buildable area

A. Lot Count, Town of Cortlandt

B. General Regulations, Town of Horseheads

C. Buildable Area, Town of Lewisboro

D. Lots Subject to Flooding, Town of Mount Pleasant

E. Building Lot Deductions, Town of North Castle

F. Subtraction for Flood Areas, Town of Thompson

G. Density Calculations, Town of Yorktown

H. Bulk Regulations Deductions, Village of Haverstraw

I. Determination of Site Capacity, Village of Irvington

J. Subtraction for floodway, Village of Ellenville

2. Districts

A. Land Conservation District, City of Utica

B. Flood Overlay District, Town of Cobleskill

C. Conservation Zones, Town of Ithaca

D. Environmental Protection Overlay Regulations, Town of New Castle

E. Stream, Wetland, Steep Slope and Natural Resource Overlay Districts, Town of New Hartford

F. Environmental Protection Overlay District, Town of Owasco

G. Floodplain Management District, Town of Union

H. Floodplain District, Village of Oxford

3. SEQR

A. Local Type I Actions, Town of Greenburgh

B. Local Type I Actions, Village of Larchmont

C. Critical Environmental Areas, Village of Larchmont

4. Drainage

A. Zero net increase, Town of Mamaroneck

B. Drainage easements, Town of New Hartford

C. Drainage easements, Town of Yorktown

D. Zero increase in rate of runoff, Town of Greenburgh

E. Beecher Creek detention facility, Town of Elmira

5. Site Plan Review

A. Standards of review — Surface water drainage, Village of Mamaroneck

B. General provisions — flood damage consideration, Town of Highland

C. Site development plan specifications, Town of North Salem

D. Site plan review — adequacy and impact of flooding, Town of Southport

E. Site plan review — special flood hazard areas, Village of Greenwood Lake

F. Site plan review — minimizing flood hazard and drainage, Village of Larchmont

G. Low Impact Development Model Law, Vermont League City and Towns

6. Flood Control

A. NYSDEC Model Ordinance

B. NYSDEC Additional Language

C. Floodplain regulations, Village of Mount Kisco

D. Flood damage prevention, Town of Chenango

E. Floodplain supplemental regulations — special conditions, Village of Chittenango

F. Lots subject to flooding supplemental regulations, Town of East Fishkill

G. Special use permit for areas deemed by municipality subject to flooding , Village of Owego

H. Requirement of flood insurance, City of Utica

I. Flood damage prevention, Town of Lewisboro

J. Flood damage prevention, Town of Neversink

K. Flood damage prevention, Village of Scarsdale

L. Definitions, City of Yonkers

M. Flood damage prevention, Village of Ellenville

7. Subdivision

A. Drainage; reduce flooding due to land development, Town of Horseheads

B. Lots subject to flooding, City of New Rochelle

C. Lots subject to flooding, City of Peekskill

D. Easements for drainage, Town of Caledonia

E. Land subject to flooding. Town of Chenango

F. Areas for dwelling free from flood hazard, Town of Cortlandt

G. Conservation Development, Town of Bedford

H. Drainage, Town of Hurley

I. Flood damage considerations, Town of New Castle

J. Preservation of natural features, Town of North Salem

K. Preliminary plat review, Town of North Salem

L. Character of land, Village of Mount Kisco

M. Storm drainage easement 5-yr flood, Village of Delhi

N. General standards, Village of Port Chester

O. Conservation Subdivision, Town of Somers

P. Conservation Subdivision, Town of North Castle

8. Wetlands, Streams and Water Courses

A. Wetlands, Town of North Salem

B. Wetlands, Town of Mount Pleasant

C. Wetlands, Village of Scarsdale

D. Wetlands and Watercourses, Town of North Castle

E. Wetlands, Village of Croton

F. Wetlands and Watercourses, Village of Tarrytown

G. Wetlands, Village of Mount Kisco

9. Steep Slopes and Erosion Control

A. Erosion and Sediment Control, Town of Mamaroneck

B. Steep Slopes, Town of North Castle

C. Erosion Control, Town of North Castle

D. Steep Slopes, Village of Croton

10. Trees

A. Tree Preservation, Village of Croton

B. Trees, Town of Somers

C. Trees, Village of Mamaroneck

D. Trees, Town of Mamaroneck

E. Trees, Town of North Castle

11. Other

A. Local Waterfront Coordinated Review, City of Peekskill

B. General landscaping and environmental requirements, Village of Ossining

C. Wetland, Town of North Salem

D. Compliance with flood hazard protection, City of New Rochelle

E. Building permits, Town of North Castle

F. Variances in special flood hazard area, Village of Ellenville

G. Compact cars, Town of Bedford

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LOT COUNT FORMULA

A formula set forth in the Zoning Ordinance

*Editor's Note: See Ch. **307**, Zoning.*

which establishes the maximum permitted number of lots or dwelling units for a proposed major subdivision. Among other things, the lot count formula subtracts out wetlands, and 50% of the wetland buffer area, steep slopes areas, floodplains and 10% of the net parcel area for roads.

§ 307-18. Supplementary dimensional regulations.

A. Front yard exception for existing building alignment. Where at least 50% of the lots on the same side of the street and within 500 feet of the side lines of a lot on which a single- or two-family dwelling is proposed have been improved with single- or two-family dwellings, no front yard for such proposed dwelling need be greater than the average front yards of the aforesaid improved lots.

B. Exceptions to yard requirements. The following features may extend into any yard for distances not to exceed those specified:

(1) Cornices, canopies, eaves or similar features, at least 10 feet above finished grade: two feet six inches.

(2) Open fire escapes: six feet.

(3) Terraces, decks, uncovered porches and uncovered stairs, whether constructed of wood or masonry above or below grade, with floor levels no higher than the building entrance: six feet into front and rear yards, three feet into side yards and no closer than five feet to any side lot line.

[Amended 8-12-2003]

(4) Chimneys: 18 inches.

C. Exceptions to yard requirements. The following features, where permitted, may be located in any yard:

[Added 2-14-1995 Editor's Note: This resolution also provided for the relettering of former Subsections C, D, E and F as Subsections D, E, F and G, respectively. **]**

(1) Signs.

(2) Gas pumps.

(3) Light, utility and flag poles.

(4) Landscape features, such as but not necessarily limited to fountains and sculpture.

D. Fences and walls.

(1) The yard requirements of this chapter shall not be deemed to prohibit any otherwise lawful fence or wall, except as specified in Subsection E. In any residential district, no fence or wall shall exceed six feet in height in any front or side yard nor eight feet in height in any rear yard. In any residential district, the finished side of a fence shall face adjoining property, and all exposed stands and braces shall face the interior property. In any residential district fencing around tennis courts shall not exceed 10 feet in height. In any commercial or industrial district the height of a fence or wall shall not exceed six feet in height in any front or side yard nor eight feet in height in any rear yard unless otherwise approved by the Planning Board on a site development plan.

[Amended 2-14-1995; 8-12-2003]

(2) Any proposed retaining wall with an exposed face greater than four feet in height and any proposed impervious surfaces within 20 feet of a lot line must be approved by the Town Engineer or his designated representative for drainage adequacy.

(3) In any zoning district when a fence is placed on top of a wall, the height of the wall is to be considered when calculating the height of a fence placed on top of it, where either the fence or the wall are within five feet of a property line and where the fence and the wall are within three feet of each other.

[Added 8-12-2003]

E. Obstruction to vision at street intersections. At all street intersections in all districts, no obstructions to motorist vision exceeding three feet in height above street pavement level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street line 30 feet distant from their point of intersection.

F. Exception to maximum height limitations.

(1) Buildings owned and occupied by and devoted exclusively for use by government or government agencies and public schools may be erected to a height not exceeding 75 feet, provided that the front, rear and side yards shall each be increased one foot for each one foot by which such building exceeds the height limit established for the district in which the building is located.

(2) The height limitations of this chapter shall not apply to chimneys constructed in accordance with the New York State Uniform Code nor to elements located on roofs, including roof antennas, towers, gables, scenery lofts, cupolas, water tanks, necessary mechanical equipment and similar structures not for human occupancy, provided that none of the aforementioned structures shall cover at any level more than 25% of the area of the roof on which they are located, and further provided that no such structure shall be used for human occupancy.

G. Additional density and site design standards for land to be subdivided.

(1) Additional density standards for lots to be created by subdivision.

(a) Purpose. The way in which presently undeveloped acreage in the Town is developed is of critical importance to the public interest. The dimensional standards for lot areas contained in § 307-17 of this chapter are minimum standards, in some cases reflecting dimensions that were established by platting in the first half of the twentieth century when there was no Planning Board, subdivision regulations, zoning ordinance or other comprehensive review of land use development. Recent experience has shown that lots created by Planning Board subdivision approval frequently have exceeded the minimum standards due to the nature of the topography and geology of the Town, particularly in areas where there are environmentally sensitive lands. This subsection supplements the minimum standards with standards for land to be subdivided which take into account the Town's environmentally sensitive lands, which include wetlands, floodplains and steep slopes. It is the purpose of this subsection to maintain and protect environmentally sensitive lands in order to ensure the public health, safety and welfare of present and future residents of the Town of Cortlandt by reducing the potential amount of development on vacant parcels with steep slopes, wetlands and floodplains. Standards for development of environmentally sensitive areas where development cannot be avoided altogether are established in other ordinances of the Town of Cortlandt.

(b) Construction. Activities within wetlands, water bodies and watercourses, areas of special flood hazard and steep slopes shall be subject to the provisions of Local Law No. 3-1987, the Wetlands, Water Bodies and Watercourses Law, Local Law No. 4-1987, the Flood Damage Prevention Law,

and Local Law No. 1-1992, the Steep Slopes Protection Law, of the Town of Cortlandt Code. Editor's Note: See, respectively, Ch. 179, Freshwater Wetlands, Water Bodies and Watercourses; Ch. 175, Flood Damage Prevention; and Ch. 259, Steeps Slopes.

(c) Standards for lot count. For all major subdivision applications, the maximum number of lots or dwelling units (N) which the Planning Board may approve for land to be subdivided shall be the whole number (all fractions excluded) which results from the following calculation:

[Amended 9-14-2004]

Gross parcel area (GPA), minus areas of wetlands, water bodies and watercourses (WWW), including 50% of the buffer area (BA), as defined in Chapter 179 of the Town Code, Wetlands Ordinance, minus areas of freshwater wetlands (FW), including 50% of the buffer area (BA), as defined in Article 24 of the NYS Environmental Conservation Law, minus areas within the one-hundred-year flood boundaries (FB), as defined on the Flood Boundary and Floodway Map issued by the Federal Emergency Management Agency, minus steep slopes (SS), defined as land with a slope greater than 20%, minus 10% of net parcel area (NPA).

Lot count formula is:

$$N = \frac{(GPA - WWW - 50\%\ BA - FW - 50\%\ BA - FB - SS) - 10\%\ NPA}{MLS}$$

MLS is the minimum lot size required in the zoning district in which the land is located.

NOTE:
*The ten-percent NPA deduction is to be made only when streets are included within the subdivision.

(d) Procedures for steep slope delineations. The procedure to be utilized in quantifying the areas of steep slope for the purpose of determining the number of lots or units as specified in Subsection F(1)(c) shall be as follows:

[1] Scale of map shall be either one inch equals 50 feet or one inch equals 100 feet with a two-foot contour interval.

[2] All areas of steep slopes shall be shown on the Lot Count Map. Areas of steep slopes used in lot count calculations and inclusions of 20% or less, too small to be excluded, shall be clearly differentiated from steeply sloping land which has not been included. Determination for inclusion in lot count calculations shall be made by applying the guidelines in Subsection F(1)(d)[8] and [9] below.

[3] Calculations pursuant to the formula contained in Subsection F(1)(c) shall be included on the Lot Count Map.

[4] Sources of all topographic and other survey data shall be identified on the Lot Count Map.

[5] The Lot Count Map, including all steep slope quantifications and calculations, shall be sealed by either a licensed professional engineer, licensed surveyor, licensed landscape architect or registered architect.

[6] The original Mylar(s) or other dimensionally stable transparency and a minimum of two copies of the original Lot Count Map shall be submitted to the Department of Planning and Community Improvement.

[7] Steep slopes shall be determined by measuring at right angles to contour lines. Whenever the distance between two adjacent contour lines is less than 10 feet, such area shall be shaded as steep slope on the worksheet maps. Limits of steeply sloping land shall be shown as a curvilinear line smoothly transitioning between points. Allowances shall be made for the continuation of steeply sloping land at the top and bottom of such slopes. These methods are illustrated below in Figure 1.

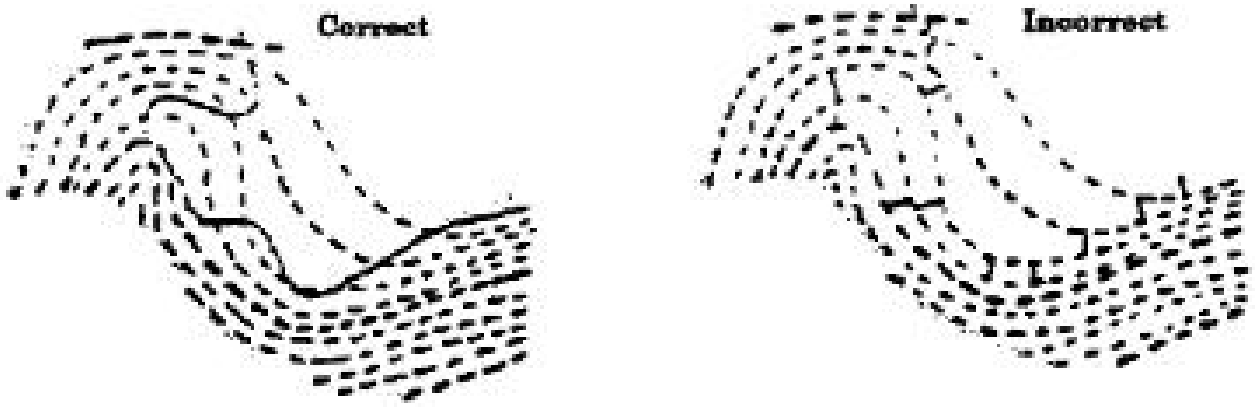

Figure 1

[8] On the Lot Count Map and in the lot count calculations, an area of less than 25% slope located within an area which generally is a steep slope area shall be included as a part of such steep slope area, unless it is large enough to contain a fifty-foot-diameter circle as shown in Figure 2.

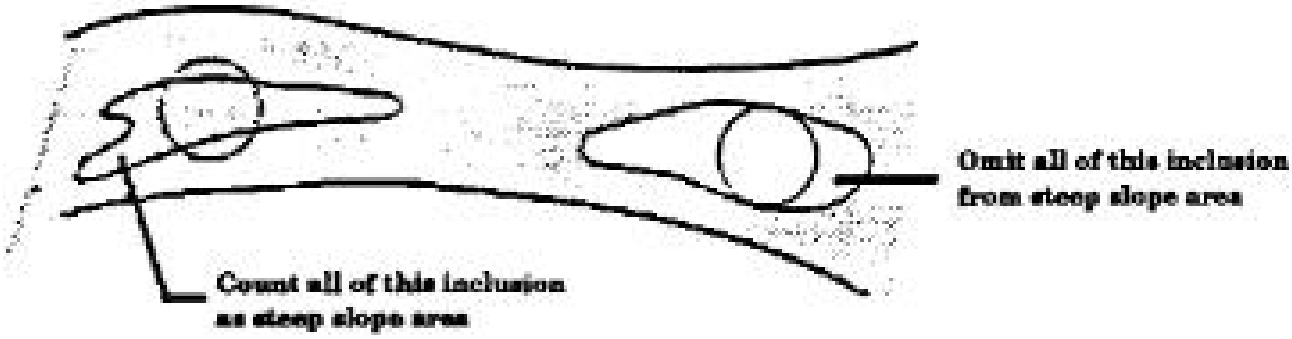

Figure 2

[9] On the Lot Count Map and in the lot count calculations, the minimum area to be considered a steep slope area shall be large enough to contain a fifty-foot-diameter circle as shown in Figure 3. When applying this guideline, steep slope areas continuing offside or into wetlands shall be considered.

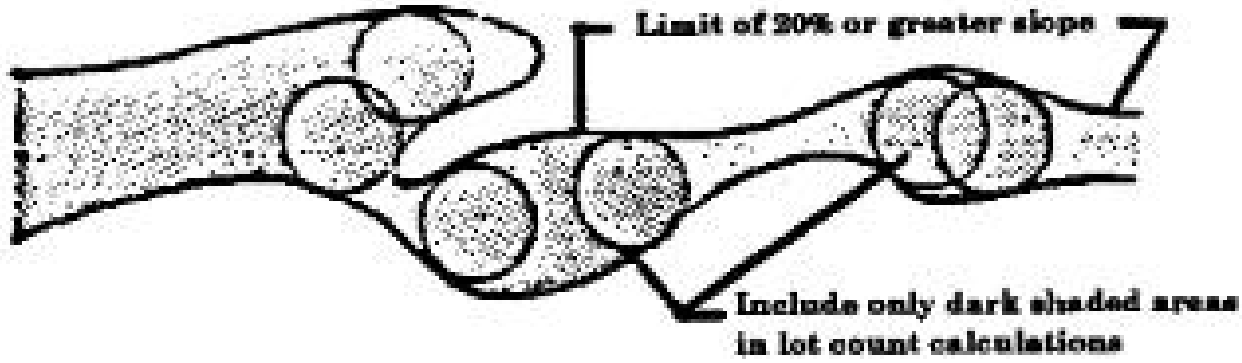

Figure 3

[10] Topographic mapping.

[a] All topographic mapping used for lot count calculations shall be in the National Geodetic Vertical Datum (NGVD) of 1929. At least three recently established or recently recovered bench marks shall be properly plotted on the same, together with their complete descriptions and elevations. These bench marks shall be readily accessible and located either on the subject

parcel or in nearby public rights-of-way. They shall be geographically distributed so as to make their use generally convenient.

[b] The boundary (property line) of the subject parcel shall be clearly marked on the topographic map(s) and complete metes and bounds information provided, together with a printout or list of coordinates to permit random mathematical scale checks. These scale checks will be used to prorate areas by the appropriate squared scale factor.

[c] Photogrammetry used for this purpose shall be compiled to national map accuracy standards from current aerial photography. All areas of dense foliage shall be clearly identified, and contours in these areas shall be verified by direct field work, otherwise these areas shall be considered steep slope areas.

(2) As determined by the Planning Board, the recreation area requirement shall be satisfied by either:

(a) A reduction of N in the calculations in this subsection by 10% and a designation of at least one acre of land for every 20 dwelling units for active recreation;

(b) Payment of an in-lieu-of-recreation-area fee at a rate per dwelling unit as required per building lot in Chapter 265, Subdivision of Land, of the Town of Cortlandt Code; or

(c) A combination of a reduction of N in the calculations in this subsection and the designation and development of active recreation facilities that would be commensurate with alternatives in Subsection F(2)(a) and (b).

(3) Calculations.

(a) For purposes of the calculations in this subsection, if a parcel falls in more than one zoning district, zoning district lines shall be treated as hypothetical lot lines, and separate calculations shall be made for each portion of the parcel so divided by zoning district lines.

(b) For purposes of the calculations in this subsection, areas falling under more than one category to be subtracted from the gross parcel area shall be subtracted only once.

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§ 204-8. General development regulations.

Except as hereinafter provided, the following general provisions shall apply to land use and development in the Town of Horseheads:

A. No land or building shall hereinafter be used or occupied and no building or part thereof shall hereafter be enlarged or its use altered unless such action is in conformance with all the regulations specified for the zone in which said action occurs.

B. No land to be offered for sale or transfer of ownership shall hereafter be built upon unless it has frontage on or direct permanent access to a street improved in accordance with Town standards.

C. Minimum lot sizes specified in this chapter shall be subject to approval and modification by the Chemung County Health Department to meet applicable Health Department regulations. In areas where public sewer and/or water facilities are not available, the Health Department standards for minimum lot size shall take precedence over any less restrictive provisions of this chapter.

D. No lot shall hereafter be reduced or altered so as to result in a lot that does not meet the minimum area or yard requirements prescribed by this chapter.

E. Any lot held in single and separate ownership prior to the adoption of this chapter whose area and/or width and/or depth are less than the specified minimum lot requirements of this chapter for that district may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:

(1) Such lot does not adjoin other undersized lot or lots held by the same owner, whose aggregate area is equal to or greater than the minimum lot area required for that district.

[Amended 8-11-1982]

(2) Such lot has an area of at least 4,000 square feet and a minimum width of at least 50 feet at the required setback line.

(3) All front, side and rear and all bulk requirements for that district are complied with.

F. Hereafter, if a residential and nonresidential use are to be located in one structure on a single lot within any zone, the applicable lot area and frontage requirements for the dwelling in that zone shall apply, to which shall be added 25% of the applicable lot area and frontage requirements for the nonresidential use.

G. No yard or off-street parking space provided about any building for the purpose of complying with the provision of this chapter shall be considered as providing a yard or off-street parking for any other building.

H. No single-family dwelling in any district shall be erected or altered so as to provide for less than 750 square feet of enclosed first floor areas.

I. In determining the percentage of building coverage of the size of yards for the purpose of this chapter, porches or covered terraces open at the sides but roofed shall be considered a part of the building.

J. The provisions of this chapter shall not apply to fences and walls less than six feet above the natural grade, except as specified in Subsection K below. Further, the provisions of this chapter shall not apply to steps, unroofed porches or terraces or other similar features less than three feet above ground floor level.

K. No structure, fence or planting over three feet in height or less than 12 feet from the ground shall be maintained on any corner lot within a triangular area formed by the lot lines, along the streets to the points on such lines a distance of 40 feet from their intersection and a line connecting such points. Any fence or planting that does not conform to the requirements of this subsection and which results in an obstruction to the vision of motorists shall be made to conform within 30 days from the effective date of this chapter.

L. The height limitations of this chapter shall not apply to farm buildings or structures, church spires, belfries, cupolas, chimneys, sky lights, mechanical equipment, water tanks, monuments, utility lines, solar energy equipment, windmills for energy generation and similar features.

M. Within six months after work on any excavation for a building has begun, such excavation shall be covered over or filled by the owner to the normal grade. Any excavation or cellar hole remaining after the demolition or destruction of a building from any cause shall be covered over or filled after 30 days' notice by the Code Enforcement Officer. The Town Board may order said excavation to be covered and filled and shall charge the owner of said property any cost connected therewith.

If an excavation meets the definition of "land development activity" as defined in this chapter, a stormwater pollution prevention plan must be prepared in conformance with Chapter 166.

[Amended 9-14-2005 by Res. No. 107-2005]

N. No travel or camping trailer, unlicensed or unregistered motor vehicle, boat or snowmobile or similar equipment shall be stored in the front yard of any lot in a residential zone.

O. When a lot is divided by a zone boundary, the regulations and requirements of the least restrictive zone may be extended on application to the Zoning Board of Appeals or upon application for a variance.

P. Mobile home parks, trailer camps, tourist camps or similar facilities may only be permitted after application for and approval of zoning in a planned unit development pursuant to Article XIV of this chapter and shall be developed in accordance with the provisions of said Planned Unit Development District and Chapter 132, Mobile Homes and Mobile Home Parks.

Q. Except in a manufacturing or agricultural district, there shall be no outdoor storage of goods, supplies, equipment, rubbish, refuse or junk. No permanent storage shall be allowed in a trailer or other nonpermanent movable structure.

[Amended 10-4-1995 by L.L. No. 5-1995]

R. No garbage or rubbish shall be burned in any open fire in any district in the Town.

[Amended 12-14-1994]

S. The business of selling and dealing in secondhand and used cars permitted in a business and/or manufacturing district may be carried on, provided that all said cars, trucks and other automobiles shall be in a good state and condition of repair and can be operated at all times under their own power and shall comply at all times with all requirements of the laws of the State of New York and rules and regulations promulgated thereunder for operation thereof on public highways, and provided that such cars, trucks or other automobiles shall not be parked or stored within the required front yard for the district.

T. Natural drainageways shall be preserved in their natural state and shall be kept free of debris or other obstructions to water flow. Where relocations of such a drainageway cannot be avoided, it must be carried out in a way that will assure the

free and unobstructed flow of stormwater in accord with a stormwater pollution prevention plan as required by Chapter 166.

[Amended 9-14-2005 by Res. No. 107-2005]

U. Flood hazard areas.

(1) Notwithstanding any other provision of this chapter, all development occurring within a flood hazard area as delineated on the Zoning Map and involving a building or landfill shall be permitted only by approval of the Zoning Board of Appeals upon recommendation of the Town Planning Board. In considering requests for such approval, the Board of Appeals shall be satisfied that such structure or fill will not significantly retard the free flow of floodwaters and that the lowest habitable floor of any dwelling will be above the flood level or be floodproofed.

(2) In general, the flood hazard boundary will be considered to coincide with the limit of the special flood hazard area as shown on maps prepared by the Town of Horseheads and the United States Department of Housing and Urban Development, as periodically amended.

(3) The Zoning Board of Appeals may require floodproofing measures for all buildings and structures other than those which have low flood damage potential. Of special concern will be:

(a) Provisions for anchorage or added weight to prevent flotation and lateral movement of the structure.

(b) Design of water supply systems so as to minimize infiltration of floodwater.

(c) Design and location of sewage disposal systems so as to prevent contamination from said systems during flooding.

(4) This provision shall be applicable to construction in all zone districts to the extent that such districts are within the flood hazard area.

V. Roadside stands.

[Amended 10-4-1995 by L.L. No. 5-1995]

(1) All roadside stands allowed in any zone hereunder shall be in place only during its period of use and thereafter shall be removed and stored out of sight of the public highway.

(2) In the event that a permanent, nonbusiness structure not in excess of 400 square feet is permitted to be used hereunder, then, upon expiration of the permit, all goods held for sale shall be removed from the premises or stored and not held for sale.

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§ 220-10. Building lots.

A. Every building and structure hereafter erected, and every use hereafter established, shall be located on a lot as defined herein. Accessory buildings, structures and/or uses shall only be permitted and located on the same lot as a duly authorized principal building, structure and/or use to which it is accessory, and no lot shall be created that has an accessory building, structure or use without a principal use.

[Amended 11-1-2004 by L.L. No. 3-2004]

B. Subdivision of a lot.

(1) Lots may only be established in accordance with the procedures of the Land Development Regulations of the Town of Lewisboro. Editor's Note: See Ch. 195, Subdivision of Land.

(2) Where a lot is formed hereafter from part of a lot already occupied by a structure, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith.

(3) The approval of a subdivision plat by the Planning Board shall be required prior to the combination of any land parcels into a building lot if a change in a filed lot line is required so as to create the buildable lot. The eradication of lot lines shall not require the approval of a plot by the Planning Board.

(4) Any land contained in a road widening strip dedicated to the Town as requested by the Planning Board may be counted as part of the required areas of the lot from which it is taken. Land dedicated for such purposes may not be counted in satisfying yard requirements.

C. Existing undersized lots. Editor's Note: See § 220-9 for regulations on nonconforming uses and structures. A lot, the area or dimensions of which are less than those required for the district in which it lies, may be deemed to qualify for the issuance of a building permit if it meets the exemption requirements of § 265-a of the Town Law or provided that:

(1) The lot met the zoning requirements at the time the deed to the lot was recorded;

(2) All applicable district regulations other than the minimum lot area are complied with;

[Amended 11-1-2004 by L.L. No. 3-2004]

(3) The lot was separated in ownership from any adjoining tracts of land on the effective date of this chapter or any amendment thereto which resulted in said lot having less than the minimum area as required by current regulations; and

(4) The owner of such lot does not own any contiguous lots which, if combined in part or in whole with the first named lot, would make the first named lot a conforming lot. If contiguous lots are in the same ownership, said other lots, or so much thereof as may be necessary, shall be combined with the first named lot, in accordance with Subsection B, to make one conforming lot, whereupon a permit may be issued but only for such combined lots.

D. Lots made nonconforming by future amendment. When and where the required area or dimensions of lots may be changed by future amendment of this chapter, any legal lot existing at that date and made nonconforming by such amendment may be built upon subject to the limitations contained in Subsection C herein.

E. Parts of lots not counted toward minimum area requirements.

(1) For any new lot created by subdivision, no part of such lot less in width than 1/3 of the required minimum lot width for the district in which it is located shall be counted as part of the required minimum lot area.

(2) Buildable area.

(a) The area of a lot must be documented to contain a portion of the basic required minimum lot area as specified in § 220-23 or 220-24 which consists of land likely to be buildable. Such portion of land shall not include land under water, land meeting the definition of "wetlands and watercourses," "one-hundred-year floodplain," or land with slope of or greater than 15% over a horizontal distance of 25 feet or more in the direction of the slope.

[Amended 11-1-2004 by L.L. No. 3-2004]

(b) Said portion of the basic required minimum lot area must be a contiguous segment of each lot having a minimum width of 50 feet between opposing limits

of said contiguous buildable area (refer to Figure B below). Any portion of a lot less in width than 1/3 of the required minimum lot width shall not be included.

[Amended 11-1-2004 by L.L. No. 3-2004]

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§ 218-9. Interpretation; applicability.

A. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection of the public health, morals, safety, comfort, convenience and general welfare. This chapter shall not be deemed to affect in any manner whatsoever any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations or by easements or covenants or agreements, the provisions of this chapter shall prevail.

B. Except as hereinafter provided, the following general regulations shall apply:

(1) Conformance required for all land and buildings. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used, for any purpose or in any manner except in conformity with this chapter and particularly with the schedule constituting § 218-10 of this chapter for the district in which such building or land is located, except as hereinafter provided.

(2) Lot required for every building. Every building hereafter erected shall be located on a lot as herein defined. There shall be not more than one main building and its accessory buildings on one lot, except for nonresidential buildings and multifamily dwellings in districts where such uses are permitted.

(3) Yards and open space can apply to only one building. No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. No yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

(4) Subdivision of a lot. Should a lot thereafter be formed from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building

on the new lot thus created unless both the new lot and the portion of the old lot remaining comply with all of the provisions of this chapter.

(5) Irregularly shaped lots. Where a question exists as to the proper application of any of the regulations of this chapter to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how such regulations shall be applied.

(6) Required street frontage. No permit shall be issued for any building unless the lot upon which that building is to be built has a frontage of at least 25 feet, or 15 feet in the case of C-NR, C-GC or M2 Districts, on a street or highway as defined in § 280-a of the Town Law, which street or highway shall have been suitably improved, or a bond posted therefor, to the satisfaction of the Town Board or Planning Board, as provided in said law, unless an open development area is established by the Town Board as provided in said law.

(7) Lots underwater or subject to periodic flooding. No more than 25% of the minimum area requirement of a lot may be fulfilled by land which is underwater or subject to periodic flooding. Land which is underwater that is open to use by persons other than the owner of a lot shall be excluded entirely from the computation of the minimum area of that lot. Minimum off-street parking requirements, minimum usable open space requirements, minimum usable areas for sanitary disposal purposes and building sites must be satisfied by dry land not subject to flooding.

(8) Screening of business areas adjacent to residential zones. Where a lot or parcel in a C-PS, C-NR, C-RB or C-GC Business District abuts a residential district, said lot shall be suitably screened on the side or sides abutting such residence district. "Suitably screened," in this instance, shall mean placing and maintaining an evergreen landscaping strip which, at all times of the year, shall prevent visual sighting from ground level from an abutting use. Such screening shall be a minimum of six feet in height and five feet in depth. The Board of Appeals shall approve plans for such screening before a building permit shall be issued.

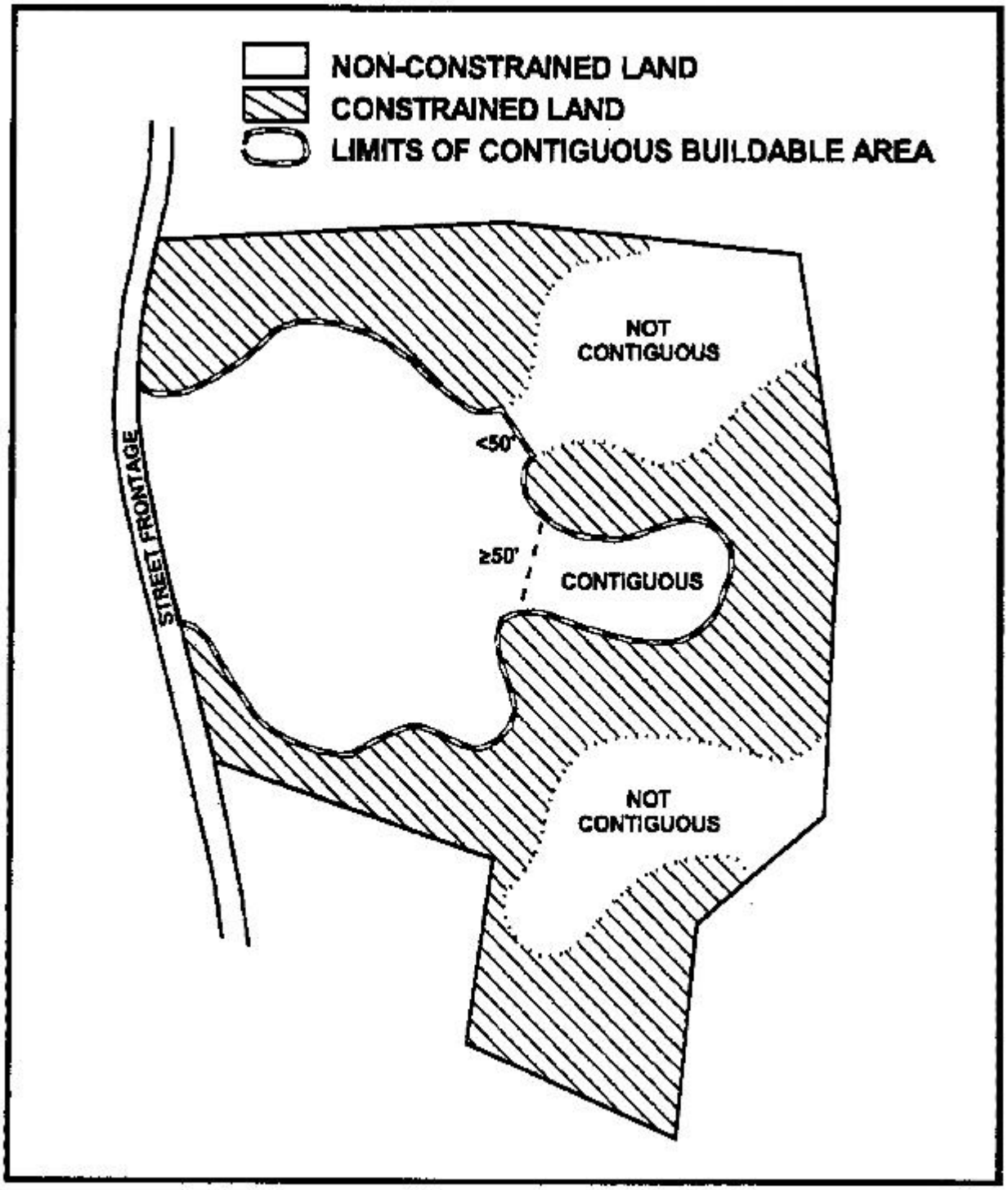
NON-CONSTRAINED LAND
CONSTRAINED LAND
LIMITS OF CONTIGUOUS BUILDABLE AREA
NOT CONTIGUOUS
<50'
≥50'
CONTIGUOUS
NOT CONTIGUOUS
STREET FRONTAGE

FIGURE B

CONTIGUOUS BUILDABLE AREA

(c) The portion of the basic required minimum lot area shall be as follows:

Zoning District	Required Minimum Contiguous Area Consisting of Land Likely to be Buildable (square feet)
R-4A	50,000
R-2A	40,000
R-1A	35,000
R-1/2A	20,000
R-1/4A	10,000
R-2F-10	9,300
R-2F-7.5	7,125
R-MF	No regulation

(d) The principal building and sewage disposal system (not including centralized sewer systems) shall be constructed in the contiguous buildable area.

[Added 11-1-2004 by L.L. No. 3-2004]

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§ 213-13. Buildings; lots; average density.

A. Lot for every building.

(1) Every building hereafter erected shall be located on a lot as herein defined, and except as herein provided, there shall be no more than one main building and its accessory buildings on one lot, except for multifamily and nonresidential buildings in districts where such uses are permitted.

(2) Where a dwelling unit for a servant or servants is established as an accessory building, such building shall be located so that the site upon which it is situated could, in the opinion of the Planning Board, be subdivided in the future from the remainder of the parcel in such a way as to create a separate conforming lot for each dwelling unit, and provided further that each such dwelling unit shall comply with all other applicable requirements of this chapter.

B. Yard and open space for every building. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

C. Subdivision of a lot. Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing buildings and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this chapter.

D. Oversize lots. A lot which does not conform to one or more of the minimum dimensional requirements of this chapter for the district in which it is located, but contains within its boundaries the potential outlines for a lot which would conform to all of the applicable requirements of this chapter, shall be deemed to be a conforming lot within the meaning of this chapter.

E. Irregularly shaped lots. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how the requirements of this chapter shall be applied.

F. Lots underwater or subject to flooding. No more than 25% of the minimum area requirement of a lot may be fulfilled by land which is underwater or subject to flooding. Land which is underwater that is open to use by persons other than the owner of the lot shall be excluded entirely from the computation of the minimum area of that lot. For the purposes of this section, land in the bed of a stream not exceeding five feet in width at mean water level, land in any pond not exceeding 300 square feet in area and land in any pond created subsequent to the creation of the lot shall not be considered as "underwater."

G. Required street frontage. No building permit shall be issued for any structure unless the lot upon which that structure is to be built has at least the amount of frontage required in the district in which the lot is located on a street which has been suitably improved to Town road standards, or a bond posted therefor, all in accordance with the provisions of § 280-a of the Town Law.

H. Lots not conforming to area, frontage or other dimensional requirements. A building permit may be issued for the creation of a structure on a lot or parcel that does not conform to the area, frontage or other dimensional requirements of this chapter only when a valid conveyance has been signed and the conveyance recorded prior to the adoption of this chapter. In addition, the lot must have met the zoning requirements in place at the time the deed to the lot was recorded. All yard setbacks and other requirements which are in effect at the time of the obtaining of the building permit must be complied with, insofar as is feasible. However, if the owner of the lot owns a contiguous lot or lots, then the other lot or lots or so much thereof as may be necessary shall be merged with the nonconforming lot in order to bring that lot into conformance or, to as great an extent as is practical, to reduce or eliminate any nonconformities that may exist on any of the lots. At that time, a building permit may be issued for construction on the newly created lot.

I. Parts of lot not counted toward area requirements. For any lot created by subdivision subsequent to the effective date of this chapter, no part of such lot less in width than 1/2 of the minimum requirement for the district in which it is located shall be counted as part of the minimum required lot area, except where such insufficient width is the result of the Planning Board having modified the frontage requirement of a lot abutting a turnaround terminating a dead-end street.

J. Average density subdivisions. Simultaneously with the approval of a subdivision plat for property in any single-family residence district and pursuant to § 281 of the Town Law, at the request of the applicant, the Planning Board is authorized to modify the zoning regulations with respect to lot area and dimensions, provided that the average size of all lots shown on the subdivision plat shall be equal to or greater than the permitted minimum lot area in such district, and that there shall not be a greater average density of population, or cover of the land with more buildings

or building coverage than is permitted in such district, and further provided that no lot shall have less than 80% of the minimum area and dimensions required for lots in such district. For the purpose of this section, "average density" shall be determined by the number of single-family residences which could be built under the zoning district standards contained in this chapter in full conformity with the Town's Land Subdivision Regulations and all other applicable requirements. Editor's Note: See Ch. A216, Subdivision of Land. The basis for this determination by the Planning Board shall be a conventional preliminary subdivision plat for the subject property.

K. Special setback requirements. In order to assure that all new development in residence districts is appropriately located on the individual lots so as to achieve the purposes established in Article I of this chapter, the Planning Board is hereby authorized to establish special setback requirements for all structures in residence districts. Such special setback requirements may be established where the Planning Board has determined that the minimum setback requirements established for the particular residence district in which a lot is located would, alone, be inadequate to assure the appropriate relationship of buildings to sites, other buildings, adjacent properties or roads. Such special setback requirements shall in no case be less than the existing setback requirements for the specified district in which such lot is located. In determining whether such special setback requirements should be required, the Planning Board shall utilize the following criteria:

(1) The presence on the site of unique natural resources, including but not limited to, controlled areas as defined in the Town Wetlands and Drainage Law, Editor's Note: See Ch. 209, Wetlands and Drainage. steep slopes and rock formations, unique vegetation and areas of wildlife habitat.

(2) The presence on the site of unique cultural resources, including, but not limited to, buildings, structures, stone walls or artifacts of architectural, historical or archaeological value.

(3) The presence on the site of unique aesthetic features, including but not limited to views and vistas.

(4) The relationship of the property to adjoining and nearby properties, buildings and structures.

L. Lots made dimensionally nonconforming as a result of the adoption of the rezoning local laws of 2006. Any lawfully existing lot which met the minimum dimensional requirements of the zoning district in which it was located prior to the adoption of local laws of 2006 but was made dimensionally nonconforming as a

result of the adoption of said local laws may continue to be used and developed as a single lot in accordance with the dimensional requirements of the zoning district in which said lot had previously been located. Notwithstanding the foregoing, the Planning Board may still require special setbacks, as provided elsewhere in this chapter, if said Board determines such to be appropriate.

[Added 12-13-2006 by L.L. No. 30-2006]

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§ 250-28. Multiple dwellings; row and attached housing.

[Amended 6-7-2005 by L.L. No. 1-2005]

A. Compatibility. Multiple dwellings, hotels and motels and related accessory structures shall not be approved by the Planning Board without first determining that the location of the proposed uses and the structures proposed and the general character of development are compatible with their surroundings and such other requirements of this Part 1 as may apply.

B. Ownership. The entire site occupied by multiple dwellings and related accessory structures shall be maintained in single or group ownership throughout the life of the development.

C. Site planning and density standards:

(1) Multiple dwellings, consisting of a building or buildings containing three or more rental apartment units, but excluding townhouses, duplexes, fourplexes and row houses, in either fee simple or condominium ownership, provided that:

(a) Buildings shall not exceed 160 feet in length and shall be provided with a minimum five-foot offset at a minimum of every 40 feet of length. This offset shall include the roof lines.

(b) The minimum distance between facing elevations of principal buildings shall be equal to twice the height of the highest building and between principal and accessory building shall be 20 feet.

(c) Any inner court shall have a minimum dimension of 60 feet; any outer court shall have a minimum dimension of 20 feet, and its depth shall not exceed its width.

(d) There shall be provided on the same lot suitable enclosed, equipped and landscaped children's play lots, subject to Planning Board approval.

(e) Off-street parking areas and service yards shall be suitably landscaped to assure an attractive environment with the site.

(f) There shall be no parking areas located in required yards.

(g) All fees applicable to individual dwellings, including any parkland/recreational fees, found within the subdivision regulations shall be applicable to each individual apartment unit.

[Amended 4-1-2008 by L.L. No. 2-2008]

(h) The site shall be served by central sewer.

(i) The following lot and building standards shall apply to such dwellings:

No. of Habitable Rooms[1] in the Dwelling Unit	**1 (efficiency)**	**2 (1 bedroom)**	**3 (2 bedrooms)**	**4 (3 bedrooms)**
Minimum Required				
Lot area				
Total (acres)	5	5	5	5
Per DU[2] (square feet)	4,400	4,800	5,400	7,200
Lot width (feet)	150	150	150	150
Lot depth (feet)	150	150	150	150
Front yard (feet)	40	40	40	40
One side yard (feet)	30	30	30	30
Both side yards (feet)	60	60	60	60

No. of Habitable Rooms[1] in the Dwelling Unit	1 (efficiency)	2 (1 bedroom)	3 (2 bedrooms)	4 (3 bedrooms)
Rear yard (feet)	30	30	30	30
Livable floor area per DU (square feet)	600	800	1,000	1,200
Off-street parking spaces per DU	1.75	2.0	2.5	3.0
Maximum Permitted				
Lot coverage	20%	20%	20%	20%
Building Height				
Number of stories[3]	2	2	2	2
Feet	35	35	35	35

Notes:

[1] See "room, habitable" under § 250-2.

[2] To derive the acreage used in computing the allowable number of units on a given proposal, use the gross acreage minus the acreage allotted to bodies of water, areas subject to flooding and ponding area, wetland and areas which have slopes of over 20%, and existing rights-of-way and easements.

Notes:

[3] The Planning Board may give special consideration to allowing three stories subject to the Planning Board review of fire-fighting capability and character of the neighborhood.

(2) Row or attached housing consisting of a series of attached one-family dwelling units, each located on its own individual lot owned in fee simple, not owned in fee simple, or in condominium ownership, provided that:

(a) Buildings shall not exceed 132 feet in length and shall be provided with an offset of a minimum of five feet at a maximum, of every 44 feet of length. This offset shall include a roofline offset.

(b) Adequate recreational facilities shall be provided as set forth in Chapter 212, Subdivision of Land, Article IV, § 212-11F. If not, all fees applicable to individual dwellings, including any parkland/recreational fees as contained in Chapter 212, Subdivision of Land, Article IV, § 212-11F(4), and Chapter 52, Article I, § 52-3E, shall be applicable to each individual apartment or dwelling unit.

[Amended 4-1-2008 by L.L. No. 2-2008]

(c) The site shall be served with central sewer.

(d) Where dwelling units abut a collector or major street, the Planning Board shall require marginal roads, reverse frontage with screening or vehicular access from an interior minor street,

(e) Off-street parking areas and service yards shall be suitably landscaped to assure an attractive environment with the site.

(f) The site shall incorporate suitably enclosed, equipped and landscaped children's playlots subject to Planning Board approval.

(g) The minimum distance between facing elevations of principal buildings shall be equal to twice the height of the highest buildings. The distance between a principal building and an accessory building shall be 20 feet.

(h) When providing off-street parking space for a unit owned in fee simple, the developer must provide a garage for one vehicle within each unit unless the development will have a homeowners' association and will not be deeding streets to the Town of Thompson.

(i) The following lot and building standards shall apply:

No. of Habitable Rooms[1] in the Dwelling Unit	**2 (1 bedroom)**	**3 (2 bedrooms)**	**4 (3 bedrooms)**
Minimum Required			
Lot area			
Total (acres)	5	5	5
Per DU[2] (square feet)	4,400	5,400	7,200
Lot width (feet)[3]	22[4]	22[4]	22[4]
Lot depth (feet)[3]	100	100	100
Front yard (feet)[3]	30	30	30
One side yard (feet)[3]	4	4	4
Both side yards (feet)[3]	--	--	--
Rear yards (feet)	35	35	35
Front yards (feet)	50	50	50
Side yards (feet)	50	50	50
Rear yard (feet)	50	50	50
Livable floor area per DU (square feet)	500	1,000	1,200
Off-street parking spaces per DU	2.0	2.5	3.0
Maximum permitted			
Lot coverage	20%	20%	20%

No. of Habitable Rooms[1] in the Dwelling Unit	2 (1 bedroom)	3 (2 bedrooms)	4 (3 bedrooms)
Building height			
Number of stories	2 1/2	2 1/2	2 1/2
Feet	35	35	35

Notes:

[1] See "room, habitable" under § 250-2

[2] To derive the acreage used in computing the allowable number of units on a given property, use the gross acreage minus the area allotted to bodies of water, areas subject to flooding, ponding and wetlands, areas which have slopes over 20% and existing rights-of-way and easements.

[3] These figures are used only for each individual townhouse lot owned in fee simple.

[4] All end row or attached dwellings shall have a minimum lot width of 37 feet and a side yard of at least 15 feet.

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§ 300-211. Density calculations.

A. The permitted density shall be determined on the basis of the following formula:

$$N = \frac{0.9An}{L}$$ where:

$An = Ag - (W + Wc + Sl + R + F + Rec.)$

Definitions

N	=	Number of lots permitted
Ag	=	Gross area of property
An	=	Net buildable area
L	=	Zoned minimum lot area
W	=	Water bodies and wetlands area
Wc	=	Wetlands control area
Sl	=	Area of slopes over 20%
R	=	Contiguous rock outcroppings over 2,000 feet in area
F	=	Area prone to flooding
Rec.	=	.10 x Ag

B. Explanation.

(1) All areas shall be shown in square feet.

(2) There shall be no double counting of overlapping areas.

(3) Water bodies shall include lakes, ponds and streams. Streams shall have running water at least six months of the year. Wetlands shall be identified as

state-controlled wetlands and/or Town-controlled. Boundaries of the state wetlands have to be certified by a representative of the New York State Department of Environmental Conservation until such time that DEC wetlands maps are available. Boundaries of Town wetlands shall be based on the definitions in § 178-3 of the Yorktown Code.

(4) Wetlands control area shall be determined on the basis of the definitions in § 178-3 of the Yorktown Code.

(5) Areas with slopes over 20% shall be deducted from the gross area except for the following: in the R1-20 zone, areas of 100 feet in width or less; in the R1-40 zone, areas of 150 feet in width or less; and in the R1-80 zone, areas of 200 feet in width or less shall not be so deducted. The width shall be measured perpendicular to the slope.

(6) Contiguous rock outcroppings shall be identified as large masses of projecting concreted stone.

(7) Flood prone areas are those shown on the Federal Emergency Management Agency maps.

(8) In the event that N contains a fractional part equal to or exceeding .5, N shall be rounded off to the next highest whole number. In the event that N contains a fractional part less than .5, said fractional part less than .5 shall be disregarded.

(9) The "Rec." factor shall not be included in the formula where the Planning Board, pursuant to § 195-17 of the Code of the Town of Yorktown, accepts cash in lieu of land dedication for park, playground and recreational purposes.

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§ 245-11. Utilization of Bulk Table.

The Bulk Table is divided into columns, each column headed by a number for reference. The Bulk Table is divided into groups, each group being identified by a letter corresponding to the letter symbol appearing in the Use Table adjacent to each use or combination of uses. Each of the uses within each group is regulated by the bulk regulations for the indicated use group.

A. Other articles herein contain supplemental requirements applying to bulk, setback and coverage of specified uses.

B. Special bulk requirements. Not more than the percentages indicated in the following table shall be counted as part of any minimum lot area requirement of this chapter:

Item	Maximum Percentage Counted
Land under water	50%
Subject to or within the 100-year-frequency floodplain	50%
Within easements or rights-of-way for overhead utilities	50%
With slopes (unexcavated)	
Over 25%	50%
50% or greater	25%
Within a designated street line of any road	0%
Within the Hudson River (see § 245-7F)	0%

C. Street frontage for residential lots fronting on culs-de-sac or on a street with a radius of curvature at the center line of 100 feet or less, or in other appropriate circumstances, may be reduced by the Planning Board at the time of subdivision plat approval to no less than 1/2 of the required dimensions. No portion of the lot, along the access route from its frontage into the lot, shall be narrower than the approved frontage. The Planning Board, at the time of subdivision approval, may modify and reduce the required lot width for any lot, but the same may not be reduced to less than 1/2 of the required lot width.

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§ 224-81. Determination of site capacity.

A. In addition to such other requirements as are or may hereafter be imposed by this chapter or other provisions of law, an applicant for subdivision or site development plan approval and, in the case of lots for which no subdivision or site development plan approval is required, applicants for building permits in districts to which this Article XV applies shall apply to the Planning Board for a determination of the base site area, the resource protection land and the site capacity of the parcel with respect to which such approval or permit is desired; provided, however, that applicants for building permits for construction limited to expansion or alteration of existing structures or other improvements not involving the creation of additional enclosed, habitable space need not make such an application to the Planning Board prior to receiving a building permit therefor.

[Amended 8-6-1990 by L.L. No. 13-1990; 3-4-1991 by L.L. No. 2-1991]

(1) Such application shall be accompanied by an accurate survey of the parcel which shall show the boundaries and areas of portions of the parcel consisting of each of the following features:

(a) Lakes, ponds and watercourses.

(b) Watershed.

(c) Wetlands.

(d) Floodplains.

(e) Twenty-five-percent slopes.

(f) Fifteen-percent slopes.

(g) Hudson River land.

(2) The survey shall indicate the boundaries and areas of portions of the parcel where two or more of the foregoing features overlap.

(3) Such application shall be accompanied by a fee in the amount of $150.

[Added 8-6-1990 by L.L. No. 13-1990]

B. An applicant for a building permit for a residence containing a single dwelling unit to be built on a single lot for which no subdivision or site development plan approval is required may apply to the Planning Board for a determination of the base site area, the resource protection land and the site capacity of the parcel without submitting a survey. In such event the Planning Board may, but is not required to, make such determination without a survey. In the event that the applicant so requests and the Planning Board agrees to do so, the Planning Board shall make the determinations using visual inspection of the parcel in lieu of a survey, but the applicant shall be conclusively bound by such determinations unless he or she thereafter submits a survey to the Planning Board and seeks reconsideration of the prior determinations on the basis of the survey.

C. The Planning Board shall determine the base site area, the resource protection land, net buildable site area and site capacity in accordance with this article prior to or contemporaneous with the issuance of site development plan or subdivision approval with respect to all or part thereof. Said determination establishes the maximum number of dwelling units only and does not create vested rights in the number of dwelling units so determined. The Planning Board is empowered to retain, at applicant's expense, any consultant or expert which, in the opinion of the Planning Board, is reasonably necessary to its determination of site capacity. In the event that the Planning Board retains a consultant or expert for that purpose, no site capacity determination shall be issued until the applicant has paid all applicable charges and fees in full.

[Amended 8-6-1990 by L.L. No. 13-1990]

D. In all districts with respect to which this article requires a determination of site capacity, no building permit may be issued for the construction of any dwelling unit or other improvement which, together with other dwelling units and/or improvement on a parcel, would exceed the site capacity for said parcel determined by the Planning Board, and any building, dwelling unit or other improvement on any parcel for which the site capacity has not been determined in accordance with this article.

E. The Planning Board shall record on the original of each approved subdivision plat the base site area, the resource protection land, the net buildable area and the site capacity of the aggregate land within the subdivision and shall endorse on the plat the following statement:

"No building permit will be issued for the construction of any dwelling unit, building or other improvement which, together with

other dwelling units, buildings and improvements that are or hereafter may be built on the land included in this subdivision, would exceed the Site Capacity set forth on this plat."

F. The protection ratios for the resource protection features shall be as follows:

(1) Lakes, ponds, Hudson River land, watercourses, wetlands and floodplains: 1.00.

(2) Watershed land: 1.00.

(3) Twenty-five-percent slopes: 0.75.

(4) Fifteen-percent slopes: 0.50.

G. Subject to Subsections H and I below, in determining the resource protection land, net buildable site area and site capacity of any parcel pursuant to this Article XV, and in light of specific development proposals presented in connection with such parcel, the Planning Board may, in instances where one or more applications are presented involving a parcel or contiguous parcels aggregating more than 25 acres, adjust the calculation of resource protection land, net buildable site area or site capacity of such parcel(s) in order to permit more suitable design and development of such parcel(s) in relation to conditions existing upon such parcel(s) and in furtherance of the purposes of this article.

[Added 3-21-1994 by L.L. No. 3-1994]

H. In adjusting the calculation of resource protection land, net buildable site area or site capacity of any parcel pursuant to Subsection G above, the Planning Board must consider and make specific findings of fact as to each of the factors set forth below as they may relate to such parcel, together with any other factors applicable thereto which, in judgment of the Planning Board, justify adjustment of calculation of site area or site capacity of such parcel, while advancing the purposes of this article:

[Added 3-21-1994 by L.L. No. 3-1994]

(1) Unique topographic conditions.

(2) Significant acreage of watershed land.

(3) Significant acreage of wetlands, floodplains, lakes, ponds or watercourses.

(4) Significant acreage of mature woodlands.

(5) Significant acreage of twenty-five-percent slopes or fifteen-percent slopes.

(6) Creation of open space by permanent preservation or dedication of property to the Village.

(7) Buffers.

(8) Creation of permanent conservation easements.

(9) Mitigation measures designed to reduce potential adverse environmental impacts of the proposed development on resource protection land.

I. The Planning Board may not adjust the resource protection land, net buildable site area or site capacity of any parcel:

[Added 3-21-1994 by L.L. No. 3-1994]

(1) Located, in whole or in part, within 300 feet of the Irvington Reservoir; or

(2) When the site capacity of such parcel, as adjusted, would exceed the number of dwelling units that would be permitted to be constructed on such parcel in accordance with the zoning district requirements and regulations in effect prior to the adoption of this Article XV.

§ 224-82. Calculation of base site area.

The base site area shall be computed in accordance with the following formula:

A.	Gross site area as determined by actual on-site survey or by the Planning Board pursuant to § 224-81B **[Amended 8-6-1990 by L.L. No. 13-1990]**		square feet
B.	Subtract land constituting existing roads and within ultimate rights-of-way of existing roads which are to remain following development and easements of access	-	square feet
C.	Subtract land which, in a previously approved subdivision encompassing the same land, as all or part of the same parcel, was reserved for resource (e.g., wetlands) or recreation reasons	-	square feet

D.	Subtract land on which roads [other than driveways in residential districts serving no more than three single-family residences] are to be built as part of the development of the site	-	square feet
E.	Equals base site area	=	square feet

§ 224-83. Calculation of resource protection land.

A. Subject to Subsections B and C of this section, the Resource Protection Land on a parcel is equal to the sum of the products of the area containing each resource protection feature and the Protection Ratio for said feature and shall be calculated by the following formula:

Resource	Ratio	x	Acres in Resource	=	Resource Protection Land
Lakes, ponds and watercourses	1.00	x	_____	=	_____ square feet
Hudson River land	1.00	x	_____	=	_____ square feet
Watershed	1.00	x	_____	=	_____ square feet
Wetlands	1.00	x	_____	=	_____ square feet
Floodplains	1.00	x	_____	=	_____ square feet
Twenty-five-percent slopes	0.75	x	_____	=	_____ square feet
Fifteen-percent slopes	0.50	x	_____	=	_____ square feet
Land with unusual geological features which the Planning	0.75	x	_____	=	_____ square feet

Resource	Ratio	x	Acres in Resource	=	Resource Protection Land
Board determines to be worthy of preservation (e.g., rockfall, promontories, etc.)					
Total land in resource		=	_____		
Resource protection land				=	_____ square feet

B. Where a given portion of a parcel contains two or more resource protection features, the protection ratio applicable to that portion shall be the highest protection ratio for any of the applicable resource protection features.

C. No subtraction shall be made for watercourses where the area of the watercourse constitutes less than 5% of area of the site and of each lot and proposed lot in the site and the subdivider or developer enters into an agreement with the Village meeting the requirements for written agreements set forth in § 224-72D, provided that neither the subdivider or developer nor his heirs, successors or assigns shall alter the course, obstruct, place in conduits or otherwise change the appearance or characteristics of the watercourse without a permit issued by the Board of Trustees upon such conditions as the Board may deem appropriate.

D. In determining the resource protection land, the Planning Board may refer to the Comprehensive Land Use Plan and its predecessors, the applicant's survey and any other data available to it and may employ and rely on surveyors and other professional advisers as it deems appropriate, subject to budgetary limitations. The burden of establishing the site capacity, however, shall be on the applicant, and the Planning Board may decline to determine the site capacity if the applicant fails to provide information reasonably requested by the Planning Board for that purpose.

E. Appeals. Any appeal from the determination of site capacity by the Planning Board must be made in the first instance to the Zoning Board of Appeals.

[Added 12-2-1991 by L.L. No. 8-1991 Editor's Note: This local law also provided as follows: "This local law, to the extent it is or may be inconsistent with provisions of the Village Law, is intended to supersede or modify the Village Law pursuant to the power given the Village under the State Constitution, the Municipal Home Rule Law and the Statute of Local Governments. Without limiting the generality of the foregoing, the

provisions of this local law are intended to supersede or modify the following designated provisions of the Village Law to the extent, if any, that they are inconsistent with them: Village Law §§ 7-712; 7-720; 7-725; 7-726; 7-728; 7-730; 7-738." **]**

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§ 227-61. Maximum density.

A. The maximum number of single-family lots or multifamily dwelling units that may be permitted on a site shall be computed by subtracting from the total gross area a fixed percentage of 15% in the R-A District and 20% in the R-1 District and multiplying the resulting acreage by the appropriate density per acre as set forth below. Land shall not be considered part of the total gross area if it is located within the floodway, as delineated on the Flood Boundary - Floodway Map referred to in §§ 227-65 and 227-66 hereof, or if it is occupied by a public utility easement which prevents its use.

City of Utica
Land Conservation District (Sec. 2-29-251 — Sec. 2-29-257)
Sec. 2-29-251 Purpose and establishment.
[Ord. No. 313, §§ 9-101 — 9-104, 12-7-1994]
(a) Purposes. The land conservation district is established for the following purposes:
(1) To protect the public health, safety and welfare.
(2) To minimize public and private property damage.
(3) To minimize public expenditure for costly flood control projects.
(4) To minimize the need for rescue and relied efforts at public expense.
(5) To protect the ecosystem of the floodplain.
(6) To preserve and protect artifacts of archeological significance.
(7) To minimize prolonged interruption of business and governmental services.
(8) To put potential home buyers, property owners, and tenants on notice that a particular piece of property is in a flood-prone area.
(9) To protect the public and private water supply from contamination.

(b) Establishment. A land conservation district is hereby established to accomplish the purposes of this section. The land conservation district identified as the One-Hundred-Year Floodplain in a report entitled "Flood Insurance Study, City of Utica, New York, Oneida County" (Federal Emergency Management Agency August 1, 1983) and Floodway Flood Boundary and Flooding Maps (Panels 360558-0001, 0002, 0003, 0004, 0005, and 0006, FEMA, February 1, 1984) are hereby adopted by reference and declared to be part of this chapter.

(c) Disclaimer. This chapter does not imply that land outside of the land conservation district or uses permitted within such areas will be free from flooding or flood damage.

(d) Precedence. The provisions of the land conservation district, shall take precedence over any other zoning article, ordinance or code to the extent that these provisions are inconsistent with such other provisions.
Sec. 2-29-252 Permitted uses.
[Ord. No. 313, §§ 9-201, 9-202, 12-7-1994]

(a) Principal permitted uses. The following uses which have low flood damage potential and which do not obstruct flood flows may be permitted within the land conservation district to the extent that these uses do not constitute development within the floodplain and are not otherwise prohibited by other provisions of this chapter or any other rules, regulations or ordinances: Agricultural uses such as pasture or grazing as long as they do not require development within the floodplain. No uses shall diminish or constrict the capacity of the channel or floodway or any watercourse, or any tributary to the mainstream, or any other watercourse, drainage ditch or any other facility or system to discharge the waters from the base flood or cause significant adverse impacts to the ecosystem of the floodplain. This exemption does not include agricultural structures.

(b) Special permit uses.
(1) The following development and uses may be allowed within the designated floodplain only after review and approval of the proposal by the planning board and the issuance of a special permit as provided for by this chapter. Note: The floodplain permit administrator is the codes commissioner.

a. Private and public recreational areas as long as they do not require development within the floodplain.
b. Boathouses and docks are regulated under the local law for flood prevention. They must meet elevation and floodproofing and floodway standards (i.e. no structures of any kind in the floodway).
c. Essential services as defined in article I certified by a professional engineer or an architect. Anything in the floodplain must be certified as floodproofed or elevated above the one-hundred-year flood elevation.
(2) Special permit issuance shall be determined by the nature and location of the applicant's proposed use. Therefore:
a. The applicant shall submit a site development plan as specified in section 2-29-256.
b. The planning board shall determine whether the proposed special permit use is located within the land conservation district. Such determination shall be made from the maps prepared by the U.S. Corps of Engineers, June 1974.
(3) If it is determined that the proposed use is located within the designated floodplain, the provisions of section 2-29-253, floodplain utilization requirements and restrictions, shall apply. The city local law for flood damage prevention supersedes all other local ordinances and laws.
(4) The granting of a permit under the provisions herein shall in no way affect the owner's responsibility to obtain the approval required by any other statute, ordinance, or regulations of any county, state or other agency.
Sec. 2-29-253 Floodplain utilization requirements and restrictions.
[Ord. No. 313, § 9-301, 12-7-1994]
All development or uses within the land conservation district except those uses permitted by right in subsection 2-29-252(a), permitted uses, are allowed only as special permit uses in compliance with the following standards:
(1) Encroachment, including fill, new construction, substantial improvements and other developments shall be prohibited within the land conservation district, if such encroachment would result in any increase in flood levels during the occurrence of the base flood discharge or significant adverse impact on the natural environment. Fill and development of floodway requires HEC-2 hydraulic analysis; fill and development in flood fringe does not.
(2) If subsection (1), above, is satisfied, all new residential construction or substantial improvement of any structure shall be elevated with the lowest floor including the basement, elevated to, or above, the one-hundred-year flood level, 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 load and effects of buoyancy. Nonresidential structures have the option of floodproofing instead of elevation. The design of floodproofed structures may include but is not necessarily limited to the following measures or techniques:
a. Anchorage to resist flotation and lateral movement.
b. Reinforcement of walls to resist water pressure.
c. Installation of watertight doors, bulkheads, and shutters.
d. Use of paints, membranes or mortars to reduce seepage of water through walls.
e. Addition of mass or weight to resist flotation.
f. Installation of pumps to lower water levels in structures.
g. Pumping facilities to relieve hydrostatic water pressures on external walls and basement floors.

h.All floodproofing must be "dry" floodproofing; that is, water must not be capable of entering the structure. Fill must be clean, homogenous dirt fill, compacted according to Standard Proctor Test method to maximum density obtainable.
i. Elimination of gravity drains.
j. Construction to resist rupture or collapse caused by water pressure or floating debris.
k. Construction using FEMA approved flood resistant materials.
(3) All new construction and/or substantial improvements of buildings and other structures, including new or replaced utility and sanitary facilities, shall include the following measures as appropriate. All floodproofing must be certified be a licensed professional engineer or an architect to FEMA or Army Corps of Engineers standards.
a. Anchorage to prevent flotation, collapse or lateral movement of the structure.
b. Constructed with materials and utility equipment resistant to flood damage.
c. Constructed by methods and practices that minimize flood damage.
d. Public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed to minimize flood damage.
e. Adequate drainage shall be provided to reduce exposure to flood damage.
f. New and replacement water supply systems shall be designed to minimize or eliminate the infiltration of flood waters into the system.*
g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.*
h. On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

*Design of the above water supply, sanitary sewage and on-site waste disposal systems shall be in compliance with the State Sanitary Code (Public Health 10 NYCRR 1.1 et seq.) and where applicable, with county health or sanitary codes. In general, floodplain sanitary systems must meet the "Blue Book" standards for alternate systems, and must be engineered.

i. Where elevation of the first floor or basement above the base flood elevation is required, fill deposited shall extend at least 15 feet beyond the limits of any structure or use erected thereon, and such fill shall be protected against erosion by riprap, vegetation, bulkheading, or other forms of cover, provided that the provisions of subsection 2-29-253(2) are met.
(4) Prior to the issuance of any special permits a detailed ecological study of the proposal shall be undertaken. Elements of this analysis shall include:
a. An inventory of the existing biota on and in the immediate vicinity of the site using the forms available from the director, bureau of planning.
b. The effects of this proposed development activity would have upon the ecosystem of the area.
c. Proposed mitigation measures to be taken to alleviate any significant adverse impacts which may result from this proposed activity.
d. Other elements deemed appropriate by the planning board, after consultation with its professional planning staff.
(5) Prior to the issuance of any special permits on-site archeological testing shall be undertaken to determine what, if any, archeological evidence exists on the site. In the event that archeological artifacts are determined to be present on the site, an immediate indepth archeological survey, under the supervision of a trained archeologist shall be undertaken.

Sec. 2-29-254 Local submission, filing and public record.
[Ord. No. 313, §§ 9-401, 9-402, 12-7-1994]
(a) Submission and filing. Application for a special permit, including the site development plan, detailed ecological analysis, archeological analysis and findings, and required certifications shall be submitted to the director, bureau of planning to determine that the permit requirements have been obtained from those federal, state and local government agencies from whom prior approval is required. The application shall be kept on file with the director, bureau of planning of the city and shall be available for public inspection.
(b) Recording of elevation. The director, bureau of planning with the assistance of the city engineer and commissioner of codes shall obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements) of all new or substantially improved structures. He shall also obtain, verify and record the actual elevation to mean sea level to which any new or substantially improved structures have been flood-proofed. All such records shall be maintained for public inspection.
Sec. 2-29-255 Uses and/or structures rendered nonconforming by the adoption.
[Ord. No. 313, § 9-501, 12-7-1994]
Following the adoption of these provisions, any use or structure which is situated within the boundaries of the land conservation district and which does not conform to the permitted uses specified in subsection 2-29-252(a) herein, shall be a nonconforming use or structure, regardless of its conformance to the district in which it is located without consideration of these provisions. Therefore:
(1) Existing nonconforming uses and/or structures shall not be expanded.
(2) Substantial improvements of nonconforming uses and/or structures will be not be allowed, irrespective of the cause for the need of the substantial improvements.
(3) Uses and/or structures which continue to operate and/or exist within the boundaries of the one-hundred-year flood plain after nonconformance has been established will be required to obtain flood hazard insurance from the federal insurance administration. The city will simultaneously request a submission to rate on the structure to the Federal Emergency Management Agency. In the event the owners of structures or operations subject to this requirement fail to obtain such insurance within a reasonable period of time, the city shall secure such insurance and place the annual insurance premium costs as a lien against the title to the land and/or structure within the tax records of the city.
Sec. 2-29-256 Site development plan submission requirements.
[Ord. No. 313, §§ 9-601, 9-602, 12-7-1994]
(a) Plan information. The applicant shall be required to furnish a site plan with such information as is deemed necessary by the planning board to determine the suitability of the particular site for the proposed development or use. Such information shall be as follows:
(1) Such information which may be required by the provisions of article XI of this chapter.
(2) Plans in quadruplicate drawn to a scale of one inch equals 50 feet or greater, clearly indicating the location of the lot or construction site in relation to watercourses or other bodies of water, boundaries of the one-hundred-year flood plain, topography of the site with elevations in relation to mean sea level, based flood elevations, existing and proposed building and other structures, fill drainage facilities and location and description of any material proposed to be stored within the land conservation district on a permanent or temporary basis incidental with the proposed project. All location plot plans (recreational to the flood hazard area and floodway) should be prepared by either a licensed land surveyor, professional engineer and/or professional architect.
(3) Elevation in relation to mean sea level of the lowest floor (including basement) of all existing and proposed structures.

(4) Elevation in relation to mean sea level to which any structure is proposed to be floodproofed together with attendant utility and sanitary facilities.
(5) Plans showing how any floodproofed structures meets the floodproofing standards of section 2-29-253.
(6) Description of any significant adverse impacts resulting from this project to the natural environment. In addition, a description identification and incorporation of appropriate mitigation measures to alleviate these adverse impacts shall be delineated on the plan. Such measures may include, but are not necessarily limited to:
a. Restricting the areas of tree and other forms of vegetation removal.
b. Controlling the methods and equipment used for grading, filling and soil removal or replacement.
c. The reestablishment of the damaged floodplain ecosystem to its pre-development state.
d. Any other measures deemed appropriate by the director, bureau of planning.
(7) Description of any archeological testing which was undertaken and the findings of that testing. In addition, a written statement from a trained archeologist shall accompany the plan, explaining in detail the archeological methods which will be used to preserve and protect any artifacts of significance discovered on site.
(b) Required certifications.
(1) The site plan and related information specified in subsection a., below, shall include the written certification of a professional engineer or architect licensed to practice in the state that the appropriate standards of section 2-29-255 have been met.
a. Prior to the use of any new or substantially improved structures located within the land conservation district where such structures have been floodproofed below the base flood elevation in accordance with section 2-29-253 the applicant shall submit to the director, bureau of planning, the written certification of a professional engineer or architect licensed by the state that the structure was floodproofed in compliance with the applicable standards of this chapter.
b. National Flood Insurance Program asbuilt elevation certification.
c. National Flood Insurance Program asbuilt floodproofing certification.
(2) Site plans will be designed to minimize development in the floodplain to the maximum extent practicable.
Sec. 2-29-257 through Sec. 2-29-270. (Reserved)

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§ 160-3.3. Flood Hazard Overlay District.

The Planning Board shall not grant final site plan approval on property within the Flood Hazard Overlay District prior to final approval by the Village Floodplain Administrator, in accordance with Chapter 83 of this Code.

TOWN OF ITHACA ARTICLE V Conservation Zones (§ 270-10 — § 270-24)

§ 270-10 Purpose.

A.

It is the purpose of the Conservation Zone to preserve the outstanding natural features in certain areas of the Town, as described in the Town of Ithaca Comprehensive Plan (September 21, 1993), and to provide a regulatory framework through which development can occur with minimal environmental impact in these areas. Among the natural values and ecological importance of these areas are their diversity as a plant and wildlife habitat, their existence as biological corridors, their scenic views and rural character, and their importance as an educational and recreational resource. In addition, certain lands in the Conservation Zones contain large areas of steep slopes, wetlands, highly erodible soils and, in one instance, the City of Ithaca water supply, which must be taken into consideration in planning for future development.

B.

It is a further purpose of the Conservation Zone to preserve existing areas of contiguous open space, prevent unnecessary destruction of woodland areas, preserve existing and potential agricultural land and promote appropriate development densities and flexibility of design and development of land. Developers should be encouraged to use mechanisms to accomplish these objectives. Such mechanisms could include enlarged buffer areas, conservation easements, deed restrictions, and public or semipublic land dedications.

C.

Certain of the areas included in Conservation Zones, in recognition of their natural and ecological significance, have been designated by the Tompkins County Environmental Management Council as Unique Natural Areas. It is a further purpose of this Conservation Zone to preserve the natural resources and scenic beauty of the areas to promote tourism as an important economic benefit to the Town of Ithaca.

§ 270-11 Permitted principal uses.

In a Conservation Zone, no building shall be erected or extended and no land or building or part thereof shall be used for other than any of the following purposes:

A.

A one-family dwelling, except a mobile home, to be occupied by no more than:

(1)

One family, or

(2)

One family plus no more than one boarder, roomer, lodger or other occupant.

B.

A two-family dwelling provided that:

(1)

Each dwelling unit is occupied by no more than one family; and

(2)

The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely within the basement area, it may exceed 50%.

C.

Garden, nursery or farm.

D.

Roadside stand or other structure, not exceeding 500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. Any such stand shall be located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right-of-way.

E.

Forest management and other forest resource uses, including the harvesting of timber in conformance with environmentally sound forestry practices, provided that logging of more than one acre of contiguous land shall require the submission of a forest management plan to and approval by the Planning Board. Such a plan shall include, but not be limited to, a description of the area to be logged, what percentage of trees will be cut, the method of cutting and removing trees, and how the land will be restored (e.g., through reforestation, agriculture or otherwise).

F.

Public water supply.

G.

Small wind energy facilities, subject to the limitations on small wind energy facilities set forth in § 270-219.4.

[Added 8-11-2008 by L.L. No. 13-2008]

§ 270-12 Principal uses authorized by special permit only.

The following uses are permitted in a Conservation Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this chapter:

A.

Church or other places of worship.

B.

Public, parochial and private schools, public library, public museum, day-care center, nursery school, hospital, and any institution of higher learning including dormitory accommodations.

[Amended 6-12-2006 by L.L. No. 9-2006]

C.

Publicly owned park or playground, including accessory buildings and improvements.

D.

Fire station or other public building necessary to the protection of or the servicing of a neighborhood.

E.

Roadside stand or other structure, exceeding 500 square feet but not more than 2,500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. The majority of the products sold at such stand shall be, or be derived from, products produced on the farm on which the roadside stand is located. Any such stand shall be

located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right-of-way.

F.

Bed-and-breakfast.

G.

Equestrian facility, provided that adequate provision is made to prevent nuisance to adjoining properties and provided:

[Added 8-1-2005 by L.L. No. 7-2005]
(1)

The lot size is at least two acres (three acres if public sewers are not available);

(2)

There is a nonoccupied and unused buffer of at least 50 feet around the perimeter of the lot;

(3)

Any building in which farm animals are kept shall be at least 100 feet from any lot line or street line; and

(4)

No manure shall be stored within 100 feet of any lot line or street line.

§ 270-13 Additional requirements for special permit.

The application for a special permit for any of the uses set forth in the immediately preceding section shall be made to the Planning Board. Any required site plan shall conform to the requirements of, and be subject to the procedures contained in Article XXIII. No building permit shall be issued unless the proposed structure is in accordance with the final site plan approved by the Planning Board. In determining whether to grant a special permit, the Planning Board shall consider the matters set forth elsewhere in this chapter and in addition shall grant a special permit for any of the above uses only if it can be demonstrated that:

A.

The proposal is consistent with the goals and objectives of the Conservation Zone, as enumerated in the purpose section relating to this zone;

B.

The proposal provides adequate measures to control stormwater runoff and minimize erosion and sedimentation;

C.

The project includes adequate measures to protect surface and groundwaters from direct or indirect pollution; and

D.

Off-street parking facilities are adequately buffered to minimize visual and noise impacts on surrounding areas, and are designed to minimize the increase in impervious surfaces on the site.

§ 270-14 Permitted accessory buildings or uses.

The following accessory buildings or uses are permitted as of right in a Conservation Zone:

A.

Accessory buildings customarily incidental to the above permitted uses.

B.

Home occupations, subject to the limitations on home occupations set forth in § 270-219.2.

[Amended 2-12-2007 by L.L. No. 1-2007]

C.

Wildlife rehabilitation operation as defined and regulated under six NYCRR Part 184, provided that no noise, dust, disorder, or objectionable odor is experienced (as a result of that use) beyond the boundary lines of the property where such use is conducted, and that no more than three additional persons not residing on the premises may be employed.

D.

Day-care homes, family day-care homes, and group family day-care homes.

E.

Adult day-care facilities serving no more than four clients at any one time.

F.

The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g., outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Zoning Board of Appeals.

G.

Amateur radio facilities, subject to the limitations on amateur radio facilities set forth in § 270-219.3.

[Added 8-13-2007 by L.L. No. 7-2007]
H.

Small wind energy facilities, subject to the limitations on small wind energy facilities set forth in § 270-219.4.

[Added 8-11-2008 by L.L. No. 13-2008]

§ 270-15 Accessory buildings and uses authorized by special approval only.

The following accessory buildings or uses are permitted in a Conservation Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this chapter:

A.

Elder cottages.

B.

A second dwelling unit in a building other than the principal building, provided that:

(1)

All of the general criteria set forth elsewhere in this chapter for the issuance of a special approval have been satisfied;

(2)

The location of the second dwelling, and the building in which it is located, does not adversely impact in any significant manner the adjoining neighbors;

(3)

The building containing such second dwelling is located at least 50 feet from any side boundary of the lot, and is not constructed in any required front yard;

(4)

There is adequate off-street parking for the proposed number of occupants, including occupants of both the principal building and the dwelling unit for which special approval is sought;

(5)

The floor area of the second dwelling (inclusive of floor area on all floors dedicated to such dwelling) does not exceed 50% of the floor area of the primary dwelling on the lot;

(6)

The second dwelling is located in a building that is accessory to the principal dwelling;

(7)

The building containing the primary dwelling does not contain more than one dwelling; and

(8)

There are no elder cottages or other buildings on the lot containing dwellings other than the building containing the primary dwelling and the building for which special approval is sought.

§ 270-16 Height limitations.

Except as may be specifically otherwise authorized in this chapter, in Conservation Zones no nonagricultural building shall exceed 38 feet in height from lowest interior grade nor 36 feet in height from lowest exterior grade, and no nonagricultural structure other than a building shall exceed 30 feet in height. Nonagricultural accessory buildings shall in no case exceed 15 feet in height.

§ 270-17 Yard regulations.

Except as may be specifically otherwise authorized in this chapter, in Conservation Zones yards of at least the following dimensions are required:

A.

Front yard: Not less than the average depth of the front yards of building immediately adjacent. However, except for roadside stands authorized by § 270-11, the front yard shall not be less than 50 feet nor need it be greater than 75 feet in depth.

B.

Rear yard: Not less than 200 feet in depth.

C.

Side yards: Each not less than 50 feet.

D.

Greater yards: Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this chapter shall, if more restrictive, supersede the above yard provisions.

E.

Buffer areas: The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas.

F.

Accessory buildings: In Conservation Zones accessory buildings other than garages may not occupy any open space other than a rear yard. The total lot area covered by nonagricultural accessory buildings may not occupy more than 1,000 square feet of any required rear yard and shall be not less than 50 feet from any side or rear lot line.

§ 270-18 Lot coverage.

The maximum building area shall not exceed 10% of the lot area. Projections described in § 270-224 are not to be included in computing the percentage. For the purposes of this zone, roads, driveways, parking areas, and other paved areas shall be considered buildings in computing the percentage of lot coverage.

§ 270-19 Size and area of lot.

Lots in Conservation Zones shall meet the following minimum requirements:

A.

Minimum lot area shall be at least seven acres; and

B.

Minimum lot width at the street line shall be 300 feet; and

C.

Minimum width at the maximum required front yard setback line (75 feet from the street line) shall be 300 feet; and

D.

Minimum depth from the street line shall be 450 feet.

§ 270-20 Clustering.

The Planning Board is hereby authorized to require clustering of residential units as outlined in Chapter 234, Subdivision of Land, of the Code of the Town of Ithaca, where clustering will further the purposes of the Conservation Zone, subject to the requirement with respect to the Conservation Zone along Six Mile Creek, that where feasible, on the southwestern side of Six Mile Creek (i.e., on the Coddington Road side of the Conservation Zone), dwelling units shall be clustered between the former railroad grade and Coddington Road, in order to preserve the natural characteristics and scenic views of the lands adjacent to Six Mile Creek and the city watershed properties. In such cases, the same number of dwelling units that could have been built on that portion of the parcel between the former railroad grade and Six Mile Creek under the above density requirements when feasible shall be transferred to the portion of the parcel between the former railroad grade and Coddington Road. This provision shall not apply to parcels which are situated entirely between the former railroad grade and Six Mile Creek.

§ 270-21 Parking.

Parking requirements shall be as set forth in § 270-227.

§ 270-22 Additional requirements and restrictions.

A.

The following activities are specifically prohibited in Conservation Zones:

(1)

The importation for dumping or disposal of snow or ice collected from roadways or parking lots into or within 200 feet linear distance of any wetland or watercourse carrying water six months out of the year.

(2)

The location of buildings or structures on slopes of 25% or greater, with a minimum horizontal slope length of 25 feet.

B.

No buildings, structures, paved areas, or storage of construction equipment or machinery shall be located within 50 feet of the center line of any watercourse carrying water six months out of the year, or within 200 feet of the one-hundred-year-flood boundary of any body of water or watercourse identified as "Zone A" on any Flood Insurance Rate Map for the Town of Ithaca, New York, prepared by the Federal Emergency Management Agency, (or any other generally recognized map of one-hundred-year-flood zones) within any Conservation Zones.

(1)

In the case of residential subdivisions, whether conventional or cluster, the no disturbance zone as defined above shall be increased by up to 50% if the Planning Board determines that such an increase is necessary to protect water quality or to minimize the impacts of erosion and sedimentation.

(2)

Unless otherwise authorized by the Planning Board, no disturbance as listed above shall be located within 100 feet linear distance of any wetland. During the subdivision or site plan approval process, where there is evidence of a wetland, the Planning Board may require a wetland delineation study to determine the potential impacts of development or disturbance on said wetland. For the purposes of this section, wetlands shall mean all wetlands, as defined in either state or federal legislation (whichever is more restrictive) governing regulation of wetlands, of an area of more than 1/10 of an acre.

C.

With respect to the Conservation Zone along Six Mile Creek, no buildings, structures, or storage of construction equipment or machinery shall be located within 100 feet of the center line of the South Hill Recreation Way.

D.

The storage and land application of manure for agricultural purposes shall follow reasonable agricultural practices. Minimum conditions for storage of solid manure are a pad of concrete and a leachate collecting system or other system reasonably equivalent in its protection of the surrounding environment. The manure storage system should be designed to prevent animal waste from entering any stream or water body.

E.

The following apply to vegetation and landscaping:

(1)

Existing native vegetation shall be maintained to the extent practicable.

(2)

When landscaping is required by the Planning Board to enhance buffer areas, to replace existing vegetation, or otherwise, native plant materials should be used to the extent practicable.

F.

Scenic views, in particular those with viewing points from adjacent roads (and, in the case of the Conservation Zone along Six Mile Creek, from Six Mile Creek and the gorge) should be preserved using practices such as the following:

(1)

Avoid the siting of buildings or structures on ridgelines or hilltops. Buildings should be sited below the crest or ridgeline of hills to preserve a natural topographic and vegetative profile.

(2)

Retain existing vegetation to the extent practicable.

(3)

Retain existing stone walls, fences and other features in open meadows.

(4)

Regrading should blend in with the natural contours and undulations of the land.

(5)

Buildings proposed to be located within significant viewing areas should be screened and landscaped to minimize their intrusion on the character of the area. Building materials and color schemes should harmonize with their setting and be compatible with neighboring land uses.

(6)

Where possible, buildings and structures should be located on the edges of open fields and in wooded areas to minimize visual impacts.

(7)

Visibility of proposed buildings or structures from public trails within Conservation Zones should be considered so as to minimize visual intrusion on views from the public trails.

G.

Wildlife habitats and biological corridors should be preserved. Open space linkages should be encouraged to accomplish the above. Open space and conservation easement areas shall be designed with massing and linking as guiding principles. Open space and conservation areas both on and off site should be as contiguous as reasonably possible.

H.

Roads and driveways should follow existing contours to the extent practicable to minimize the impact of cuts and fills. The number of driveways accessing public streets shall be kept to a minimum. The appropriate use of common driveways is encouraged.

I.

The following shall apply to drainage:

(1)

The Planning Board may require the preparation and submittal of a stormwater management plan, to be approved by the Town Engineer, for proposed special approval uses and for proposed subdivisions.

(2)

Existing natural drainageways should be retained where possible.

(3)

In cases where a retention basin will be required, a landscaping plan shall be prepared and submitted for the Planning Board's approval. Basin landscaping materials that enhance wildlife habitat shall be used to the extent practicable.

J.

The following shall apply to lighting:

(1)

Street lighting shall be provided only where site-specific safety conditions warrant.

(2)

Where street lighting is required, its location, type, and intensity shall be subject to the Planning Board's review and recommendation to the Town Board for approval.

(3)

All approved street lighting must comply with the requirements of the Outdoor Lighting Law, Chapter 173 of the Town of Ithaca Code.

[Added 10-16-2006 by L.L. No. 12-2006]
K.

Whenever a subdivision of land is proposed in a Conservation Zone, the Planning Board may require that the nonbuildable areas listed above, including wetlands, slopes 25% or greater, and streams/watercourses and setbacks, be shown on the preliminary and final subdivision plats.

§ 270-23 Park and recreation setasides and fees in lieu thereof.

Because of the reduced density in the Conservation Zones, the requirements for maintaining open space, existing public trails, and the existing and expected additional

opportunities for passive recreational activities in the areas included in the Conservation Zones, it is anticipated that in Conservation Zones normally there will be no need for mandated parkland reservations or fees in lieu thereof pursuant to applicable Town Law and Town of Ithaca Code Chapter 234, Subdivision of Land, and this Chapter 270, Zoning, including § 234-22 of Chapter 234, Subdivision of Land, and any successor or related provisions.

§ 270-24 Site plan approval.

No building permit shall be issued for a building or structure within a Conservation Zone requiring a special permit unless the proposed building or structure is in accordance with a site plan approved pursuant to the provisions of Article XXIII.

CHAPTER 64 ENVIRONMENTAL PROTECTION OVERLAY REGULATIONS

[HISTORY: Adopted by the Town Board of the Town of New Castle 7-23-2002 by L.L. No. 5-2002. Amendments noted where applicable.]
GENERAL REFERENCES

Zoning — See Ch. 60.

Steep slope protection — See Ch. 108.

Subdivision of land — See Ch. 113.

Tree preservation — See Ch. 121.

Wetlands — See Ch. 137.

§ 64-1 Title.

This chapter shall be known and may be cited as the "Environmental Protection Overlay Regulations Local Law of the Town of New Castle."

§ 64-2 Background and findings.

A.

The rural character of the Town of New Castle is most evident in both the eastern and western ends of the Town, where much of the land remains undeveloped and forested. Many of the undeveloped tracts of land have physical characteristics such as wetlands, steep slopes, and poor drainage, that make the areas both difficult to develop and environmentally sensitive. The scenic roadways and ridgeline views within these areas offer immeasurable visual enjoyment. A trail network plan is being developed to promote recreational opportunities by linking many of these open space parcels with other existing public open spaces. The unique environmental attributes present at both ends of the Town contribute greatly to the community character that helps define New Castle.

B.

One of the Town's primary goals is to provide greater protection for the region's water resources. The overlay district to be established for the eastern end of Town is entirely located in the Croton and Kensico Watersheds, part of the New York City water supply system. The overlay district to be established for the western end of the Town contains the majority of watershed lands that surround the Indian Brook Reservoir - the principal drinking water source for the Village and Town of Ossining. In addition,

the western end of the Town drains into the Hudson River watershed, a major recreational and important fisheries resource for the region.

C.

The eastern and western ends of the Town contain a significant amount of wetland resources. Nine of the 18 New York State Department of Environmental Conservation designated wetlands within New Castle are located within the Environmental Protection Overlay Districts to be established for the eastern and western ends of the Town. Of particular significance is that the state wetlands at both ends of the Town form extensive linear corridors that are connected hydrologically via watercourses and often are flanked by steep slopes. A substantial percentage of the properties in both the eastern and western ends of the Town contain state and locally designated wetlands, as well as slopes in the 15 – 25% range. The unique combination of steep slopes and adjacent wetland systems contribute greatly to the environmental sensitivity of both ends of the Town. The Town Board finds that preservation, protection and conservation of these resources is a public policy of the Town.

§ 64-3 Purpose.

A.

In order to protect, maintain and enhance both the immediate and long-term health, safety and general welfare of the citizens of the Town of New Castle, the Environmental Protection Overlay Regulations impose special controls over land development located in areas that have been determined to be environmentally sensitive within the Town of New Castle. These regulations are designed to enhance the preservation and protection of wetlands located within the Town as invaluable natural resources that provide for flood protection, wildlife habitat, recreation and open space, erosion and pollution control, and recharging of ground water supplies by:

(1)

Increasing the size of protected wetland buffers, which play a critical role in maintaining water quality functions, providing important transitional habitat for wildlife, and filtering out non-point pollution sources. The proximity of wetlands to steep slopes makes protection of the buffer area even more critical due to the underlying soils that may exhibit severe soil erosion characteristics, increased runoff potential, and the need for greater undisturbed distances up-slope to support resident endemic wildlife populations.

(2)

Regulating small wetland areas below 1/10th of an acre that may play a critical role in providing the only available habitat for environmentally sensitive species that depend upon wetlands for part of their life cycle, especially vernal areas that tend to be very small, often isolated, and seasonal, wetland habitats.

(3)

Adopting a specific wetlands assessment model for performing wetlands functional analyses for all development projects that involve wetland impacts in order to protect and safeguard the values and functions of the wetland systems and provide consistency in review methods and analysis. The eastern and western ends of the Town consist of extensive linear wetland complexes that are connected hydrologically. Impacts from development of specific areas within these wetlands systems can create a cumulative impact on wetland functions. Applying a specific model will allow consistency of review and enable cross-referencing of cumulative impacts to wetland functions.

(4)

Restricting the number of wetland crossings to reduce the amount of disturbance directly within a wetland and/or watercourse, preserve the linear corridors and riparian habitat for wildlife movement, eliminate the creation of additional impervious surfaces, reduce the amount of fragmentation of riparian habitat, and reduce the amount of non-point pollution from entering into the wetland system.

(5)

Promoting more effective planning of lot layout and design, with consequent benefits to the protection of the Town's wetland resources, by requiring that wetland buffers be deducted in the computation of the required net dry area of a lot.

(6)

Requiring a 2:1 mitigation replacement ratio for wetland and wetland buffer impacts caused by development in order to maximize the protection and functions provided by the remaining wetland resources.

B.

The regulations contained herein are not intended to be substituted for other general zoning district provisions, but are to be superimposed over such district provisions as additional requirements to be met by the applicant prior to project approval. The intent of the Environmental Protection Overlay Regulations is to provide the Town with an

additional level of review and regulation that controls how land development permitted by the Town's primary zoning districts should occur in sensitive or unique environmental areas.

§ 64-4 Definitions.

Words or phrases used in this chapter shall be interpreted as defined below, and where ambiguity exists, words or phrases shall be interpreted so as to carry out the regulatory goals and purposes stated in § 64-2 and § 64-3 hereof. As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT
: A person requesting a land use or environmental permit or approval or a person to whom such a permit or approval has been given.

APPROVING AUTHORITY
: The board, individual or entity invested with authority to grant or deny a land use or environmental permit or approval under the applicable provisions of the Town Code relating to such land use or environmental permit or approval.

DEVELOPMENT
: Any construction or expansion of a building, structure or use, any change in use of a building, structure, driveway, road or any other changes in the use of land that require a land use or environmental permit or approval.

LAND USE OR ENVIRONMENTAL PERMIT OR APPROVAL
: A permit or approval issued pursuant to Chapter 60 (Zoning), Chapter 108 (Steep Slope Protection), Chapter 113 (Subdivision of Land), Chapter 121 (Tree Preservation) or Chapter 137 (Wetlands) of the Town Code.

MITIGATION PLAN
: A plan prepared by an applicant which shall specify mitigation measures that provide for replacement wetlands and wetlands buffers that recreate as nearly as possible the original wetlands and wetlands buffers in terms of type, function, geographic location and setting.

PERSON
: Any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including public agencies and municipal corporations.

TOWN
: The Town of New Castle, New York.

TOWN BOARD
: The Town Board of the Town of New Castle, New York.

WATERCOURSE
: Any natural or artificial, permanent or intermittent, public or private surface water body or surface water segment, such as ponds, lakes, reservoirs,

rivers, streams, brooks or waterways, that are contained within, flow through or border on the Town of New Castle.

WETLANDS:

A.

All areas that comprise hydric soils and/or are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation as defined by the Federal Interagency Committee for Wetlands Delineation 1989; Federal Manual for Identifying and Delineating Jurisdictional Wetlands; United States Army Corp. of Engineers; United States Environmental Protection Agency; United States Fish and Wildlife Service; and U.S.D.A. Soil Conservation Service, Washington, D.C.; Cooperative Technical Publication.

B.

Watercourses as defined in this chapter.

WETLANDS BUFFER

A specified area surrounding a wetlands that is intended to provide protection to the wetlands from human activity and other encroachment associated with development. The wetlands buffer shall be determined to be the area extending 150 feet horizontally away from and paralleling the wetlands boundary.

§ 64-5 Applicability of regulations.

A.

This chapter establishes procedures, requirements, standards and criteria that apply to the development of any lot or part thereof which is in whole or in part contained within the boundaries of an Environmental Protection Overlay District. The procedures, requirements, standards and criteria shall apply only to that portion of the subject property within the boundaries of such District.

B.

Compliance with these procedures, requirements, standards and criteria is required in addition to compliance with all zoning, land use and environmental regulations otherwise applicable to development within the underlying zoning districts, including but not limited to Chapter 60 (Zoning), Chapter 108 (Steep Slope Protection), Chapter

113 (Subdivision of Land), Chapter 121 (Tree Preservation), and Chapter 137 (Wetlands).

C.

The uses of land and structures which are allowed in the Environmental Protection Overlay Districts, and the bulk and parking requirements attendant thereto, are as provided by the applicable underlying zoning districts, subject to compliance with the procedures, requirements, standards and criteria contained within this chapter.

§ 64-6 Procedures; approving authority.

A.

Except as otherwise provided in this chapter, applications for any land use or environmental permit or approval for the development of any property wholly or partially within an Environmental Protection Overlay District shall be processed in accordance with the procedures established under the existing provisions of the Town Code governing such permit or approval.

B.

The approving authority for such environmental or land use permit or approval shall continue to be as provided under the existing provisions of the Town Code governing such permit or approval.

C.

In connection with the granting of a land use or environmental permit or approval for development in an Environmental Protection Overlay District, the approving authority may attach such conditions as are deemed necessary to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the policies and provisions of this chapter.

§ 64-7 Scope of controls.

A.

Wetlands. Notwithstanding any inconsistent provision of Chapters 60 or 137 of the Town Code, the following regulations shall apply to all proposed development within an Environmental Protection Overlay District:

(1)

All wetlands, regardless of size, shall be subject to regulation under the provisions of Chapter 137 of the Town Code and this chapter.

(2)

For purposes of applying the provisions of this chapter and Chapter 137 of the Town Code, the wetlands buffer shall be determined to be the area extending 150 feet horizontally away from and paralleling the wetlands boundary.

(3)

Development in a wetlands or wetlands buffer is to be avoided except where no reasonable alternative exists or where the applicant would otherwise suffer undue hardship if a permit is not issued. In the event such development is approved, the impacts thereof to the wetlands or wetlands buffer shall be minimized to the greatest extent practicable, and a mitigation plan as described in Subsection A(6) hereof shall be required.

(4)

All applications for wetland permits shall be accompanied by a wetland functional analysis prepared by a professional wetlands scientist or other qualified wetlands professional using the following wetland assessment model: "A Rapid Procedure for Assessing Wetland Functional Capacity" by D. Magee and G. Hollands, 1998.

(5)

Except for a single crossing of a watercourse or a wetland area required to provide primary access to a property, crossing of watercourses and/or wetlands is prohibited. Where undue hardship would result from strict compliance with the provisions of this section, the approving authority may permit one or more additional crossings based on the circumstances of a particular case and the relative functions and values of the affected wetlands. In the event any crossings of a wetland area are approved, the impacts thereof to the wetlands or wetlands buffer shall be minimized to the greatest extent practicable and a mitigation plan as described in Subsection A(6) hereof shall be required.

(6)

As a condition of the granting of any wetlands permit within an Environmental Protection Overlay District, the approving authority shall require that the applicant submit a mitigation plan pursuant to § 137-6 of the Town Code. As part of that mitigation plan, the applicant shall be required to create replacement wetlands or

restore, recreate or enhance existing wetlands or wetland buffers equal to twice the area of wetland or wetland buffer directly impacted. However, the approving authority, in its discretion, may modify this 2:1 mitigation replacement ratio based upon special circumstances of a particular case and the relative functions and values of the affected wetland as detailed in the wetlands functional analysis prepared by the applicant for the property, or otherwise where undue hardship would result from strict compliance with the provisions of this subsection.

(7)

For purposes of computing the net dry area for a lot in an Environmental Protection Overlay District pursuant to § 60-421.6 of the Town Code, no more than 10% of the minimum area requirement of a lot may be fulfilled by land which is under water, subject to flooding, classified as a floodway under Chapter 70 (Flood Damage Prevention) of the Town Code or classified as a wetland or wetland buffer under the provisions of this chapter or Chapter 137 of the Town Code.

(8)

In connection with the granting of subdivision, site plan, special permit or steep slope permit approval in an Environmental Protection Overlay District, the approving authority may require as a condition of approval that structures and activities on the property be set back more than 150 feet from the boundary of a wetland where the approving authority determines that such additional setback is required to accomplish the purposes set forth in § 64-3A(1) hereof, notwithstanding the fact that no wetlands permit is required for such structure or activity.

§ 64-8 Exemptions.

A.

The provisions of this chapter shall not apply to activities and structures lawfully undertaken or constructed on lots within an Environmental Protection Overlay District prior to the effective date of this chapter.

B.

The provisions of this chapter shall not apply to any development, alteration or improvement of property located within an Environmental Protection Overlay District for which final approval has been obtained and not expired and for which the approved work has not been completed prior to the effective date of this chapter.

C.

As used in this section, the term "final approval" shall mean:

(1)

In the case of an application for the subdivision of land not requiring further site plan approval, adoption by the approving authority of a resolution granting approval or conditional approval of a final plat.

(2)

In the case of an application for a site plan approval, adoption by the approving authority of a resolution granting approval or conditional approval.

(3)

In the case of an application for special permit approval, adoption by the approving authority of a resolution granting approval or conditional approval.

(4)

In those cases not covered by Subsections A or B above, the prior issuance of a building permit, driveway permit or other authorization for the commencement of the development, alteration or improvement of property; or for those developments, alterations or improvements for which the Town of New Castle does not require such permits, the actual commencement of the development, alteration or improvement of property.

§ 64-9 Penalties for offenses.

A.

Any person who undertakes any regulated activity in violation of this chapter or who otherwise violates, disobeys or disregards any provision of this chapter shall be liable for a civil penalty not to exceed $3,000 for each such violation. Each consecutive day of the violation shall be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Town Board upon due notice, and with right to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Town in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Town and any action commenced to recover the same may be settled and discontinued by the Town.

B.

The Town Board shall also have the power, following a hearing, to issue orders directing the cessation of any violation of this chapter and the satisfactory restoration under the Board's supervision of the affected area to its condition prior to the violation, insofar as possible, within a reasonable period of time as determined by the Town Board. The exercise of such power may be with or without the imposition of a civil penalty under Subsection A hereof.

C.

Any civil penalty, or order issued by the Town Board, shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules. Review of the determination shall be within a period of 30 days of the filing of said determination in the office of the Town Clerk.

D.

In addition to the above civil penalty, any person who violates any provision of this chapter will be guilty of a violation punishable by a fine not less than $500 nor more than $1,000 for the first offense. For a second and each subsequent offense, the violator shall be guilty of a violation punishable by a fine of not less than $1,000 nor more than $2,000 or a term of imprisonment not more than 15 days or both. Each action which constitutes a violation shall be a separate and distinct offense. Notwithstanding the imposition of any other sanction, any court having jurisdiction may order the restoration of any area that has been affected by a violation of this chapter, on such conditions as the court deems appropriate.

E.

The Town shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter and to compel the restoration of the area affected to its condition prior to the violation of the provisions of this chapter.

§ 64-10 Conflicts.

Where the provisions of this chapter are inconsistent or in conflict with the provisions of any other law of the Town of New Castle, the provisions of this chapter shall supersede those other requirements to the extent of such inconsistency or conflict.

§ 64-11 Severability.

If any provision of this chapter is held for any reason to be invalid, such determination shall not invalidate any other provision hereof.

ARTICLE VIII Overlay Zones (§ 118-42 — § 118-47)

§ 118-42 Purpose; enumeration; boundaries; interpretation of district regulations.

A.

Overlay districts are intended to preserve and protect the Town of New Hartford's natural resources from negative impacts associated with land use activities in order to protect the health, safety and general welfare of the public.

B.

Within the Town of New Hartford there are five overlay districts:

Stream Corridor Overlay District (SCOD).

Wetlands Overlay District (WOD). Aquifer Overlay District (AOD).

Steep Slope Overlay District (SSOD).

Natural Resources Protection District (NRPD).

C.

The boundaries of the overlay districts are shown on the New Hartford Zoning Map.

Editor's Note: The overlay district maps are included at the end of this chapter.
The overlay districts exist in concert with the underlying zoning districts shown on the Zoning Map.

D.

The regulations pertaining to the overlay zones are in addition to those of the underlying zoning districts.

§ 118-43 Overlay district descriptions.

A.

Stream Corridor Overlay District. This district applies to the one-hundred-year floodplain of Mud Creek and Sauquoit Creek and to areas within 50 feet of the centerline of perennial streams.

B.

Wetlands Overlay District. This district applies to all New York State Department of Environmental Conservation mapped and designated wetlands as well as a one-hundred-foot buffer around such wetland areas.

C.

Aquifer Overlay District. The district applies to those portions of the town underlain by identified aquifers and not serviced by public water and sewer.

D.

Steep Slope Overlay District. This district applies to all areas having slopes in excess of 15%.

E.

Natural Resource Protection Overlay District. This district applies to those areas of the town which contain unique or rare natural features or resources. Examples included are of unique physical features or unique wildlife habitats (see overlay district map).

Editor's Note: The overlay district maps are included at the end of this chapter.

§ 118-44 Review and approval of land use activities required; exceptions.

Within the overlay districts, no person shall undertake any land use activity, as hereinafter defined, except pursuant to the review and approval by the Planning Board in accordance with the requirements of this article and all other applicable regulations contained in this chapter.

A.

Definition of "land use activity." "Land use activity," for the purpose of this article, means any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of use of land or a structure. Land use activity shall include activities which require a building permit or certificate of use or occupancy, except as exempted below.

B.

General exceptions. All new land use activities within the town designated above shall require review and approval pursuant to the provisions hereof before being undertaken, except the following:

(1)

Ordinary repair or maintenance of interior alterations to existing structures, provided that there is no change of use.

(2)

Exterior alterations or additions to structures that are in existence on the date that this chapter is enacted which would not increase the square footage of the existing structure by more than 25% or 500 square feet, whichever is the smaller, provided that there is no change of use.

(3)

Structures under 100 square feet in size.

§ 118-45 Filing of application.

Application for review and approval under this article shall be filed according to the requirements and procedures set forth in Article V, Site Plan Review.

§ 118-46 Procedure for review and approval.

The procedure for review and approval under this article shall be as set forth in this article and Article V, Site Plan Review.

§ 118-47 Standards and guidelines.

A.

General standards and guidelines.

(1)

No land use activity or development will be allowed until it has been determined by the Planning Board that the development or activity will not significantly result in unsafe or unhealthful conditions, erosion or sedimentation, water pollution, degradation of fish and wildlife habitat or conflicts of use and will be protective of the natural resources of the town.

(2)

The Planning Board shall approve land use activities within overlay districts only where it finds that:

(a)

The project meets all applicable guidelines set forth in this chapter; and

(b)

The project will be located, designed, constructed and operated such that it will have no adverse impacts on the environment, public health and/or safety.

(3)

In making findings related to Subsection A(2)(b), the Planning Board shall adhere to the guidelines and regulations set forth in this article and in Articles V and VI, when applicable.

B.

Specific standards and guidelines. In addition to the standards and guidelines set forth in Articles V and VI, if applicable, the following standards and guidelines shall apply to each overlay district as detailed below.

(1)

All overlay zones; design principles and standards.

(a)

The layout of lots and roads shall relate to the form of the land rather than ignore it.

(b)

The natural character of the site should be maintained.

(c)

The siting and design of development shall blend with the resource conditions of the site and not, by its massing, be visually intrusive.

(2)

Stream Corridor Overlay Zone.

(a)

Prohibited activities; exceptions by waiver.

[1]

Within the overlay zone, the following are prohibited:

[a]

The installation of any septic tank, leach field or other on-site sewage disposal facility.

[b]

The storage or dumping of any waste material, junk, refuse or other debris.

[c]

The discharge or application of wastewater or any pollutant, fertilizers, pesticides and herbicides.

[d]

The relocation of perennial or intermittent watercourses, clear-cutting of timber or the removal of topsoil.

[e]

Within 35 feet of the mean high water mark no vegetation shall be removed. This area shall be maintained as an undisturbed natural buffer strip.

[2]

Provisions in Subsection B(2)(a)[1][d] and [e] above can be waived for construction of bridges, fords, stream crossings and associated roadways, or for impoundments, by approval of the Planning Board and by the concurrent approval of the New York State Department of Environmental Conservation or other responsible agency.

(b)

Application requirements; waiver.

[1]

In addition to those application requirements set forth in Article V, the applicant shall also submit:

[a]

A soil erosion, sedimentation and stormwater runoff control plan. Said plan shall conform with the requirements set forth in Article IX unless waived by the Planning Board. Control measures shall apply to all features of the site and shall be instituted during all phases of construction.

[b]

A reasonable timing schedule indicating the anticipated starting and completion date of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

[2]

The Planning Board may waive any of these requirements if it finds them inapplicable to the proposed project.

(c)

Design principles and standards.

[1]

The soil erosion, sedimentation and stormwater runoff control plan shall meet the standards set forth in Article IX of this chapter.

[2]

To the extent practicable, all parking, loading and service areas shall be constructed of permeable materials.

[3]

Wherever possible, existing vegetation shall be retained and protected.

[4]

When vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

(3)

Wetland Overlay Zone.

(a)

Prohibited activities; exceptions by waiver.

[1]

Within the overlay zone, the following are prohibited:

[a]

The installation of any septic tank, leach field or other on-site sewage disposal facility.

[b]

The storage or dumping of any waste material, junk, refuse or other debris.

[c]

The discharge or application of wastewater or any pollutant, fertilizers, pesticides and herbicides.

[d]

The relocation of perennial or intermittent watercourses, clear-cutting of timber or the removal of topsoil.

[2]

The provision in Subsection B(3)(a)[1][d] above can be waived for construction of bridges, fords, stream crossings and associated roadways, or for impoundments, by approval of the Planning Board and by the concurrent approval of the New York State Department of Environmental Conservation or other responsible agency.

(b)

Application requirements; waiver.

[1]

In addition to those application requirements set forth in Article V, the applicant shall also submit:

[a]

A soil erosion, sedimentation and stormwater runoff control plan. Said plan shall conform with all requirements set forth in Article IX. Control measures shall apply to all features of the site and shall be instituted during all phases of construction.

[b]

A reasonable timing schedule indicating the anticipated starting and completion date of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

[2]

The Planning Board may waive any of these requirements if it finds them inapplicable to the proposed project.

(c)

Design principles and standards.

[1]

The soil erosion, sedimentation and stormwater runoff control plan shall meet the standards set forth in Article IX of this chapter.

[2]

To the extent practicable, all parking, loading and service areas shall be constructed of permeable materials.

[3]

Wherever possible, existing vegetation shall be retained and protected.

[4]

When vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

(4)

Aquifer Overlay Zone.

(a)

Prohibited activities. Within the overlay zone, the following are prohibited when located on lots wholly or partially located within the Aquifer Overlay Zone:

[1]

Automobile/boats sales/service.

[2]

Gasoline station.

[3]

Shopping center/shopping mall.

[4]

Landfill.

[5]

Public utility.

[6]

Golf course.

[7]

Private golf club.

[8]

All uses listed as site plan or special permit uses in the Manufacturing District.

(b)

Design principles and standards.

[1]

The proposed project shall not degrade the quality of groundwater through the introduction of sewage waste, stormwater runoff, liquid chemicals, petroleum products, dissolved metal or other toxic or hazardous substances.

[2]

The proposed project shall not substantially alter the subsurface flow of groundwater to private and public water supply wells.

[3]

The proposed project shall not reduce to less than five feet the separation between the surface of the ground and the seasonal high water table. If, at the time of application, the existing separation between the surface of the ground and the seasonal high water table is less than five feet, the applicant shall have the burden to prove that the proposed project will not threaten or negatively impact the quality of the groundwater.

[4]

The proposed project shall not increase the long-term risk of groundwater contamination through the siting, establishment or expansion of uses which store, transport or utilize significant quantities of material which are potentially harmful to groundwater quality.

(5)

Steep Slope Overlay Zone.

(a)

Prohibited activities. Within the overlay zone, the following are prohibited:

[1]

Cut and fill practices on slopes in excess of 15% averaged vertically on the slope across the building site or footprint of the building.

(b)

Application requirements; waiver.

[1]

In addition to those application requirements set forth in Article V, the applicant shall also submit information on existing vegetation, the proposed cutting plan and proposed revegetation plan. Specifically, the applicant shall submit the following:

[a]

Identification of all trees on the subject lot having a diameter of eight inches or more at 4 1/2 feet above the ground.

[b]

Delineation of the area in which cutting or clearing is proposed to occur.

[c]

The intended practices for clearing trees and vegetation, including equipment to be used, method of removal and description of material to remain, if any.

[d]

Species list (names, numbers and sizes), planting schedule and drawn plan for the revegetation of disturbed areas.

[2]

The Planning Board may waive any of these requirements if it finds them inapplicable to the proposed project. The Planning Board may request the Natural Resources Conservation Service or other agencies to review the plan and make recommendations.

(c)

Design principles and standards.

[1]

Buildings should be sited to minimize their prominence. When practical, buildings should not be placed at the top of the slope or crest of the hill where they will be seen silhouetted against the skyline and will be visible at a distance. Rather, buildings should be placed down the slope where they will have the hillside for a background. In general, the height of the structures should not exceed the height of the surrounding

trees. Buildings should avoid being placed in the middle of open fields, where possible. Rather, buildings should be located in or adjacent to existing vegetation.

[2]

Vegetation/trees shall be preserved to the extent practicable and, when removed, shall be replaced with other vegetation/trees that are equally effective in retarding runoff, preventing erosion and preserving natural beauty.

[3]

All structures and uses, including accessory structures and parking/loading areas, shall be landscaped in such a way so that the visual impact of the structures is minimized. Vegetative screens of trees and/or shrubs, depending on existing vegetative character, shall be preserved or provided on frontal slopes.

[4]

Building materials, colors and textures designed to blend with the natural environment are preferred. Buildings, roofs, fences and walls are preferred to be of darker shades.

[5]

Solar collection devices, and receiving and transmitting devices, such as radio and television antennas and disks, shall be positioned so as to minimize their visual impact.

[6]

Outdoor lighting shall be kept to a minimum intensity needed for ground and entryway lighting. All outdoor lighting fixtures or lamps shall be shielded in such a manner that the edge of the lamp shield is below the light source, direct radiation (glare) from the light source is confined within the boundaries of the property and direct radiation is prevented from escaping toward the sky. (For the purposes of these provisions, light sources include any refractor, reflector, bulb, tube or globe.) High-intensity discharge lighting is prohibited.

(6)

Natural Resource Protection Overlay District Zone.

(a)

Prohibited activities; exceptions by waiver.

[1]

Within the overlay zone, the following are prohibited:

[a]

The installation of any septic tank, leach field or other on-site sewage disposal facility.

[b]

The storage or dumping of any waste material, junk, refuse or other debris.

[c]

The discharge or application of wastewater or any pollutant, fertilizers, pesticides and herbicides.

[d]

The relocation of perennial or intermittent watercourses, clear-cutting of timber or the removal of topsoil.

[2]

The provision in Subsection B(6)(a)[1][d] above can be waived for construction of bridges, fords, stream crossings and associated roadways, or for impoundments, by approval of the Planning Board and by the concurrent approval of the New York State Department of Environmental Conservation or other responsible agency.

(b)

Application requirements; waiver.

[1]

In addition to those application requirements set forth in Article V, the applicant shall also submit:

[a]

A comprehensive written record of all natural resources which have contributed to the designation of the area as an NRP Overlay Zone.

[b]

A soil erosion, sedimentation and stormwater runoff control plan. Said plan shall conform with the requirements set forth in Article IX unless waived by the Planning Board. Control measures shall apply to all features of the site and shall be instituted during all phases of construction.

[c]

A reasonable timing schedule indicating the anticipated starting and completion date of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

[2]

The Planning Board may waive any of these requirements if it finds them inapplicable to the proposed project.

(c)

Design principles and standards.

[1]

The soil erosion, sedimentation and stormwater runoff control plan shall meet the standards set forth in Article IX of the Local Law.

[2]

Wherever possible, existing vegetation shall be retained and protected.

[3]

When vegetation is removed, it shall be replaced with other vegetation that is native to the region, compatible with the climate and equally effective in retarding runoff, preventing erosion and preserving natural beauty.

ARTICLE IIA Environmental Protection Overlay Districts (EPOD) (§ 150-9.10 — § 150-9.20)

[Added 9-9-2004 by L.L. No. 2-2004]

§ 150-9.10 Purpose and intent.

The purpose of the Environmental Protection Overlay Districts (EPOD) established in this article is to provide special controls over land development located in sensitive environmental areas within the Town of Owasco. The Town's Comprehensive Plan identifies the use of overlay districts as a technique to protect and preserve unique environmental features based upon the following reasons:

A.

Prevention of an irreversible loss in natural resources.

B.

Enhancement of flood protection.

C.

Maintenance and/or improvement of surface water quality.

D.

Preservation of wildlife habitats.

E.

Aesthetics.

F.

Maintenance of soils and slope stability.

G.

Maintenance of open space.

H.

Control of adverse impacts on existing development.

§ 150-9.11 Wetlands.

Development proposed within freshwater wetlands is regulated by the New York State Department of Environmental Conservation (DEC) for state-regulated wetlands and/or the United States Army Corps of Engineers for any federally regulated wetlands. It is the obligation of each developer to determine if the project contains any state-designated and/or federally designated wetlands. If a project contains state-regulated wetlands, a DEC official must stake the wetland and buffer areas, as well as issue a permit for any development impacting such areas. If a project contains a federally designated wetland, a similar process must be followed, and a permit issued by the United States Army Corps of Engineers.

§ 150-9.12 Regulations to be superimposed over other district regulations.

The regulations contained in each EPOD are not intended to be substituted for the zoning regulations of the underlying primary zoning districts, but are additional requirements that shall be met by the applicant or developer prior to project approval. These additional requirements shall be based on sound management practices and must be reasonably related to the protection of the natural resource in question. The purpose of the overlay districts is to provide the Town with an additional level of review and regulation that controls how land development permitted by the Town's primary zoning districts should occur in or near sensitive or unique environmental areas. Conformance with these provisions may require plans to be modified and/or special conditions placed upon construction practices.

§ 150-9.13 Establishment of districts.

In order to implement the purpose and intent of § 150-9.10 of this article, the Town of Owasco has been divided into the following EPODs:

A.

EPOD 1, Stream Corridor, Lakeshore and Floodplain Protection District.

B.

EPOD 2, Woodlot Protection District.

C.

EPOD 3, Steep Slope Protection District.

§ 150-9.14 Official maps.

The locations and boundaries of EPODs 1, 2 and 3 are delineated on official maps on file in the Town Building Department. Collectively these maps are known as the "Official Town of Owasco EPOD Maps." The Official Town of Owasco EPOD Maps shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the various overlay districts. The Town has the authority to amend or add to these official EPOD Maps as necessary. Field investigations and/or other environmental analysis may be required in order to determine whether a specific parcel of land is included within one or more of the EPODs and to locate the boundary on the property. Temporary flagging of boundaries in the field may be required during the review of applications, and permanent staking may be required as a condition of permit approval.

§ 150-9.15 Interpretation of district boundaries and appeals.

A.

The Zoning Enforcement Officer shall be responsible for interpreting Environmental Protection Overlay District boundaries based on an interpretation of the Town of Owasco EPOD Maps, as well as the use of other criteria set forth in this article for determining such district boundaries. The Zoning Enforcement Officer may request the assistance of the Town Engineer, the developer's engineer, Town Planning Board, or other appropriate department or agency in making such a determination.

B.

Appeals to the Zoning Board of Appeals from Zoning Enforcement Officer determinations of district boundaries shall be handled in the same manner as appeals from other Zoning Enforcement Officer determinations under this chapter.

§ 150-9.16 Permit application and review requirements.

A.

General applicability. An EPOD development permit shall be required subject to the provisions of this section and prior to the commencement of any regulated activity or the issuance of any building permit for regulated development in a designated EPOD District.

B.

Exempt activities. The following activities are exempt from the permit procedures of this section:

(1)

Lawn care and maintenance.

(2)

Noncommercial gardening activities.

(3)

Tree and shrub care and maintenance.

(4)

Select cutting and removal of trees in woodlots, that are not located on steep slopes, for the personal use of the property owner and not for commercial purposes.

(5)

Removal of dead or deteriorating vegetation.

(6)

Removal of structures.

(7)

Maintenance and repair of existing structures and buildings.

(8)

Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.

(9)

Emergency repair and maintenance of faulty or deteriorating sewage facilities or utility lines.

(10)

Reconstruction of structures damaged by a natural disaster, provided that the new construction is of the same size and at the same location.

(11)

Customary agricultural activities, except for new or expanded structures.

(12)

Public health activities, orders and regulations of the New York State Department of Health, Cayuga County Department of Health or other related agency.

(13)

Installing utility service from an existing distribution facility to a structure, where no major modifications or construction is necessary.

(14)

Drilling a water well to serve a single residence.

(15)

Any activities associated with normal, outdoor recreational activity

(16)

Activities subject to the review jurisdiction of the New York State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment under the provisions of Article 7 of the New York State Public Service Law.

(17)

An actual or ongoing emergency activity which is immediately necessary for the protection of life, property or natural resources.

C.

Approvals required. EPOD development permits may be authorized by the Planning Board concurrently with site plan approvals for which the Planning Board has jurisdiction.

D.

Application procedures.

(1)

Applications for EPOD development permits shall be made in writing and filed with the Zoning Enforcement Officer on application forms available in the Town Code Enforcement office. Application packets provided to applicants shall contain an application form and instructions which shall include submittal requirements, fees, procedures and approval criteria. Application shall be made by the property owner or his/her agent and shall be accompanied by the materials and fees specified. If the Zoning Enforcement Officer determines the application to be complete, the application shall be submitted to the Planning Board at its next duly called meeting following the date of the submission of the complete application. If the application is deemed to be incomplete, the Zoning Enforcement Officer shall return the application to the applicant and identify the deficiencies of the application.

(2)

The applicant shall submit a scaled (one inch equals 50 feet or one inch equals 100 feet) site plan, prepared and certified by a licensed engineer or land surveyor, that contains the following minimum information:

(a)

A location plan and boundary line survey of the property.

(b)

The location of all Environmental Protection Overlay District boundaries, designated Town open space, Town, county or state parks.

(c)

The location of all existing and proposed buildings, structures, utility lines, sewers, water and storm drains on the property or within 200 feet of the proposed work site.

(d)

The location of all existing and proposed impervious surfaces, such as driveways, sidewalks, etc., on the property or within 200 feet of the proposed work site.

(e)

Existing and proposed contour levels at one-foot intervals for the property, unless such property is located within a steep slope protection district whereby contour levels may be shown at two-foot intervals.

(f)

The location and types of all existing and proposed vegetation and shrub masses, as well as all trees with a diameter of eight inches or more within and/or adjacent to the property.

(g)

The location of all existing and proposed drainage patterns, drainageways, swales, etc., within and/or adjacent to the property.

E.

Fees. The Town Board may, from time to time, by resolution, establish and amend the fees for development permits. The development permit fees shall be in addition to any other fees required.

F.

Review procedures.

(1)

Whenever possible, the review of activities within EPODs shall be performed concurrently with other required approvals.

(2)

The Planning Board may refer the application to other appropriate boards and agencies for their review and recommendations. Such boards or agencies shall have 30 days from the date of their receipt of a completed application in which to report their recommendations. Failure for any board or agency to respond within this time frame shall not be cause for the Planning Board to postpone processing such application or action thereon. The time line for Planning Board review shall be consistent with the review time line prescribed for subdivision review if subdivision approval is required for the subject property. If subdivision approval is not required, the time line for Planning Board approval shall be consistent with the review time line prescribed for site plan review.

(3)

The Planning Board shall have the authority to approve, approve with conditions or deny an EPOD development permit for regulated activities subject to the standards, criteria, and other factors contained in this article.

G.

Public notice.

(1)

Public hearings and public notification thereof for a development permit shall be required only when associated with another activity that requires a public hearing.

(2)

Wherever possible, public hearings for development permits shall be scheduled concurrent with public hearings required under site plan review, subdivision review or any actions required to comply with the State Environmental Quality Review regulations for the proposed action.

H.

Evaluation criteria.

(1)

The following criteria shall be used to determine whether a regulated activity should be permitted, not permitted, or permitted with conditions:

(a)

The activity is compatible with the preservation, protection and conservation of the environmentally sensitive area.

(b)

The activity will result in no more than nominal degradation to or loss of any part of the environmentally sensitive area.

(c)

The activity is compatible with the public health and welfare.

(d)

The activity conforms with additional standards and criteria of the individual EPOD, as noted elsewhere in this article.

(2)

For proposed activities that do not comply with the above criteria, the applicant may propose a mitigation plan to offset, in whole or in part, the diminishment of the benefits derived from the environmentally sensitive area that would occur if the development permit were to be approved. The Planning Board shall evaluate the proposed mitigation plan to determine if the benefits that would be derived from the project exceed the net loss in benefits derived from the environmentally sensitive area.

I.

Development conditions.

(1)

Any development permit approved in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached, as are deemed necessary, to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the purpose and intent and the specific provisions of this article. Every development permit issued pursuant to this article shall contain the following conditions:

(a)

The Zoning Enforcement Officer and/or the Town Engineer and/or other appropriate Town official shall have the right to inspect the project from time to time.

(b)

The development permit shall expire six months after the date of issuance if the approved action has not been initiated.

(2)

For projects requiring site plan or subdivision approval, the EPOD shall be shown on the final site plan map and/or final plat respectively, along with a statement that any future activity in the EPOD shall require development permits.

(3)

The Town Planning Board may incorporate permit conditions of other agencies into local approval conditions and/or supplement these with local conditions.

(4)

The Town Planning Board may require restrictive covenants to the Town over that portion of the parcel within an EPOD or EPODs. These restrictive covenants may restrict or prohibit the following activities within the EPOD area:

(a)

Construction, including, but not limited to, any structure, barns and sheds for animals and livestock, fences, satellite dishes, signs and swimming pools.

(b)

The pasturing or housing of animals and livestock.

(c)

Clear-cutting of trees or removal of vegetation or other ground cover.

(d)

The location of septic or other sewage disposal systems.

(e)

The use or deposit of fertilizers, pesticides, herbicides, toxic wastes or other hazardous substances.

(f)

The filling, changing or disturbing of natural watercourses and wetlands.

(g)

The construction, use or location of roads, driveways, bridges, or other structures for the purpose of crossing EPOD areas.

(h)

The use of motorized vehicles, including, but not limited to, all-terrain vehicles, motorcycles, snowmobiles, motorbikes, etc.

(i)

Any change to the topography of the land.

(j)

The location of stormwater detention and retention drainage facilities.

(k)

Other activities, uses or construction which, in the opinion of the Planning Board, threaten the existing environmental or ecological systems in the area.

(5)

The Planning Board may require engineering, design and construction plans to alleviate or mitigate adverse impacts that may be created by the proposed development.

(6)

The use of cluster development, in accord with § 278 of the New York State Town Law, in conjunction with these regulations shall not be permitted where, in the opinion of the Town Planning Board, the concentration of individual sewage disposal systems may impair groundwater or surface waters.

J.

Notice of decision.

(1)

All decisions shall require the Planning Board to make written findings consistent with the above.

(2)

Where applicable, notice of decisions shall be the same as required for subdivision approval, if required, or for site plan approval if subdivision approval is not required.

K.

Requirements for letter of credit or certified check.

(1)

Following approval of a development permit and prior to the issuance of any building or other permit, the applicant shall furnish the Town with an irrevocable letter of credit

or certified check in an amount determined by the Planning Board to be sufficient to ensure compliance with the provisions of this article and any condition or conditions, including remediation plans that may have been imposed on the activity or project at the time the development permit was issued.

(2)

The irrevocable letter of credit or certified check shall continue in full force and effect until such time as the Zoning Enforcement Officer has inspected the completed work and certified that the activity or project has complied with the requirements of this article and the conditions, if any, set forth in the development permit, whereupon the letter of credit shall be released or the certified check returned to the permittee.

(3)

Should the Zoning Enforcement Officer determine at the time of inspection of the completed work or project that the development permit holder did not comply with some or all of the requirements of this article and/or the conditions, if any, set forth in the development permit, the Planning Board may deduct an amount from the letter of credit or certified check as the Planning Board may determine appropriate as penalty for noncompliance.

(4)

The requirement for a letter of credit or similar financial guarantee may be waived by the Town Board upon recommendation of the Town Planning Board.

L.

Suspension or revocation of permits. The Zoning Enforcement Officer may temporarily suspend a development permit if the Zoning Enforcement Officer determines that the permittee is not complying with any or all terms or conditions of such development permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner approved until such time as the Town Planning Board reviews such temporary suspension. The Planning Board shall review such temporary suspension at the next duly called Planning Board meeting following the date of the temporary suspension of the development permit, but in no case shall the temporary suspension by the Zoning Enforcement Officer exceed 30 calendar days. Upon review, if the Town Planning Board determines that the permittee has failed to comply with any or all terms or conditions of such development permit, has exceeded the authority granted in the approval or has failed to undertake the project in the manner approved, the Town Planning Board may revoke the development permit after providing the permittee written notice five days in advance. The Town Planning Board

shall notify the permittee in writing of the findings of the Town Planning Board and the reasons for revoking the development permit.

§ 150-9.17 Penalties for offenses.

Failure to obtain an EPOD permit shall be considered a zoning violation and shall be subject to penalties as specified elsewhere in this chapter. The violator may be required to restore the resource to its original condition at his own expense.

§ 150-9.18 EPOD 1 Stream Corridor, Lakeshore and Floodplain Protection District.

A.

Purpose and intent. The purpose of the Stream Corridor, Lakeshore and Floodplain Protection District is to provide special controls to guide land development adjacent to waterway corridors in the Town of Owasco. The district encourages development of land so as to protect and preserve the waterways, to prevent soil erosion and sedimentation due to removal of vegetation, dredging, filling, damming or channelization, and to prevent activities which degrade water quality or fish and wildlife habitat.

B.

Delineation of district boundaries. The boundaries of the Stream Corridor, Lakeshore and Floodplain Protection District shall be based on the Town of Owasco EPOD Maps. The Stream Corridor, Lakeshore and Floodplain Protection District are as follows:

(1)

If along a stream corridor, the Protection District shall include all those areas within 50 feet of waterways measured horizontally from the center line of the waterway except that along Dutch Hollow Brook the Protection District shall include all those areas within 65 feet of Dutch Hollow Brook measured horizontally from the center line of the waterway, or if in a special flood hazard district, the Protection District shall include all those areas within 50 feet of the landward boundary of the special flood hazard, whichever is greater.

(2)

If along the Owasco Lake shoreline, the Protection District shall include all those areas within 50 feet, measured horizontally from the low water mark of 714.00 feet above sea level using United States Geological Survey datum.

[Amended 9-14-2006 by L.L. No. 3-2006]

C.

Activities regulated.

(1)

Clearing or filling, dredging, excavating, depositing of natural or man-made materials or constructing on any land area which lies within the Stream Corridor, Lakeshore and Floodplain Protection District boundaries.

(2)

The construction or placement of septic tank or septic leach field.

(3)

Any activity that would alter the natural flow patterns of a watercourse.

(4)

Any activity that would result in soil erosion into or sedimentation within a watercourse and/or Owasco Lake.

(5)

Additional exempt activities.

(a)

Construction of ponds.

(b)

Thinning of trees and shrubs, provided that at least 60% of the flora remains.

D.

Standards for permit review.

(1)

General regulations. Any applicant for a permit to undertake a regulated activity within a Stream Corridor, Lakeshore or Floodplain Protection District shall be required to

adequately demonstrate that the proposed activity shall in no way, at present or at any time in the future, adversely affect the following:

(a)

Water quality.

(b)

Watercourse flood-carrying capacities.

(c)

Rate of sedimentation.

(d)

Rate or velocity of surface water runoff.

(e)

Natural characteristics of the watercourse and floodplain.

(f)

Soil stability.

(g)

Fish and wildlife habitat.

(2)

Specific standards. No permit to undertake a regulated activity within the district shall be issued unless it is determined that the proposed project complies with the following additional standards:

(a)

The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands; change in water temperature due to removal of shade vegetation; or nonpoint sources of pollution due to stormwater runoff, septic systems or any other activity on the site.

(b)

The project shall provide adequate measures to protect surface and ground waters from direct or indirect pollution and from overuse.

(c)

Fill shall not encroach on natural watercourses, constructed channels or floodway areas.

(d)

Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation.

(e)

In addition, the permittee shall comply with all applicable provisions of the Town of Owasco Public Water Safety Local Law, commonly referred to as the "Owasco Watershed Protection Regulations" and with all provisions of Chapter 78, Flood Damage Prevention, of the Code of the Town Owasco.

E.

Additional procedures and conditions.

(1)

A vegetative buffer of 50 feet shall be retained from the center line of the watercourse or from the landward boundary of a special hazard floodplain, whichever is greater, to trap sediments and to protect adjacent fish and wildlife habitats. Wherever possible, the buffer shall retain natural vegetation.

(2)

Site preparation, including the stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated within 14 days of disturbance. During the interim period, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.

(3)

All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.

(4)

New structures, except for fences, bridges and fishing access parking areas, shall have the approval of the Planning Board if within 50 feet of the stream or brook measured horizontally from the center line of the watercourse or within 50 feet of Owasco Lake measured horizontally from the 714.00 feet above sea level using United States Geological Survey datum.

[Amended 9-14-2006 by L.L. No. 3-2006]
(5)

New structures shall be designed and constructed in accordance with erosion control standards and stormwater control standards contained in the Best Management Practices for Storm Water Management Guidelines for New Development, as found in Chapter 6 of the New York State Department of Environmental Conservation's Stream Corridor Management Manual.

§ 150-9.19 EPOD 2 Woodlot Protection District.

A.

Purpose and intent. The purpose of the Woodlot Protection District is to preserve and protect woodland and measurable stands of trees within the Town of Owasco by regulating development in areas that contain woodlands.

B.

Delineation of district boundaries. The boundaries of the Woodlot Protection District shall be delineated on the Town of Owasco EPOD maps and shall include all areas in the Town of Owasco that encompass five or more contiguous acres of woodlands and all woodlot areas within the Lakeshore Zoning District regardless of size. Areas that involve active orchards shall not be included in the Woodlot Protection District.

C.

Activities regulated.

(1)

Clearing of or constructing on any land area within the Woodlot Protection District, except for those activities specifically exempted from regulation as enumerated in § 150-9.16 of this article.

(2)

Thinning or harvesting of trees for commercial purposes.

D.

General standards for permit review. Any applicant for a permit to undertake a regulated activity within a Woodlot Protection District shall be required to adequately demonstrate that the proposed activity shall in no way, at present or at any time in the future, adversely affect the following:

(1)

Soil stability.

(2)

Velocity of surface water runoff.

(3)

Existing drainage systems.

(4)

Natural characteristics of a watercourse or wetland.

(5)

Significant wildlife habitats.

(6)

Steep slope areas.

(7)

Water quality.

(8)

Noise levels on adjacent areas.

E.

Specific standards. No permit to undertake a regulated activity within the Woodlot Protection District shall be issued unless it is determined that the proposed project complies with the following standards:

(1)

Site development or grading. In planning site development plans, the applicant shall preserve as many of the original trees and other site flora, including understory, brush and shrubs, as possible. The development permitting review process will involve the following:

(a)

The applicant shall provide a tree preservation plan at a scale of 1:50 which shows the following:

[1]

Woodlot Preservation District boundaries.

[2]

Limits of proposed clearing for rights-of-way, utility easements, building sites, access roads and drainage areas.

[3]

Proposed grade changes in or around wooded areas.

[4]

Method for providing positive drainage in any proposed tree wells or areas where drainage patterns will be modified.

(b)

The applicant shall then clear a survey path generally along the proposed rights-of-way and stake reference points such as road stations or lot numbers.

(c)

The applicant shall then schedule a site walk with the Planning Board and the applicant's site engineer for the purpose of determining areas where tree preservation methods are to be intensified or where stands of trees will be left untouched.

(d)

Once this has been done, the applicant's site engineer shall then calculate to the satisfaction of the Planning Board that no more than 25% of the original Woodland Protection District will be disturbed. Grade changes of plus or minus 18 inches will constitute disturbance.

(e)

If the applicant's site engineer finds it impossible to retain at least 75% of the original Woodland Protection District, the applicant shall adequately demonstrate mitigation of the same through reforesting as follows:

[1]

A determination shall be made by the Town Planning Board as to the species, size, quantity and dollar amount that said replanting shall entail.

[2]

This determination shall be mutually agreed upon by the developer, the developer's consultant and the Town's landscape consultant.

[3]

The agreed-upon dollar amount for mitigation shall be included by the developer in a letter of credit or certified check.

(f)

Prior to commencement of earthmoving operations, the developer and site contractor shall demonstrate compliance with the approved limits of disturbance by delineation with snow fencing, envirofence or other acceptable means of delineation of these boundaries.

(g)

Erosion and siltation controls shall be consistent with the most recent edition of the New York State Guidelines for Urban Erosion and Sediment Control.

(h)

Site preparation, including the stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated within 14 days of disturbance. During the interim period, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.

(i)

Once all earthmoving, utility and road construction has been done, the developer shall have the scheduled trees installed in locations acceptable to both the Planning Board and developer.

(2)

Tree harvesting.

(a)

The provisions for tree harvesting shall apply only to the Lakeshore Zoning District. Any activity within the Lakeshore Zoning District involving the thinning of trees or harvest of timber for commercial use shall be subject to a development permit. Applications for this type of activity shall be submitted by the applicant to the New York State Department of Environmental Conservation and Cayuga County Soils and Water Conservation Service for review and advisory opinions. Applicants for such activity must submit a management plan prepared by a qualified consulting forester or a forest management recommendation prepared by a NYSDEC forester, which includes the following information:

[1]

A site plan showing limits of the proposed work and existing size of the woodlot(s);

[2]

The species and sizes of trees present and the basal area of the site before and after the proposed harvesting activity;

[3]

The system of harvesting and access roads;

[4]

Definite time frame for the activity;

[5]

Proposed erosion and sedimentation control measures, including revegetation and timing, design in accordance with "Woodlots of the Northeast, Erosion and Sediment Control Guidelines," prepared by the U.S. Department of Agriculture, 1977.

(b)

The posting of a letter of credit or certified check in an amount sufficient to pay for the completion of remedial measures, if any, in the event the applicant fails to perform and complete such remedial measures is required.

(c)

The following specific practices shall be used to minimize soil erosion and sedimentation during tree harvesting activities:

[1]

Stream/swale crossings shall be kept to a minimum.

[2]

Stream banks shall be protected by controlling skidding and felling close to the stream.

[3]

All roads and skid trails shall be reviewed for appropriate location, design and construction.

[4]

Landing locations that avoid erosion problems and minimize impact to understory shall be selected.

[5]

Applications for Woodlot Protection District development permits shall comply with all applicable New York State and local fire laws.

[6]

Whenever possible, landings shall be kept out of sight. Landings and access roads shall be restored after use.

(3)

Tree preservation within subdivisions.

(a)

The subdivider shall submit a tree preservation plan prepared by a consulting forester or NYSDEC forester that identifies which trees are to be removed and which are to be preserved prior to the submission of an application for preliminary subdivision approval.

(b)

The subdivider shall permanently tag or affix identification on each tree designated for preservation in the tree preservation plan submitted.

(c)

The subdivider shall be required to preserve all trees identified for preservation in the tree preservation plan unless the Town Planning Board has specifically authorized their removal.

(d)

The subdivider shall install protective barriers around each tree or groups of trees and adjacent understory not specifically authorized for removal prior to the start of any construction or may, with the approval of the Board, erect protective barriers around sections in which several trees are located. The barriers shall remain in place and be kept in good repair until all construction has been completed and removal of the barriers has been authorized by the Zoning Enforcement Officer. Vehicles, equipment and materials storage shall not be permitted within the area protected by the barriers.

(e)

Trees which have been designated for preservation, including supplemental trees, shall be deemed to be required site improvements, and their preservation and replacement, as necessary, including the replacement of trees damaged during construction, shall remain the responsibility of the subdivider for a period of one year after the completion of the subdivision. That portion of the performance bond

calculated to be the cost of replacing trees to be preserved or supplemental trees which may be damaged during construction shall be retained by the Town for at least one year after all improvements in the subdivision have been completed. Prior to release of the bond, the trees shall be inspected to ensure that they have not been damaged and that future growth will be characteristic of the species.

(f)

The requirements for tree preservation shall not apply to lots for existing houses in a new subdivision, provided that such lots and houses will not be altered to accommodate development of the subdivision. However, this provision shall not relieve the subdivider of the responsibility of including in the tree preservation plan for the subdivision any tree eight inches or more in caliper located within 50 feet of a new lot or required subdivision improvement. When lots for existing houses have been excluded from the tree preservation plan, the landscape architect shall set forth on the plan which lots have been excluded and shall certify that the plan does include all trees eight inches or more in caliper located within 50 feet of a new lot or other subdivision improvement and that surrounding development will not substantially alter the environment of the trees on such lot.

(g)

In cases where the number of trees required to satisfy the penalty cannot be accommodated on the site of the violation, the penalty shall include planting of trees on available public spaces and/or payment of $800 per tree to the Town tree fund.

(h)

Erosion and siltation controls shall be consistent with the most recent edition of the New York State Guidelines for Urban Erosion and Sediment Control.

(i)

Site preparation, including the stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated within 14 days of disturbance. During the interim period, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.

§ 150-9.20 EPOD 3 Steep Slope Protection District.

A.

Purpose. The purpose of the Steep Slope Protection District is to minimize the impacts of development activities on steep slopes in the Town of Owasco by regulating activities in such areas and by requiring review and permit approval prior to project commencement. The development impacts include soil erosion and sedimentation, destruction of vegetation, increased stormwater runoff rates and landslides. The regulations contained in this district are designed to minimize the disturbance or removal of existing vegetation, prevent increased erosion and stormwater runoff, maintain established drainage systems, locate development where it is less likely to cause future slope failures and to retain, as much as possible, the natural character of these areas.

B.

Delineation of district boundaries. The boundaries of the Steep Slope Protection District shall be delineated on the Town of Owasco Official Maps and shall include all areas of fifteen-percent or greater slopes, and all areas within 50 feet of the toe or top of such slopes. The Planning Board may consult other information, including but not limited to the Soil Survey Map of Cayuga County, topographic maps produced by the United State Geological Survey, filed surveys and other appropriate sources, in order to more accurately locate and delineate Steep Slope Protection District boundaries.

C.

Regulated activities.

(1)

Clearing of or constructing on any land area within the Steep Slope Protection District, including construction or clearing activities related to providing equipment access on the site, except for those activities exempted from regulations as enumerated in § 150-9.16 of the article.

(2)

The construction or placement of any sewage disposal system, including individual sewage disposal systems septic tanks, septic drainage or leach fields.

(3)

Filling, cutting or excavation operations.

(4)

Discharge of stormwater and/or construction and placement of stormwater runoff systems.

D.

Standards for permit review.

(1)

General regulations. No permit to undertake a regulated activity within a Steep Slope Protection District in the Town of Owasco shall be issued unless the project complies with the following additional standards:

(a)

The stable angle of repose of the soil classes found on the site shall be used to determine the proper placement of structures and other development-related facilities within the plateau area. Site-specific calculations of the stable angle of repose for the site shall be determined by a professional soil scientist or engineer using the soil classes and nomenclature contained in the Soil Survey of Cayuga County and obtained for the site by borings, as well as high-intensity soil survey data provided by the applicant.

(b)

The stability of soils will be maintained or increased to adequately support any construction thereon or to support any landscaping, agricultural or similar activities. This shall be documented by soil bearing data provided by a qualified testing laboratory or engineer and paid for by the developer.

(c)

No proposed activity will cause erosion or slipping of soil or cause sedimentation to be discharged into any stream, brook, tributary, wetlands or into Owasco Lake.

(d)

Plant life located on the slopes outside the minimum area that need to be disturbed for carrying on approved activities shall not be destroyed. Plants or other acceptable ground cover shall be reestablished in disturbed areas immediately upon completion of development activity so as to prevent any of the harmful effects set forth above to maintain the natural scenic characteristics of any steep slope.

(e)

Access down steep slopes shall be provided with ramp slopes no greater than one to six and side slopes not greater than one to three if not terraced or otherwise structurally stabilized. Disturbed nonroadway areas shall be stabilized and adequately drained.

(f)

There is no reasonable alternative for the proposed regulated activity on that portion of the site not containing steep slopes.

(2)

Specific standards. Construction of erosion protection structures shall be permitted according to the following standards:

(a)

All erosion protection structures shall be designed and constructed according to generally accepted engineering principles found in publications entitled "Stormwater Management Guidelines for New Development" and "Best Management Practices for Stormwater Runoff Management" as found in Chapter 6 of the New York State Department of Environmental Conservation Stream Corridor Management Manual.

(b)

A long-term maintenance program shall be included in any application for construction, modification or restoration of an erosion protection structure until ground cover has been reestablished. Such program shall include specifications for normal maintenance of degradable materials and the periodic removal of materials.

(c)

The construction, modification or restoration of erosion protection structures shall not be likely to cause any measurable increase in erosion at the development site or other locations and prevent adverse effects to natural protective features, existing erosion protection structures and natural resources such as significant fish and wildlife habitats.

(d)

Temporary erosion controls, i.e., straw bales, siltation fences, hydro seeding and mulching, shall be provided for all disturbed areas, shall be installed before work begins and shall be maintained until restoration is complete. The site plan shall identify the locations and methods of erosion/siltation controls.

(e)

A construction and erosion control schedule should be required from the applicant as part of the permit application. All disturbed steep slope areas shall be regraded and stabilized as soon as possible, but in less than 14 days.

(f)

Drainage of stormwater shall not cause erosion or siltation, contribute to slope failures, pollute groundwater or cause damage to, or flooding of, property. Drainage systems shall be designed and located to ensure slope stability.

(g)

Any grading, excavating or other soil disturbance conducted on a steep slope shall not direct surface water runoff over the receding (downhill) edge during construction.

(h)

Removal of existing mature tress from steep slope areas will be permitted only where absolutely necessary to allow the subject construction. All trees larger than three inches in diameter to be removed shall be shown on the site plan.

(3)

Prior to receiving any approval or imposing any conditions of approval, the applicant for a development permit shall have the burden of demonstrating that the proposed regulated activity will be conducted in accordance with the standards and requirements of this section, as well as any additional requirements which may be imposed by the Town Planning Board.

ARTICLE IX Floodplain Management FPM District (§ 205-50 — § 205-59)

§ 205-50 Purpose.

The purpose of the Floodplain Management District is to minimize the potential loss of life and property during periods of flooding by regulating the alteration and/or the development of those areas within the Floodplain Management District as defined on the Flood Insurance Rate Map and in the Flood Insurance Study for the Town of Union. In promoting the general purpose of these regulations, the specific purpose of this article is to:

A.

Control floodplain uses, such as clean fill (including rubble), storage of materials, structures, filling, grading, paving, excavation, drilling, mining or dredging and any other works which, acting alone or in combination with other existing or future uses, will cause damaging flood heights and velocities by obstructing flows and reducing floodwater storage.

B.

Protect human life and health.

C.

Minimize public and private property damages.

D.

Minimize surface and groundwater pollution which may effect human, animal or plant life.

§ 205-51 Definitions.

As used in this article, the following terms shall have the meanings indicated:

FLOODPLAIN MANAGEMENT FPM DISTRICT

All that land adjacent to a body of water which has been or may be hereafter covered by a flood having a one-percent chance of being equaled or exceeded in any given year. The Floodplain Management District includes a floodway, a flood-fringe and a flood hazard area. The outer boundaries of the area are coterminous with those of the one-hundred-year flood, also called

the "base flood," as delineated by the United States Department of Housing and Urban Development. Federal Insurance Administration. on the Flood Insurance Rate Map (effective date November 21, 1980). The Floodplain Management District includes all A Zones delineated on the Flood Insurance Rate Map for the Town of Union.

§ 205-52 Overlay concept.

The Floodplain Management District shall be deemed an overlay on any zoning district now or hereafter applicable to any lot. All development shall be in compliance with the provisions of this article and any other applicable article of this chapter.

§ 205-53 Warning and disclaimer of liability.

The degree of flood protection required by this article is reasonable for regulatory purposes and is based on scientific and engineering methods of study. Larger floods may occur on occasions, or flood heights may be increased by man-made or natural causes, such as ice jams and culverts restricted by debris. This article does not imply that areas outside the Floodplain Management District or land uses permitted within such district will be free from flooding or flood damages. This article shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

§ 205-54 Permitted uses.

A.

The following uses which have low flood damage potential and which do not obstruct flood flows may be permitted within a Floodplain Management District to the extent that these uses do not constitute development within the floodplain or substantial improvement to a building within the floodplain and are not otherwise prohibited by any other ordinances:

(1)

Agricultural uses, such as pasture or grazing, as long as they do not require development within the floodplain.

(2)

Private and public outdoor recreational areas, such as swimming areas, open space, wildlife or nature preserves, hunting and fishing areas and hiking and horseback trails, as long as they do not require development within the floodplain.

(3)

Paved areas, such as parking lots.

B.

No uses shall diminish or prohibit in any way the capacity of the channels or floodways of any watercourse, any tributary to the main stream, any other watercourse or drainage ditch or any other drainage facility or system to discharge waters from the base flood.

§ 205-55 Special permit uses.

A.

All uses within Floodplain Management District other than those specified in § 205-54 are permitted only after the issuance of a special permit by the Town of Union Planning Board, as provided in Article XII of this chapter. Uses allowed by special permit shall be determined by the nature and location of the applicant's proposal. Therefore:

(1)

The applicant shall submit a development plan as specified in § 205-59.

(2)

In portions of the Floodplain Management District where base flood elevations have been delineated, the applicant shall determine whether the proposed special permit use is located within a flood-fringe or a regulatory floodway; such determination shall be made from the Flood Boundary and Floodway Map. In portions of the Floodplain Management District which are delineated as flood hazard areas (unnumbered A Zones), determination of location shall be made from the Flood Insurance Rate Map. The location shall be verified by the Building Official.

(3)

If it is determined that the proposed use is located within a regulatory floodway, the provisions of § 205-56, Regulatory floodway provisions, of this article shall apply.

(4)

If it is determined that the proposed use is within a flood-fringe, the provisions of § 205-57, Flood-fringe provisions, of this article shall apply.

(5)

If it is determined that the proposed use is located within a flood hazard area, the provisions of § 205-58, Flood hazard area provisions, of this article shall apply.

B.

All special permit uses shall be subject to the specifications and standards contained within this article and Article XII.

C.

All information submitted pursuant to an application for a special permit, including the development plan and floodproofing certification, shall be kept on file with the Town Clerk and shall be available for public inspection.

§ 205-56 Regulatory floodway provisions.

A.

Regulatory floodway. The regulatory floodway shall be that portion of the Floodplain Management District which is the channel of a river or watercourse and the land areas adjacent to that channel which must be reserved in order to discharge the waters from the base flood (one-hundred-year flood) without cumulatively increasing the water elevation more than one foot. The boundaries of the regulatory floodway for the Town of Union are designated in the Flood Insurance Study.

B.

Permitted uses. All uses within the regulatory floodway, other than those specified in § 205-59, are allowed only as special permit uses in compliance with the following standards:

(1)

No structure, fill, deposit, obstruction, storage of materials or equipment or other use or encroachment of the floodway may be allowed which, acting alone or in combination with existing or future uses, shall result in any increase in flood levels during the occurrence of the base flood discharge.

(2)

Fill.

(a)

Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof is not greater than is necessary to achieve that purpose, as demonstrated by the plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

(b)

Such fill or other materials shall be suitably protected against erosion by vegetation cover, riprap or bulkheading.

(3)

Structures.

(a)

Buildings shall not be for residential use.

(b)

The buildings shall be constructed and placed on the site so as to offer the minimum obstruction to the flow of water and have a low flood damage potential.

(c)

Any uses of buildings allowed in the floodway shall be floodproofed in the manner specified in § 205-57B(2)(b) and (f) of this article.

§ 205-57 Flood-fringe provisions.

A.

Flood-fringe. That portion of the Floodplain Management District within the one-hundred-year-flood (base flood) boundary and outside the regulatory floodway.

B.

Permitted uses. All uses within the flood-fringe, other than those specified in § 205-54, are allowed only as special permit uses in compliance with the following standards. Uses specified in § 205-54 are permitted by right.

(1)

Any building or use permitted in the floodway, § 205-56B.

(2)

Buildings, provided that:

(a)

The elevation of the lowest floor, including basement, of all new residential construction or substantial improvements to existing residential buildings within the flood-fringe area shall be at least one foot higher than the base flood elevation.

(b)

The elevation of the lowest floor, including basement, of all new nonresidential buildings or substantial improvements to existing nonresidential buildings within the flood-fringe area shall be at least one foot higher than the base flood elevation or, together with attendant utility and sanitary facilities, shall be floodproofed up to one foot higher than the base flood elevation.

(c)

All uses located in the flood-fringe area shall be floodproofed in the manner outlined in Subsection B(2)(f) below.

(d)

Fill deposited for the purpose of elevating the lowest floor above the base flood elevation shall extend at least 15 feet beyond the limits of any building erected thereon. Such fill shall be protected against erosion by riprap, vegetation, bulkheading or other forms of cover.

(e)

Any storage facility for chemicals, explosives or flammable liquids shall be located at an elevation at least one foot higher than the elevation of the base flood.

(f)

Floodproofing measures. Floodproofing measures such as the following shall be designed to protect all permitted uses, together with attendant utility and sanitary facilities:

[1]

Anchorage shall resist flotation and lateral movement.

[2]

Buildings shall be constructed to resist rupture or collapse caused by water pressure or floating debris.

[3]

Buildings shall be constructed with material and utility equipment resistant to flood damage.

[4]

Construction methods and practices that minimize flood damage shall be utilized.

[5]

All new and replacement water and sanitary sewer systems shall be constructed to minimize or eliminate infiltration of floodwaters into the system in compliance with state and county health codes.

[6]

New and replacement sanitary and storm sewer systems shall be constructed so as to prevent the backup of water from those systems into structures in compliance with state and county health codes.

[7]

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding in compliance with state and county health codes.

[8]

Watertight doors, bulkheads and shutters or similar methods of construction shall be installed.

[9]

Paints, membranes or mortars to reduce seepage of water through walls shall be used.

[10]

All new fill shall be protected against erosion by the use of riprap, vegetation, bulkheading or other forms of cover.

[11]

All such measures shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. In addition, the adequacy of such measures to withstand flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood shall be certified by a professional engineer or architect certified by the State of New York.

(g)

Placement of new mobile home sites or parks or substantial improvements to existing mobile homes or expansion of existing mobile home parks shall meet the following standards:

[1]

Over-the-top ties shall be installed at each of the four corners of the mobile home. Mobile homes 50 feet or longer shall have two additional ties per side at intermediate locations; mobile homes of less than 50 feet in length shall have one additional tie per side.

[2]

Frame ties shall be provided at each corner of the home. Mobile homes 50 feet or longer shall have five additional ties per side at intermediate points; mobile homes less than 50 feet long shall have four additional ties per side.

[3]

All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

[4]

Any additions to the mobile home shall be similarly anchored in the manner described in Subsection B(2)(g)[1], [2] and [3] of this section.

[5]

Stands of lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at least one foot higher than the base flood elevations.

[6]

Adequate surface drainage and access for a hauler shall be provided.

[7]

Piling foundations shall be placed in stable soil no more than 10 feet apart, and reinforcements shall be provided for pilings more than six feet above ground level.

§ 205-58 Flood hazard area provisions.

A.

Flood hazard area. The flood hazard area shall be that portion of the Floodplain Management District within the one-hundred-year-flood (base flood) boundary shown as unnumbered A Zones on the Flood Insurance Rate Map.

B.

Permitted uses. All uses and buildings permitted in the flood-fringe area, § 205-57B, shall be permitted in the flood hazard area, subject to the requirements and standards set forth in § 205-57 and below:

(1)

If the Town of Union Planning Board deems it necessary, the applicant shall determine the base flood elevation for the proposed use by:

(a)

Utilizing available base flood elevation data from federal or state agencies, such as:

[1]

United States Army Corps of Engineers.

[2]

United States Department of Agriculture Soil Conservation Service.

[3]

New York State Department of Environmental Conservation.

(b)

A certified determination, by a professional engineer and land surveyor certified by the State of New York, shown on a typical cross section depicting the channel of the stream, elevation of land areas adjoining each side of the channel and base flood elevation information.

[Amended 8-6-1986 by Ord. No. 86-2]

§ 205-59 Development plan.

The applicant shall be required to furnish such information as is deemed necessary by the Town of Union Planning Board in determining the suitability of the particular site for the proposed use and the required special permit:

A.

Plans, in triplicate, drawn to scale, showing the nature, location, dimensions and elevation above mean sea level of the lot, existing or proposed structures, fill, storage of materials and floodproofing measures and the relationship of the above to the location of the channel, floodway and the flood protection elevation.

B.

Elevation above the mean sea level of the lowest floor, including basements, of all buildings, certified by a professional engineer, architect or land surveyor certified by the State of New York.

[Amended 8-6-1986 by Ord. No. 86-2]

C.

Elevation above the mean sea level to which any nonresidential building and its water supply and sanitary facilities have been floodproofed, certified by a professional engineer, architect or land surveyor certified by the State of New York.

[Amended 8-6-1986 by Ord. No. 86-2]

D.

A certificate, from a professional engineer or architect certified by the State of New York, that the nonresidential floodproofed building meets the floodproofing criteria in § 205-57B(2)(b) and (f).

E.

A description of the extent to which any watercourse will be altered or relocated as a result of the proposed use.

F.

In all subdivision proposals and other proposed developments:

(1)

The proposal shall be consistent with the need to minimize flood damage.

(2)

Certification, from a professional engineer certified by the State of New York, shall be provided that all utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize flood damage.

(3)

Certification, from a professional engineer certified by the State of New York, shall be provided that adequate drainage to reduce exposure to flood hazards has been provided.

G.

In addition, in a subdivision or other development proposals greater than 50 lots or five acres, whichever is smaller, base flood elevation shall be provided as specified in the Flood Insurance Rate Map, the Flood Elevation Study or in the manner specified in § 205-58B(1)(b) above.

This electronic version of the Code is provided for informational purposes only. For the official version of the Code, please contact the municipality.

§ 293-18. F-P Floodplain District.

A. The purpose of the F-P Floodplain District is to restrict the use of certain areas involving hazards to life and property due to flooding.

B. In the F-P Floodplain District, no building or premises shall be used and no building shall be erected except for the following uses:

(1) Permitted uses.

(a) Agricultural or recreational use of land.

(b) Public utility structure or use.

(2) Uses which may be permitted as a special exception by the Board of Appeals:

(a) Commercial or industrial use involving minimum hazards to life and property.

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§ 200-16. Local Type I actions.

Pursuant to 6 NYCRR 617.4, Editor's Note: See now 6 NYCRR 617.14. the following areas within the Town are hereby designated as critical areas of environmental concern and are thereby deemed Type I actions in addition to those set forth at § 617.12: Editor's Note: See now 6 NYCRR 617.4.

A. Freshwater wetlands, as defined in the Freshwater Wetlands Law of the Town of Greenburgh. Editor's Note: See Ch. 280, Freshwater Wetlands.

B. Floodplains, as defined in Article 36 of the Environmental Conservation Law.

C. Areas with slopes of 20% or greater where development would impact same.

D. Tarrytown Lakes, watershed area.

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§ 331-2. Types of actions.

A. Purpose and scope.

(1) The purpose of this section is to simplify the task of determining whether or not a proposed action may have a significant effect on the environment by identifying the types of actions which are likely to have a significant effect and those which will not have a significant effect.

(2) Due to the complex and varied nature of actions, the lists in this section are not all-inclusive. Any omission from the Type I and Type II list of actions as set forth herein shall not be conclusive. In these instances, or if, in the opinion of the Planning Commission, a proposed project or activity may have a significant effect upon the environment, although it does not meet the specific standards set forth under Type I actions, the Planning Commission may, at its discretion, require that an environmental impact statement be prepared.

B. The following classification system is used in this section:

(1) Type I: actions or classes of actions that are likely to require preparation of environmental impact statements because they will, in almost every instance, have a significant effect on the environment.

(2) Type II: actions or classes of actions which have been determined as not to have a significant effect on the environment and which do not require environmental impact statements under this Part. Editor's Note: "This part" apparently refers to Part 617 of Title 6 of the New York Codes, Rules and Regulations.

NOTE: This Part Editor's Note: "This part" apparently refers to Part 617 of Title 6 of the New York Codes, Rules and Regulations. does not apply to actions by private persons where no agency action is involved. The following lists are intended to cover only actions of agencies or actions which must be approved, funded or otherwise acted upon by an agency.

C. Type I actions.

(1) Construction of new or expansion by more than 50% of existing size, square footage or usage of existing:

(a) Airports.

(b) Public institutions, such as hospitals, schools and institutions of higher learning, correction facilities and major office centers.

(c) Road or highway sections, including bridges, which require an indirect source permit under 6 NYCRR 203.

(d) Parking facilities or other facilities with an associated parking area for 250 or more cars.

(e) Dams with a downstream hazard of C classification under the Environmental Conservation Law § 15-0503.

(f) Stationary combustion installations operation at a total heating input exceeding one thousand million (1,000,000,000) Btu's per hour.

(g) Chemical pulp mills, portland cement plants, iron and steel plants, primary aluminum ore reduction plants, sulfuric acid plants, petroleum refineries, lime plants, sulfur recovery plants, fuel conversion plants, by-product coke manufacturing plants.

(h) Incinerators operating at a refuse-charging rate exceeding 250 tons of refuse per twenty-four-hour day.

(i) Storage facilities designed for or capable of storing 500,000 or more gallons of liquid natural gas, liquid petroleum gas or other liquid fuels.

(j) Process, exhaust and/or ventilation systems emitting air contaminants assigned an environmental rating of A under 6 NYCRR 212 and whose total emission rate of such A-contaminate exceeds one pound per hour.

(k) Process, exhaust and/or ventilation systems from which the total emission rate or all air contaminants exceeds 25 tons per day.

(l) A sanitary landfill for an excess of 25,000 cubic yards per year of waste fill.

(m) Any facility, development or project which is to be directly located in one of the following critical areas:

[1] Freshwater wetlands as defined in the Freshwater Wetlands Law of the Village of Larchmont. Editor's Note: See Ch. 341, Freshwater Wetlands.

[2] Floodplains as defined in Article 36 of the Environmental Conservation Law.

[3] Areas with slopes of 40% or greater.

(n) Any facility, development or project having an adverse impact on any historic building, structure or site listed on the National Register of Historic Places or in the Statewide Inventory of Historical and Cultural Resources.

(o) Any facility, development or project which would generate more than 2,000 vehicle trips per any hour or more than 10,000 vehicle trips per any eight-hour period.

(p) Any facility, development or project which would use groundwater or surface water in excess of 50,000 gallons in any day.

(q) Any industrial facility which has a yearly average discharge flow, based on days of discharge, of greater than 0.25 million gallons per day.

(r) Any publicly or privately owned sewage treatment works which has an average daily design flow of more than 0.25 million gallons per day.

(s) A residential development that includes 25 or more units in an unsewered area or 200 or more units in a sewered area.

(t) Lakes or other bodies of water with a water surface in excess of 25 acres.

(2) Any funding, licensing or planning activities in respect to any of the types of construction listed in Subsection C(1) above.

(3) Application of pesticides or herbicides over more than 500 contiguous acres.

(4) Clearcutting of 25 or more contiguous acres of forest cover or vegetation other than crops.

(5) The proposed adoption of comprehensive land use plans, Zoning Ordinances, Building Codes, comprehensive solid waste plans, state and regional transportation plans, water resource basin plans, comprehensive water quality studies, area-wide water treatment plans, state environmental plans, local flood control plans and the like.

(6) Commercial burial of radioactive materials, requiring a permit under 6 NYCRR 380.

(7) Any action which will result in excessive or unusual noise or vibration, taking into consideration the volume, intensity, pitch, time duration and the appropriate land uses for both the source and the recipient of such noise or vibration.

(8) Acquisition or sale by a public agency of more than 50 contiguous acres of land.

D. Type II actions.

(1) Construction or alteration of a single- or two-family residence and accessory appurtenant uses or structures, but not if such construction or alteration:

(a) Is in conjunction with the construction or alteration of two or more such residences.

(b) Is in a critical area as described in this section for Type I actions.

(c) May cause significant water supply, sewage disposal, drainage, fire-protection, traffic or noise problems.

(2) The extension of utility facilities to serve new or altered single- or two-family residential structures or to render service in approved subdivisions.

(3) Construction or alteration of a store, office or restaurant designed for an occupant load of 20 persons or less, if not in conjunction with the construction or alteration of two or more stores, offices or restaurants and if not in one of the critical areas as for Type I actions, and the construction of utility facilities to serve such establishments.

(4) Actions involving individual setback and lot line variances and the like.

(5) Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures and land use changes consistent with generally accepted principles of farming.

(6) Operation, repair, maintenance or minor alteration of existing structures, land uses and equipment.

(7) Restoration or reconstruction of a structure in whole or in part being increased or expanded by less than 50% of its existing size, square footage or usage unless in a critical area as set forth in this chapter.

(8) Repaving of existing highways not involving the addition of new travel lanes.

(9) Street openings for the purpose of repair or maintenance of existing utility facilities.

(10) Installation of traffic control devices on existing streets, roads and highways, other than multiple fixtures on long stretches.

(11) Mapping of existing roads, streets, highways, uses, ownership patterns and the like.

(12) Regulatory activities not involving construction or changed land use relating to one individual, business, institution or facility, such as inspections, testing, operating certification or licensing and the like.

(13) Sales of surplus government property other than land, radioactive material, pesticides, herbicides or other hazardous materials.

(14) Collective bargaining activities.

(15) Operating expense or executive budget planning, preparation and adoption not involving new programs or major reordering of priorities.

(16) Investments by or on behalf of agencies or pension or retirement systems.

(17) Actions which are immediately necessary for the protection or preservation of life, health, property or natural resources.

(18) Routine administrations and management of agency functions, not including new programs or major reordering of priorities.

(19) Routine license and permit renewals where there is no significant change in preexisting conditions.

(20) Routine activities of education institutions which do not include capital construction.

Critical Environmental Areas

[HISTORY: Adopted by the Board of Trustees of the Village of Larchmont as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Pine Brook - Premium Border and Hommocks Border [Adopted 6-30-1986 by L.L. No. 7-1986]

§ 321-1. Authority; legislative intent.

Under regulations issued by the State of New York pursuant to § 8-0113 of the State Environmental Quality Review Act [Section 617.4(j) of the New York Codes, Rules and Regulations], a local agency may designate specific geographic areas within its boundaries as "critical areas of environmental concern" (also called "critical environmental areas" or "CEA's"). The cited regulations set forth criteria for such designation. The intent of this article is to designate certain areas in the Village of Larchmont which meet those criteria as "critical environmental areas," thereby affording them the protections against adverse actions prescribed by law and regulations for such areas [Section 617.12(a)(11) of the New York Codes, Rules and Regulations].

§ 321-2. Findings; enumeration of characteristics.

The Village of Larchmont finds, on the basis of detailed study by the Coastal Zone Management Committee and the Conservation Advisory Commission, that the areas described in § 321-3 below meet the prescribed criteria referred to in § 321-1 in that each of them contains important tidal or freshwater wetlands and an abundance of fish and wildlife, as described in detail in Section II of the Local Waterfront Revitalization Program of the Town of Mamaroneck and the Village of Larchmont, and that each of them has an exceptional or unique character as one or more of the following:

A. A benefit to public health and public safety through absorption of stormwater and mitigation of pollution.

B. An important fish and wildlife habitat.

C. An aesthetically important area of open space in an otherwise highly developed residential area.

D. A setting for environmental education, quiet recreation and appropriate cultural activities.

E. An area possessing great sensitivity to ecological change arising from actions in or contiguous to the area.

§ 321-3. Designation of critical areas.

In accordance with the authority granted by Section 617.4 of Title 6 of the New York Codes, Rules and Regulations, the following geographic areas are designated as "critical areas of environmental concern":

A. Pine Brook - Premium Border. See Schedule A attached to this chapter for detailed legal description and Map 1 attached to this chapter for visual description. EN

B. Hommocks Border. See Schedule B attached to this chapter for detailed legal description and Map 2 attached to this chapter for visual description. EN

§ 321-4. When effective.

The designation(s) contained herein shall take effect 30 days after filing of notification with the New York State Commissioner of Environmental Conservation that the above areas have been designated as "critical areas of environmental concern."

Coastal Zone Management Commission

§ 315-1. Purpose.

The purpose of this chapter is to further the common interests of the Town of Mamaroneck and the Village of Larchmont and the coastal zone by establishing a Coastal Zone Management Commission to monitor and coordinate the implementation of the local waterfront revitalization program of the Town of Mamaroneck and the Village of Larchmont.

§ 315-2. Establishment; membership; terms of office; qualifications and compensation of members; expenses.

A. The Coastal Zone Management Commission shall be a bimunicipal Commission established and appointed by the Town Board of the Town of Mamaroneck and the Village Board of the Village of Larchmont.

B. The Commission shall consist of 11 members, five of whom are appointed by the Village of Larchmont Village Board and five of whom are appointed by the Town of Mamaroneck Town Board. The 11th member, who shall be the Chair, shall be appointed by the Mayor of the Village of Larchmont and the Supervisor of the Town of Mamaroneck.

C. The terms of office of Commission members shall be for periods of three years, except the Chair, who shall be appointed for a one-year term. However, the first Commission shall consist of three members appointed for terms of three years, four members appointed for terms of two years and four members appointed for terms of one year.

D. Each member appointed by the village shall be a resident of the village, and each member appointed by the town shall be a resident of the unincorporated area of the town, with the Chair residing in either the village or the town. Members shall be chosen for their demonstrated knowledge, ability and readiness to serve the Commission in the functions described in this chapter and with due regard for maintaining among the membership a range of special aptitudes and expertise in areas relevant to the work of the Commission.

E. Members of the Commission shall serve without compensation.

F. The Commission, subject to prior budget allocations by each municipality, may incur necessary expenses for the carrying out of its duties, the costs to be borne equally by the municipalities.

Town of Mamaroneck, NY

CHAPTER 177. SITE PLAN REVIEW

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§ 177-5. Standards.

In acting on any site plan application, the Planning Board, in addition to all other applicable laws, is hereby granted the powers set forth in § 274-a, Subdivision 1a, of the Town Law of the State of New York and shall consider the standards set forth therein in granting site plan approval. The approving agency shall also take into consideration the following standards:

A. Traffic access and roads. All proposed traffic access points and roads shall be adequate but not excessive in number, adequate in width, paving, grade, alignment and visibility and not located too near street corners or other places of public assembly. Necessary traffic signalization, signs, dividers and other safety controls, devices and facilities shall be given proper consideration and duly provided wherever appropriate or warranted.

B. Pedestrian safety and access. Safe, adequate and convenient pedestrian access and circulation shall be provided both within the site and to adjacent streets, with particular attention to all intersections with vehicular traffic.

C. Circulation and parking. Off-street parking and loading spaces shall be arranged with consideration given to their location, sufficiency and appearance and to prevent parking in public streets of vehicles of persons connected with or visiting the use. The interior circulation system shall be adequate to provide safe accessibility to, from and within all required off-street parking areas.

D. Screening and landscaping. All structures, recreational, parking, loading, public and other service areas shall be reasonably landscaped and/or screened so as to provide adequate visual and noise buffers in all seasons from neighboring lands and streets. The scale and quality of the landscaping and screening on site shall be harmonious with the character of and serve to enhance the neighborhood.

E. Environmental quality. All bodies of water, wetlands, steep slopes, hilltops, ridge lines, major stands of trees, outstanding natural topography, significant geological features and other areas of scenic, ecological and historic value shall be preserved insofar as possible; soil erosion shall be prevented insofar as possible; flood hazard shall be minimized; air quality shall be well within legal limits; and all potentially ecological disruptive elements of site preparation, such as blasting, diversion of watercourses and the like, shall be conducted according to the highest standards of professional care.

F. Fire protection. All proposed structures, service areas, fire lanes, hydrants, equipment and material shall be adequate and readily accessible for the protection of the proposed uses from fire.

G. Drainage.

[Amended 6-30-1986 by L.L. No. 6-1986]

(1) A storm drainage system which demonstrates affirmative compliance with the form, scope and substance of all applicable design criteria shall be provided to accommodate expected loads from the tributary watershed when developed to the maximum density permitted under the existing zoning standards. Drainage shall be conducted to a point of adequate and suitable disposal.

(2) On sites of 10,000 square feet or more and in other instances determined by the Planning Board to be appropriate after consultation with the Town Engineer, development shall be so designed and executed as to limit overflow from the site to zero increase in the rate of runoff and to create zero decrease in the rate of upstream runoff into the site, as related to existing conditions, except that the Planning Board, after consultation with the Town Engineer, may substitute a different requirement for a particular site if it determines that the substituted requirement will be more effective in controlling flooding and erosion at the site and at other locations.

(3) On parcels of five acres or more, the Planning Board may require that development be so designed and executed as to reduce the rate of runoff by a stipulated percentage, not to exceed 20%, as compared with existing conditions, through drainage systems, water retention and/or the maintenance of open spaces, both those required under ordinary circumstances and such additional open spaces as may be required for this purpose, but without reducing the rate of runoff into the site from upstream. Such a requirement shall not be applied unless the Planning Board determines that it is an appropriate and important means of preventing an increase in erosion and flooding at the site and/or at other locations. In making such determination, the Planning Board shall consult with the Town Engineer and with the Westchester County Soil and Water Conservation District, who shall respond within the time limits set by this chapter. Failure to respond within such time limits shall be deemed approval by such agencies.

H. Refuse and sewage disposal. The public and/or private disposal systems shall be sufficient to safely and adequately handle the type and volume of refuse and sewage which can reasonably be anticipated to be generated by the land uses on site.

I. Water supply. The public and/or private delivery systems for bringing potable water to each of the uses on site shall be shown to be sufficient.

J. Location and dimension of buildings. The location, arrangement, size and design of the buildings, lighting and signs shall be comparable to each other and with the site as a whole. At a minimum, a distance equal to the average height of the principal buildings on the site at the point where said buildings are most closely proximate to each other shall be provided between all buildings on the site unless, in the opinion of the approving agency, compelling considerations of topography or design dictate otherwise.

K. Impact of the proposed use on adjacent land uses. Adjacent and neighboring properties shall be protected against noise, glare, unsightliness or other objectionable features. Where a proposed use is a nonresidential use which would adjoin residential areas, special consideration shall be given by the approving agency to minimizing the impact of the proposed use on the residential properties.

L. Design requirements and guidelines.

[Added 5-18-2004 by L.L. No. 8-2004]

(1) For properties located in the B-Business District, the approving agency shall apply the design requirements and guidelines contained in § 240-45H of the Code.

(2) For properties located in the SB - Service Business District, the approving agency shall apply the design requirements and guidelines contained in § 240-46H of the Code.

(3) For properties located in the B - MUB - Business-Mixed Use Business District, the approving agency shall apply design requirements and guidelines contained in § 240-47H of the Code.

(4) For properties located in the UR - Urban Renewal District, the approving agency shall apply the design requirements and guidelines contained in § 240-48.1D of the Code.

(5) If there is a conflict between any of the provisions of § 177-5A through and including K of the Code and any of the provisions of the applicable design requirements and guidelines, the provisions of §§ 240-45H, 240-46H, 240-47E or 240-48.1D of the Code, as the case may be, shall be applied.

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§ 118-66. Easements.

A. Drainage easements and sedimentation controls. The following provisions regarding drainage easements and sedimentation controls shall apply to all new development.

(1) Drainage easements of sufficient width shall be provided along both sides of open drainage courses. The width of the easement shall be based on the recommendation of the Town Engineer. The easement shall be used for the maintenance of the open drain, remain free of obstructions, be of natural topography and contain no permanent or temporary buildings, plantings, gardens or dumpings.

(2) Temporary sedimentation/erosion control, which may include, but not be limited to, catch basins, shall be required for all new construction during site preparation and construction in order to minimize sedimentation of nearby watercourses. The size and location of such sedimentation basins shall be based on recommendations of the Town Engineer. Seeding and cover planting shall be required at the earliest possible time during site preparation.

(3) Permanent retention or detention ponds may be required in larger developments by the Town Engineer to slow down the rate of stormwater runoff and prevent downstream flooding. The location, size and design of such ponds shall be based on recommendations of the Town Engineer or designated engineer.

B. Sidewalk and bikeway easements. New development shall provide the necessary easements and/or construct sidewalks or bikeways as specified by the Planning Board and/or Zoning Board of Appeals. In determining where such easements shall be provided, their siting and the manner in which sidewalks or bikeways shall be constructed, the Planning Board and/or Zoning Board of Appeals shall be guided by the Master Plan of the Town of New Hartford, as well as any specific sidewalk or bikeway plans or policies adopted by the Town Board.

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§ 248-14. Easements.

The applicant shall reserve easements or drainage rights-of-way within the subdivision where stormwater or surface water drainage facilities are existing or proposed, whether man-made or natural. The easement shall conform as closely as possible to the lines of such course and shall also meet the following criteria:

A. Easements shall have a minimum width of 20 feet and shall be adequately designed to provide area for the collection and discharge of water, the maintenance and repair of the facility and the passage of equipment for such work.

B. In the case of streams or open channel drainage, the easement shall encompass the one-hundred-year-storm event or the flood of record, plus one foot of freeboard above that elevation. Calculations acceptable to the Town Engineer supporting those elevations shall be submitted with the plans.

C. When a proposed drainage system carries water onto adjacent lands where no discharge point existed in the pre-developed condition, stormwater will be returned to a sheet flow condition prior to exit from the site or an easement must be obtained from the downstream property owner(s).

D. The plans shall clearly indicate who has the right of access and the responsibility of maintenance for all facilities.

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§ 285-54. Standards.

In acting on any site plan application, the Planning Board, in addition to all other applicable laws, is hereby granted the powers set forth in Subdivision 1a of § 274-a of the Town Law of the State of New York and shall consider the standards set forth therein in granting site plan approval. The Town Board shall also consider the standards as aforementioned in its role as approving agency. The approving agency shall also take into consideration the following standards:

A. Traffic access and road. All proposed traffic access points and roads shall be adequate but not excessive in number, adequate in width, paving, grade, alignment and visibility and not located too near street corners or other places of public assembly. Necessary traffic signalization, signs, dividers and other safety controls, devices and facilities shall be given proper consideration and duly provided wherever appropriate or warranted.

B. Pedestrian safety and access. Safe, adequate and convenient pedestrian access and circulation shall be provided both within the site and to adjacent streets with particular attention to all intersections with vehicular traffic.

C. Circulation and parking. Off-street parking and loading spaces shall be arranged with consideration given to their location, sufficiency and appearance and to prevent parking in public streets of vehicles of persons connected with or visiting the use. The interior circulation system shall be adequate to provide safe accessibility to, from and within all required off-street parking areas.

D. Screening and landscaping. All structures, recreational, parking, loading, public and other service areas shall be reasonably landscaped and/or screened by fencing so as to provide adequate visual and noise buffers in all seasons from neighboring lands and streets. The scale and quality of the landscaping and screening on site shall be harmonious with the character of and serve to enhance the neighborhood.

E. Environmental quality. All bodies of water, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography, significant geological features and other areas of scenic, ecological and historic value shall be preserved insofar as possible; soil erosion shall be prevented insofar as possible; flood hazard shall be minimized; air quality shall be well within legal limits; and all potentially ecologically disruptive elements of site preparation, such as blasting,

diversion of watercourses and the like, shall be conducted according to the highest standards of professional care.

F. Fire protection. All proposed structures, service areas, fire lanes, hydrants, equipment and material shall be adequate and readily accessible for the protection of the proposed uses from fire.

G. Drainage. A storm drainage system which demonstrates affirmative compliance with the form, scope and substance of all applicable design criteria shall be provided to accommodate expected loads from the tributary watershed when developed to the maximum density permitted under the existing zoning standards. Drainage shall be conducted to a point of adequate and suitable disposal. Where appropriate, retention shall be provided so as to limit overflow from the site to zero increase in the rate of runoff as related to existing conditions.

H. Refuse and sewage disposal. The public and/or private disposal systems shall be sufficient to safely and adequately handle the type and volume of refuse and sewage which can reasonably be anticipated to be generated by the land uses on site.

I. Water supply. The public and/or private delivery systems for bringing potable water to each of the uses on site shall be shown to be sufficient.

J. Location and dimension of buildings. The location, arrangement, size and design of the buildings, lighting and signs shall be compatible with each other and with the site as a whole. At a minimum, the distance equal to the average height of the principal buildings on the site at the point where said buildings are most closely proximate to each other shall be provided between all buildings on the site unless, in the opinion of the approving agency, compelling considerations of topography or design dictate otherwise.

K. Impact of the proposed use on adjacent land uses. Adjacent and neighboring properties shall be protected against noise, glare, unsightliness or other objectionable features. Where a proposed use is a nonresidential use which would adjoin residential areas, special consideration shall be given by the approving agency to minimizing the impact of the proposed use on the residential properties.

Appendix 3

Local Law for Utilization of Beecher Creek Detention Facility, Town of Elmira

SECTION 1: SHORT TITLE

This Local Law shall be known as the "Local Law for Utilization of the Beecher Creek Detention Facility."

SECTION 2: FINDINGS

The Town of Elmira regulates stormwater runoff from developing areas in order to minimize the adverse effects that may result from changes in the land cover and grade. Policies have been adopted by the Town of Elmira for the expressed purpose of protecting public and private property from damages that may result from flooding, erosion, and water quality impairment. The management of stormwater runoff is the responsibility of the developer, who assumes the cost of implementing all necessary measures at the time of development.

The Town of Elmira has constructed the Beecher Creek Detention Facility on property owned by the Elmira Country Club. This facility was designed to protect existing development located downstream of the project from flood damages. The volume of water that can be contained by the Beecher Creek Detention Facility exceeds the volume necessary to provide downstream protection. This EXCESS CAPACITY can be utilized to detain increased stormwater discharges from upstream development sites.

SECTION 3: STATEMENT OF PURPOSE

The purpose of this Local Law is to provide a mechanism by which developers of property located upstream of the Beecher Creek Detention Facility can utilize the EXCESS CAPACITY of this facility to manage the increased stormwater runoff that results from their development activities. Permission to utilize the Beecher Creek Detention Facility will be granted by the Town of Elmira to developers who pay a UTILIZATION FEE to the Town, as specified in this Local Law. Participating developers will retain responsibility for preparing a stormwater management plan meeting stormwater quality standards, implementing interior drainage, and managing stormwater flow into the Beecher Creek Detention Facility. Developers who chose not to utilize the EXCESS CAPACITY of the Beecher Creek Detention Facility will be responsible for managing stormwater runoff in some other manner, as required by Town of Elmira Zoning Ordinance, Subdivision Regulations, and Local Laws.

The anticipated benefits to upstream developers include: (1) reduced costs for the design of stormwater management systems, (2) reduced costs for construction of stormwater management structures, (3) increased ability to utilize property since space need not be preserved for on-site retention/detention of stormwater, and (4) reduced maintenance responsibilities since the Town of Elmira has assumed responsibility for maintenance of the Beecher Creek Detention Facility.

SECTION 4: DEFINITIONS

CONSTRUCTED CAPACITY: The actual volume of stormwater that can be contained by the Beecher Creek Detention Facility during the 100-year, 24-hour storm. The initial CONSTRUCTED CAPACITY is 17.16 acre-feet or 747,490 cubic feet. This may be increased subsequent to project completion by expansion of the facility.

DESIGN CAPACITY: The volume of stormwater that the Beecher Creek Detention Facility is designed to contain during the I 00-year, 24-hour storm to avoid exceeding the design outflow volume of the facility. This is based on the land uses and runoff characteristics that exist at the time of project design.

EXCESS CAPACITY: The difference in volume between the CONSTRUCTED CAPACITY and the DESIGN CAPACITY of the Beecher Creek Detention Facility.

IMPERVIOUS AREA: Impermeable surfaces, such as pavement or rooftops, that prevent the percolation of water into the soil.

INCREASED STORMWATER VOLUME: The calculated volume of additional stormwater runoff (in excess of the pre-development stormwater runoff) that will be released into the Beecher Creek Detention Facility during the 100-year, 24-hour design storm as a result of a development project.

MINOR DEVELOPMENT: Minor construction activities for which hydrologic computation of surface runoff volumes is not needed to insure compliance with the stormwater management requirements of the Town of Elmira Zoning Ordinance, Town of Elmira Subdivision Regulations, Town of Elmira Local Laws, or New York State Regulations (State Pollutant Discharge Elimination System, SPDES).

TOWN ENGINEER: The person licensed as a professional engineer by the State of New York who is duly authorized by the Town of Elmira Town Board to act in the capacity specified in this Local Law.

UTILIZATION FEE: A fee that will be paid to the Town of Elmira for utilization of the Beecher Creek Detention Facility to manage the INCREASED STORMWATER VOLUME resulting from a development project.

SECTION 5: LANDS TO WHICH THIS LOCAL LAW APPLIES

This Local Law applies to properties within the upper portions of the Beecher Creek Watershed from which surface runoff naturally drains into Beecher Creek upstream of the dam for the Beecher Creek Detention Facility. The tax parcel identification numbers (as identified on the date of this Law) for parcels located partially or completely within this area are:

88.00-1-6.2	88.00-1-12.24	88.00-1-15	88.00-1-12.11	88.00-1-12.25	88.00-1-16
88.00-1-12.12	88.00-1-12.26	88.00-1-17.1	88.00-1-12.2	88.00-1-13.2	88.00-1-31.1
88.00-1-12.22	88.00-1-13.3	88.00-1-32	88.00-1-12.23	88.00-1-14	

SECTION 6: BASIS FOR DETERMINING THE AMOUNT OF EXCESS CAPACITY AVAILABLE FOR UTILIZATION

The *As-Built Drawings for the Beecher Creek Detention Facility* indicate that the initial EXCESS CAPACITY of this facility is 1.4 acre-feet, which is equivalent to 60,984 cubic feet. The total utilization of the Beecher Creek Detention Facility for stormwater detention shall not exceed this EXCESS CAPACITY unless the facility is expanded. The Town of Elmira will retain records pertaining to the design and construction of the Beecher Creek Detention Facility and all subsequent increases in the stormwater discharge into this facility.

In the event that upstream development utilizes all of the EXCESS CAPACITY of the Beecher Creek Detention Facility and additional capacity is desired for further development, the Town of Elmira may chose to expand the facility. The increased capacity provided by such an expansion would be added to the EXCESS CAPACITY of the facility and would become available for utilization by upstream developers in accordance with the provisions of this Local Law.

SECTION 7: BASIS FOR DETERMINING THE INCREASED STORMWATER VOLUME FOR A DEVELOPMENT PROJECT

Any developer who chooses to utilize the Beecher Creek Detention Facility for stormwater management must first determine the volume of increased stormwater that will be directed to this facility as a result of the proposed development. The design storm for these stormwater calculations will be the 100-year, 24-hour rainfall event. The developer may select either of the following procedures for calculating the INCREASED STORMWATER VOLUME that will be released into the Beecher Creek Detention Facility:

1) An estimate of the INCREASED STORMWATER VOLUME may be computed using the following formula. It is anticipated that this procedure will be used for MINOR DEVELOPMENT projects to avoid the expense of hydrologic modeling.

INCREASED STORMWATER VOLUME (ft^3) = Increased impervious area (ft^2) x 100-yr, 24-hr Precipitation (ft) where,
Increased Impervious Area = the increase in IMPERVIOUS AREA resulting from the development project; and 100-year, 24-hour Precipitation = 0.458 feet (5.5 inches).

2) The USDA-NRCS-TR-55 runoff curve number procedure can be used to calculate the INCREASED STORMWATER VOLUME that will be directed to the Beecher Creek Detention Facility as a result of the 100-year,

24-hour precipitation event (post-development runoff minus pre-development runoff). This calculation will be a part of the stormwater management plan for the proposed development and is the developer's responsibility.

The TOWN ENGINEER will review the calculation of INCREASED STORMWATER VOLUME for accuracy and to insure that the volume of stormwater that is proposed to enter the Beecher Creek Detention Facility does not exceed the available EXCESS CAPACITY of the facility. The TOWN ENGINEER may also utilize hydrologic modeling to evaluate the structure's response to the INCREASED STORMWATER VOLUME. The TOWN ENGINEER will provide the Town of Elmira Code Enforcement Officer and Town of Elmira Town Board with recommendations concerning the acceptability of the proposed stormwater management plan. All costs incurred by the Town of Elmira for review shall be reimbursed to the Town by the developer before any building permit is issued.

SECTION 8: BASIS FOR ESTABLISHING THE UTILIZATION FEE

The Town of Elmira will collect a UTILIZATION FEE from any developer whose stormwater management plan for a development project utilizes the Beecher Creek Detention Facility to manage increased stormwater runoff. This fee will be paid prior to issuance of a building permit by the Town.

The amount of the UTILIZATION FEE for the Beecher Creek Detention Facility prior to any expansion is $25,641 per acre-foot or $0.59 per cubic foot of INCREASED STORMWATER VOLUME.

If the Beecher Creek Detention Facility is expanded, the UTILIZATION FEE will be determined using the following formula:

$$\textbf{UTILIZATION FEE} = \frac{\textbf{Cost of Facility X INCREASED STORMWATER VOLUME}}{\textbf{CONSTRUCTED CAPACITY}}$$

where,

Cost of Facility = The cost of the Beecher Creek Detention Project. This includes design, construction, and expansion of the Beecher Creek Detention Facility. This cost is $440,000 for initial design and construction of the facility plus the cost of any subsequent expansion.

INCREASED STORMWATER VOLUME = The storage capacity that will be utilized by the development project, determined using one of the procedures specified in Section 7 of this Local Law.

CONSTRUCTED CAPACITY = The initial CONSTRUCTED CAPACITY of the Beecher Creek Detention Facility of 17.16 acre-feet or 747,490 cubic feet (as specified in the As- Built Drawings for the Beecher Creek Detention Facility) plus the additional capacity enabled by any subsequent expansion of the facility.

SECTION 9: ENFORCEMENT

This Local Law shall be enforced by the Town of Elmira Code Enforcement Officer, in consultation with the TOWN ENGINEER. Decisions made by the Code Enforcement Officer can be appealed to the Town of Elmira Town Board, which shall hear and decide any appeals.

SECTION 10: VALIDITY

If any section, paragraph, subdivision or provision of this Local Law is declared invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid and the rest of this Local Law shall remain valid and effective.

SECTION 11: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State of the State of New York.

For Additional Information: TOWN OF ELMIRA CONTACTS, Paul Kingsbury, Drainage Officer (607) 732-7698; Gary Pateiunas, Code Enf. Officer (607) 734-1486; Southern Tier Central Planning Board Janet Thigpen, Flood Mitigation (607) 737-5271

ARTICLE XI. Site Development Plan Approval

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§ 342-76. General criteria and standards of review.

The following criteria and standards shall be used by the Planning Board in reviewing applications for site development plan approval. They are intended to provide a framework within which the designer of the site development is free to exercise creativity, invention and innovation. The Planning Board shall not specify or favor any particular architectural style or design or assist in the design of any of the buildings submitted for approval. Participation by the Board shall be restricted to a reasonable, professional review, and, except as otherwise provided in the following subsections, full responsibility for design shall be retained by the applicant.

A. Ecological considerations. The development shall, insofar as practicable:

(1) Result in minimal degradation of unique or irreplaceable land types and in minimal adverse impact upon the critical areas, such as streams, wetlands, areas of aquifer recharge and discharge, steep slopes, highly erodible soils, areas with a high water table, mature stands of mature vegetation and extraordinary wildlife nesting, feeding or breeding grounds.

(2) Conform to existing geological and topographic features to the end that the most appropriate use of land is encouraged.

B. Landscape. The landscape shall be preserved in its natural state, insofar as practicable and environmentally desirable, by minimizing tree and soil removal. If development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacements or to other landscape treatment. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.

C. Relation of proposed structures to environment. Proposed structures shall be related harmoniously to themselves, the terrain and to existing buildings and roads in the vicinity that have a visual relationship to the proposed structures. The achievement of such harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.

(1) Proposed structures shall be so sited as to minimize any adverse impact upon the surrounding area and particularly upon any nearby residences by reason of:

(a) Building location, height, bulk and shadows.

(b) Location, intensity, direction and times of use of outdoor lighting.

(c) Likelihood of nuisances.

(d) Other similar considerations.

(2) Appropriate natural or artificial screening may be required to minimize any such adverse impact.

D. Scenic, historic, archaeological and landmark sites. Scenic, historical, archaeological and landmark sites and features that are located on or adjacent to the proposed development shall be preserved and protected insofar as practicable.

E. Surface water drainage.

(1) A proposed development shall be designed so as to provide for proper surface water management through a system of controlled drainage that, wherever practicable, preserves existing natural drainage patterns and wetlands and enhances groundwater recharge areas and that protects other properties and existing natural and artificial drainage features from the adverse effects of flooding, erosion and the depositing of silt, gravel or stone. The design shall be in conformance with Chapter 186, Flood Damage Prevention.

(2) In addition to the foregoing, for site plan proposals within the Beaver Swamp Brook - Brentwood Brook Watershed, as indicated on the Village Map, the following criteria shall apply:

[Added 9-10-1986 by L.L. No. 11-1986, effective 9-25-1986]

(a) The United States Department of Agriculture Soil Conservation Service Type III storm distribution, one-hundred-year event will be used for the design of all stormwater management facilities. This requirement may be waived or modified in certain instances only after review by the Municipal Engineer in consultation with the Westchester County Soil and Water Conservation District and pursuant to the Beaver Swamp Brook Comprehensive Watershed Management Plan prepared by Satterthwaite & Associates, Inc., for the Village of Mamaroneck, City of Rye, Town of Harrison and Westchester County.

(b) Future discharge rates for any development shall not exceed the existing values for each of the two-, ten-, twenty-five-, fifty- and one-hundred-year storm events unless so specified by the Village Engineer in consultation with the Westchester County Soil and Water Conservation District.

(c) All hydrologic calculations will be performed pursuant to the methodology prescribed in the United States Department of Agriculture Soil Conservation Service Technical Release No. 55, or any modifications and/or revisions thereof.

(d) The Westchester County Soil and Water Conservation District will be consulted prior to final approval of any proposed development for review and comment.

(e) No earthmoving or land-disturbance activities shall commence on any development site before final approval of the stormwater management plan and sediment and erosion control plan has been issued by the Village.

F. Driveway connections to public streets. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow and so as to afford maximum safety to traffic on the public streets. All such entrances and exits shall be located and designed to:

(1) Conform to municipal sight triangle requirements at corners.

(2) Achieve maximum practicable distance from street intersections and from existing and proposed access connections from adjacent properties.

(3) Minimize left-hand turns, other turning movements and backing movements.

(4) Discourage the routing of vehicular traffic to and through local residential streets.

G. Traffic effects. The site development proposal generally shall minimize adverse traffic effects on the road networks serving the area in question.

H. Pedestrian safety. Insofar as practicable, pedestrian and bicycle circulation shall be separated from motor vehicle circulation. Safe and convenient pedestrian circulation, including appropriate sidewalks, shall be provided on the site and its approaches. The pedestrian circulation plan shall be designed to minimize adverse effects of vehicular traffic upon sidewalks and bicycle paths.

I. On-site parking and circulation. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of

accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. Insofar as practicable, separate rows or aisles in parking areas shall be divided by trees, shrubbery and other landscaping devices. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape. Provision shall be made for access by police, fire and emergency vehicles.

J. Utility services. Electric, telephone and other wire-served utility lines and service connections shall be underground insofar as feasible and subject to state public utilities regulations. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and to the site.

K. Disposal of wastes. There shall be adequate provision for the disposal of all solid, liquid and gaseous wastes and for the avoidance of odors and other air pollutants that may be generated at the site. All applicable federal, state, county and local pollution control standards shall be observed.

L. Noise. All applicable federal, state and local regulations dealing with the control of outside noise which is expected to be generated at the site shall be complied with.

M. Advertising features. The size, location, height, design, color, texture, lighting and materials of permanent signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures or of the surrounding properties.

N. Special features. Outside storage areas, service and machinery and structures, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings and other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

O. Reservation of parkland.

[Added 6-11-2007 by L.L. No. 6-2007, effective 6-21-2007]

(1) Findings.

(a) The provision of adequate park and recreational facilities for both active and passive recreational pursuits by existing and future residents of the Village is necessary and appropriate to their health, safety and well-being.

(b) New residential development will create an additional demand for both active and passive recreational facilities and areas, and new facilities and areas will need to be established to meet the needs of residents occupying dwelling units that will be built after enactment hereof.

(c) It is fair and appropriate that the new demand be borne substantially or entirely by developers of new residential properties.

(2) Dedication and reservation of parks and open space. In order to meet the new demand on recreational facilities, land suitable for recreational and park use by the residents of the Village of Mamaroneck, or payment in lieu thereof if the Planning Board finds that no suitable parkland exists as part of the site plan, shall be required for each new dwelling unit constructed.

(3) Payment required in lieu of land. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in a Village trust fund to be used by the Village exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of site plan approval and shall be assessed in accordance with the site plan recreation fee schedule established under Chapter A347, Fees, in the Village Code. No site plan shall be signed by the Village until such payment has been received by the Village and receipt therefor provided to the Planning Board.

(4) Credit to applicant. Notwithstanding the foregoing provisions, if the land included in a site plan under review is a portion of the subdivision plat which has been reviewed and approved pursuant to §§ 7-728 and 7-730 of the Village Law, the Planning Board shall credit the applicant with any land set aside or money donated in lieu thereof under such subdivision approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

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A. General provisions. In every case where a special use permit is required the Planning Board shall issue such permit only after:

(1) A determination by the Planning Board is made regarding a public hearing, and if necessary, one is held. A public hearing may be dispensed with where adequate proof is submitted that the intended use is consistent with all the standards detailed. If a public hearing is held, it must be within 62 days after an application is made, on five days' public notice. The Planning Board must render its decision within 62 days after the public hearing or 62 days after filing if no public hearing is held. In the event of a denial, the applicant and Zoning Board of Appeals shall receive written notice of said denial and of the supporting reasons.

[Amended 7-14-2009 by L.L. No. 4-2009]

(2) All State Environmental Quality Review Act (SEQR) requirements have been fulfilled.

B. Required plan. Application for a special use permit shall be accompanied by seven sets of preliminary plans and/or other descriptive matter to clearly portray intentions of the owner. These documents shall become a part of the record. Such plans shall show location of all buildings, parking, traffic access and circulation drives, open spaces, landscaping, exterior lighting, all existing structures and uses within 200 feet of the site boundaries, and any other information necessary to determine if the proposed special use meets the requirements of this chapter.

C. Expiration. Unless construction is commenced and diligently pursued within 12 months of the date granting a special use permit, such permit shall be expired and become null and void.

[Amended 7-14-2009 by L.L. No. 4-2009]

D. Standards applicable to all special permitted uses. All special permitted uses require site plan review and a public hearing; however, the public hearing may be waived at the option of the Planning Board if all the following standards and conditions have been satisfied:

(1) Location, use and size of structure, nature and intensity of operations involved, size of site in relation to it, and location of site with respect to existing or future street giving access, are such that it will be in harmony with orderly development of the district.

(2) Location, nature and height of buildings, walls, fences and signs shall not discourage the appropriate development and use of adjacent land and buildings or impair their value.

[Amended 7-14-2009 by L.L. No. 4-2009]

(3) Operation of any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or lighting than would be the operation of any permitted use.

(4) Necessary provisions have been made to assure that all surface runoff to adjacent properties does not exceed levels in existence prior to construction.

(5) Solar access of adjacent properties is not obstructed by said use.

(6) In addition, when making a determination concerning a special use within a floodplain area, the Planning Board shall consider the following factors: Editor's Note: See also Ch. 70, Flood Damage Prevention.

(a) The danger to life and property due to increased flood velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands to the injury of others.

(c) The susceptibility of the proposed facility and its contents to flood damages and the effect of the damages on the individual owners.

(d) The importance of the services provided by the proposed facility to the community.

(e) The availability of alternative locations, not subject to flooding damages, for the proposed use.

(f) The compatibility of the proposed use with existing and anticipated development.

(g) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(h) The expected height, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(i) The cost of providing governmental services during and after the flood conditions, including maintenance and repair of public utilities and facilities such as sewer, electric and water systems, and streets and bridges.

If said conditions and structures are not met, a public hearing shall be undertaken in accordance with site plan review procedures.

No special use permit shall be issued for a use on a property where there is an existing violation after enactment of this chapter.

E. Site plan review and approval.

The Planning Board, at a public meeting, shall, pursuant to Town Law § 274-a(1)(a) review and approve, or approve with conditions or disapprove site plans before a building permit is issued.

Submission of site plan and supporting data. The owner shall submit an acceptable site plan (to be rendered by a professional architect, licensed engineer or licensed surveyor) and supporting date to the Planning Board a minimum 10 days prior to the monthly meeting. (On existing buildings or additions the Planning Board may waive the need for an architect, professional engineer or licensed land surveyor and any supporting data that they deem not necessary to a particular application.)

The following information presented in drawn form and accompanied by written text shall be included:

(1) Survey of property showing existing features, including contours, large trees, watercourses, significant natural and man-made features, buildings, structures, streets, utility easements, rights-of-way, land use, and property ownership.

(2) Site plan, drawn to scale, showing proposed lots; blocks; building locations; utility, access and other easements; streets; rights-of-way; and land use areas.

(3) Traffic circulation, parking and loading spaces and other pedestrian walks.

(4) Landscaping plans, including site grading, landscaping design, open space and parks.

(5) Preliminary architectural drawings for buildings to be constructed, including floor plans, exterior elevations and sections.

(6) Preliminary engineering plans, including street improvements, storm drainage, water supply and sanitary sewer facilities.

(7) Engineering feasibility study of any anticipated problem which might arise due to proposed development as may be required by the Planning Board.

(8) Construction sequence and time schedule for completion of each phase for buildings, parking and landscaped areas.

(9) Description of proposed uses, including hours of operation, and expected number of employees, volumes of business and volumes of traffic generated.

(10) New projects may be signed off by emergency services, fire officials and the constables, at the Planning Board's sole discretion.

F. Approval or denial. The Planning Board shall review the site plan and supporting data before approval, approval with stated conditions, or denial is given, having taken into consideration the following:

[Amended 7-14-2009 by L.L. No. 4-2009]

(1) Harmonious relationship between proposed uses and existing adjacent uses.

(2) Maximum safety of vehicular circulation between the site and street.

(3) Traffic circulation, parking and loading spaces and other pedestrian walks.

(4) Landscaping plans, including site grading, landscaping design, open space and parks.

(5) Preliminary architectural drawings for buildings to be constructed, including floor plans, exterior elevations and sections.

(6) Preliminary engineering plans, including street improvements, storm drainage, water supply and sanitary sewer facilities.

(7) Engineering feasibility study of any anticipated problem which might arise due to proposed development as may be required by the Planning Board.

(8) Construction sequence and time schedule for completion of each phase for buildings, parking and landscaped areas.

(9) Description of proposed uses, including hours of operation, and expected number of employees, volume of business and volume of traffic generated.

(10) New projects may be signed off by emergency services, fire officials and the constables, at the Planning Board's sole discretion.

(11) Adequacy of vehicular circulation as it impacts fire truck and emergency vehicle access.

(12) Adequacy of landscaping and setbacks to achieve compatibility with, and protection of, adjacent uses.

(13) Factors deemed necessary by the Planning Board for the health, safety and welfare of the public.

The Planning Board may require changes or additions in relation to yards, driveways, and landscaping, to ensure safety, to minimize traffic difficulties, and to safeguard adjacent properties. Should other changes or additional facilities be required by the Board, final approval of site plan shall be conditional upon satisfactory compliance with those changes or additions by the owner.

Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

Final determination shall be rendered within 62 days of said public hearing.

G. Effect of site development plan approval. No building permit shall be issued for any building or structure covered by this section until an approved site development plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Code Enforcement Officer.

(1) No certificate of occupancy shall be issued for any building or structure or use of land covered by this section unless the building or structure is completed or the land is developed or used in accordance with an approved site development plan or approved amendment of any such plan.

(2) The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in

connection with the issuance of permits by the Code Enforcement Officer of the Town. Such conditions must be attached to the certificate of occupancy as maintained in the records of the office of the Code Enforcement Officer.

H. Presubmission conference. Prior to the submission of a site development plan, the applicant shall meet in person with the Planning Board, the purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site development plan elements listed herein as required shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.

(1) Within six months following the pre-submission conference, the site development plan and any related information shall be submitted by applicant to the Code Enforcement Officer in triplicate at least 16 days prior to the Planning Board meeting at which approval is requested. If applicant does not submit same to the Code Enforcement Officer within this six-month period, another presubmission conference shall be required.

(2) The Code Enforcement Officer shall certify on each site development plan or amendment whether or not the plan meets the requirements of all provisions, other than those of this section regarding site development plan approval.

(3) The Code Enforcement Officer shall retain one copy and transmit two copies of the certified site development plan to the Chairman of the Planning Board at least seven days prior to the Planning Board meeting at which approval is requested.

(4) The Planning Board shall act to approve, approve with conditions, disapprove or schedule a site plan hearing within 62 days of submission of a completed application. Failure to act within 62 days after the meeting at which approval is requested shall be deemed as approval. Planning Board disapproval shall include written findings upon any site development plan element found contrary to the provision or intent of this chapter. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants as qualified to advise as to whether a proposed use will conform to the requirements of this chapter. Such consultant shall report whether or not the use applied for will be operated in conformance with the performance standards and, if not, what modification in design or operation would be necessary for conformance. A copy of the report by such consultants shall be furnished to the Planning Board, Code Enforcement Officer, and applicant. The cost for all consultants shall be paid by the developer. Such consultants shall report whether or not the use applied for meets the criteria established under site plan approval and, if not, what modification in design or operation would be necessary for conformance.

[Amended 7-14-2009 by L.L. No. 4-2009]

(5) Amendment to a site development plan shall be acted upon in the same manner as the approval of the original plan.

I. Site development plan elements. The applicant shall cause a site development plan to be prepared by a licensed engineer or land surveyor, unless the requirement of such professional preparation is waived by the Planning Board. Site development plan elements shall include those listed below which are appropriate to the proposed development or use as indicated by the Planning Board in the presubmission conference.

(1) Legal data.

(a) Section, block and lot number of the property taken from the latest assessment records.

(b) Name and address of the owner of record.

(c) Name and address of person, firm, or organization preparing the map.

(d) Date, North point, and written and graphic scale.

(e) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.

(f) The locations and owners of all adjoining lands as shown on the latest tax records.

(g) The locations, names, and existing widths of adjacent streets and curblines.

(h) Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use within or adjoining the property.

(i) A complete outline of existing deed restrictions or covenants applying to the property.

(j) Existing zoning.

(2) Natural features.

(a) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.

(b) Approximate boundaries of any areas subject to flooding or stormwater overflows.

(c) Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured three feet above the base of the trunk, and other significant existing features.

(3) Existing structures and utilities.

(a) Location of uses and outlines of structures drawn to scale on and within 100 feet of the lot line.

(b) Paved areas, sidewalks, and vehicular access between the site and abutting streets.

(c) Locations, dimensions, grades and flow direction of existing culverts, water lines as well as other underground and aboveground utilities within and adjacent to the property.

(d) Other existing development, including fences, landscaping, and screening.

(4) Proposed development.

(a) The location of proposed buildings or structural improvements.

(b) The location and design of all uses not requiring buildings or structures, such as off-street parking and loading areas.

(c) The location, direction, power and time of use for any proposed outdoor lighting or public address system.

(d) The location and plans for any outdoor signs.

(e) The location and arrangement of proposed means of access and egress, including sidewalks, driveways, or other paved areas. Profiles indicating grading and cross-sections showing width of roadway, location and width of sidewalks, and location and size of water and sewer lines.

(f) Any proposed grading, screening and other landscaping, including types and location of proposed street trees.

(g) The location of all water lines, valves and hydrants and of all sewer lines or alternative means of water supply and sewage disposal and treatment.

(h) An outline of any proposed deed restrictions or covenants.

(i) Any contemplated public improvements on or adjoining the property.

(j) If the site development plan only indicates a first stage, a supplementary plan shall indicate ultimate development.

(5) Any other information deemed by the Planning Board necessary to determine conformity of the site plan with the intent and regulations of this chapter.

J. Notice of hearing — zoning appeals.

(1) The Board shall give notice of the hearing at least five days prior to the date thereof by publication in the official Town newspaper. In addition, the applicant shall notify by certified mail at least seven calendar days before the hearing to the following: All owners of property which lie adjacent to that owned by the applicant and all other owners within 500 feet of the applicant's property line in any direction. The names of said owners shall be taken as they appear on the last complete tax roll of the Town.

(2) The Planning Board shall hold a public hearing within 62 days after receipt of a complete application. Within 62 days after the public hearing, the Board must render a decision. Failure to act within 62 days after the public hearing shall be deemed approval. In reviewing the application, the Planning Board may secure the advice or assistance of one or more lawyers, planners, engineers, or other expert consultants qualified to advise as to whether a proposed use will conform to the requirements of this chapter. The cost for all consultants shall be borne by the applicant. The consultants shall report whether or not the use applied for meets the criteria established under site plan approval and, if not, what modifications in design or operation would be necessary for conformance.

[Amended 7-14-2009 by L.L. No. 4-2009]

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§ A267-9. Site development plan specifications.

A. General. The maps and plans required by these regulations shall show the information and shall be prepared in accordance with the following specifications. All preliminary and final site development plans, construction plans and grading plans shall be prepared by and bear the name, signature and seal of a land surveyor or professional engineer, or both, as required by law and licensed by the State of New York. Elements of such maps and plans and related studies and evaluations may be prepared by an architect, landscape architect or other designer or technician as authorized by law and noted on the documents presented. Pertinent survey data and design computations shall be presented to the Planning Board for review upon request. Maps, plans, studies and evaluations shall include information hereinafter specified to the extent applicable to the particular plan. In the event that the improvements to the site do not exceed $20,000, the Planning Board may waive these requirements if allowed by law.

B. Specifications. The site development plan should be presented in a series of sheets of uniform size, at a scale of one inch equals 40 feet, unless otherwise authorized by the Planning Board, containing the information listed below on each of the respective sheets.

(1) Planimetric Site Layout Sheet (Sheet No. 1). The plan specifications for a final site plan approval are denoted "F" in the right-hand column. The specifications required for preliminary review are marked with a "P" in the right-hand column, and those for any preapplication review with an "S."

(KEY: S = Preapplication; P = Preliminary; F = Final)

	Information	Specifications
(a)	Location map at a scale of 1 inch equals 400 feet.	S, P, F
(b)	Existing zoning district boundaries within 500 feet, to be shown on the location map. If such a boundary goes through the site in question, it should also be shown on the site development plan.	S, P, F

	Information	Specifications
(c)	The applicant's entire contiguous holdings. If the applicant is other than the owner of record, then the owner of record's entire contiguous holdings should be shown.	S, P, F
(d)	Standard site development plan notes, including but not limited to:	S, P, F
	[1] Lot, block and sheet numbers.	
	[2] Area of tract.	
	[3] Zoning district.	
	[4] Proposed use.	
	[5] Record owner.	
	[6] Applicant.	
	[7] Water district, if any.	
	[8] Sewer district, if any.	
	[9] Datum: United States Geological Survey.	
	[10] Underground utilities.	
	[11] Covenants, deed restrictions, easements or other reservations of land relative to this site.	
	[12] Variances or special permits granted, if any.	
(e)	Title of the drawing, including the name of the project, owner's name and address.	S, P, F
(f)	North arrow, scale and date.	S, P, F
(g)	Property boundaries and existing tax lot lines.	S, P, F
(h)	Existing public streets abutting or crossing the	S, P, F

	Information	Specifications
	site.	
(i)	Existing structures and uses located on the site.	S, P, F
(j)	Approximate locations of existing structures within 100 feet of the site lot lines.	S, P, F
(k)	Proposed location and use of any new building or structure, including all aboveground mechanical, electrical and other utility equipment.	S, P, F
(l)	Proposed location of walkways, benches, recreation facilities and garbage dumpster enclosures.	S, P, F
(m)	Existing and proposed vehicular access to and from the site.	S, P, F
(n)	Location and layout of driveways, parking areas and loading areas.	S, P, F
(o)	Proposed location, type and height of fencing.	F
(p)	Proposed location of outdoor lighting facilities.	F
(q)	Site development plan of ultimate development, if the project is to be staged.	P, F
(r)	Along all road frontages show:	P, F
	[1] The center line of existing right-of-way.	
	[2] The edge of existing pavement	
	[3] The designated street line.	
	[4] The front setback line.	
	[5] Existing trees over 4 inches in diameter (measured 4 feet above grade) and a description of their condition.	

	Information	Specifications		
(s)	Location of the curb cuts or points of access and egress for the properties immediately abutting and across the street from the access point(s) to the site.	P,	F	
(t)	The computation for the required number of parking spaces as provided for in the Table of Use Requirements.	P,	F	
(u)	Types of materials proposed to be used on the site.	P,	F	
(v)	On-site development plans involving signs and the location of freestanding signs in relation to the designated street line.	F		
(w)	All pertinent zoning yard dimension lines.	S,	P,	F
(x)	A 3 1/2-inch blank square in the lower right-hand corner immediately above the title block for purposes of an approval block.	P,	F	
(y)	Any ledge outcroppings.	P,	F	
(z)	Location of existing stone walls and fences.	S,	P,	F
(aa)	Existing watercourses and water bodies, including both intermittent and continuous flowing streams and springs.	S,	P,	F
(bb)	Location and limits of all wetlands, floodplains and other land subject to potential flooding.	S,	P,	F
(cc)	Principal wooded areas and the approximate location of any large isolated trees.	S,	P	
(dd)	The approximate location of any seepage test holes, test pits and borings.	P		
(ee)	The approximate location of any wells on the tract and on land within 200 feet of the tract.	P		
(ff)	A visual analysis, if required by the Planning	F		

Information	Specifications
Board.	
(gg) Any other data the Planning Board may deem necessary.	F

(2) Grading, Drainage and Utilities Plan Sheet (Sheet No. 2). The plan specifications for a final site plan approval are denoted "F" in the right-hand column. The specifications required for preliminary review are marked with a "P" in the right-hand column, and those for any preapplication review with an "S."

Information	Specifications
(a) All items listed for Sheet No. 1 should be shown with the exception of Subsection B(1)(a), (b), (d), (p), (t), (v) and (w).	F
(b) Grading and excavation, including:	
[Amended 2-9-1999 by L.L. No. 1-1999	
[1] Existing and proposed contours at two-foot intervals, or less, extended to 50 feet beyond the boundaries of the site.	
[2] Areas of proposed rock excavation, including blasting as defined in Town Code Chapter 48. Grading plans shall demonstrate conformance with the provisions of Town Code Chapter 48.	
(c) Location and types, sizes and slopes, where pertinent, of existing and proposed waterlines, valves and hydrants, storm and sanitary sewer lines, electric lines, telephone lines, gas and other utility lines and utility poles. Typical cover should be indicated over all required underground utility lines.	F
(d) Existing and proposed stormwater drainage and underdrain systems, including:	F

Information	Specifications
[1] Location, size and slopes of all pipes and swales, including invert and top elevations at each manhole, inlet, headwall or other appurtenant drainage structure.	
[2] Base width, side slope, inverts and lining of each swale (riprap, asphalt, concrete grass, etc.).	
[3] Inverts of underdrain systems at bends and outlets.	
(e) In addition to the drainage items in Subsection B(2)(d) above, the applicant should supply the following:	F
[1] A 400-scale map showing the limits of the watershed in which the property is located, with the development site shaded in.	
[2] Drainage computations for the runoff entering the site for a fully developed watershed and for the site itself after proposed development.	
[3] A marked-up grading plan showing subareas colored in for each drainage structure.	
(f) Location and spot grades at the top and bottom of retaining walls.	F
(g) The following standard erosion control notes: An erosion control system will be utilized by the developer to minimize the production of sediment from the site. Methods to be utilized will be those found most effective for the site and shall include 1 or more of the following, as applicable:	F
[1] areas shall be provided at key locations to intercept and clarify silt laden runoff from the site. These may be excavated or may	

Information	Specifications
be created utilizing earthen berms, riprap or crushed-stone dams, hay bales or other suitable materials. Diversion swales, berms or other channelization shall be constructed to ensure that all silt-laden waters are directed into the entrapment areas, which shall not be permitted to fill in but shall be cleaned periodically during the course of construction. The collected silt shall be deposited in areas safe from further erosion.	
[2] All disturbed areas, except roadways, which will remain unfinished for more than 30 days shall be temporarily seeded with 1/2 pounds of rye grass or mulched with 100 pounds of straw or hay per 1,000 square feet. Roadways shall be stabilized as rapidly as practicable by the installation of the base course.	
[3] Silt that leaves the site in spite of the required precautions shall be collected and removed as directed by appropriate municipal authorities.	
[4] At the completion of the project all temporary siltation devices shall be removed and the affected areas regraded, planted or treated in accordance with the approved site plan.,	
[5] At a minimum, conform to Westchester Best Management Practices for Soil and Erosion Control.	

(3) Landscaping and lighting specifications (Sheet No. 3):

(a) All items listed for Sheet No. 1 should be shown with the exception of Subsection B(1)(a), (b), (d), (t), (v), (w) and (x).

(b) The following standard landscape notes:

[1] Mulch all plant beds and trees with a four-inch depth of sugar cane or licorice root mulch or the equivalent.

[2] Stake all trees with two stakes, rubber hose around the tree six feet zero inches above grade and twisted galvanized wire.

[3] Guarantee all plants and workmanship for two planting seasons.

[4] All plant material shall be nursery grown and shall conform to the American Association of Nursery Men's Standards.

(c) The location, direction, type and height of outdoor lighting facilities, including isolux curves.

(d) The location and extent of existing wooded areas, rock outcrops and single large trees six inches or more in caliper, measured four feet above ground.

[Amended 6-29-1999]

(e) The proposed location, design and type of screening and landscaping, including trees. A planting list should be provided on the drawing, keyed to the plan, showing botanical and common names, species, quantities, height and caliper of planting materials. Provide a separate list of all existing materials to be retained. The landscaping plan and schedule shall be prepared and certified by an appropriate licensed design professional.

(4) Construction Specifications (Profiles and Detail Sheet) (Sheet No. 4 and as many others as needed):

(a) The profiles of roads, driveways, storm drainage pipes and channels, and sewer pipes.

(b) The elevation view of any freestanding signs, showing dimensions and sign area (both sides count) and setback from designated street line, and on building fascia, the height of signs above grade, their overall height, dimensions and area.

(c) Construction details illustrating all site improvements and those required in other sections of the rules and regulations, in accordance with Town construction standards and specifications.

(5) Additional sheets: any other required sheets for multiphased projects or large-scale projects.

C. Site development plan revisions. All site development plans that are submitted to the Planning Board, which have been revised, shall have the revision number noted in a triangle along with a brief summary of the elements revised and the dates of revision. Additionally, this revision number (in the triangle) is to be used to indicate on the plan those places where the changes have been made. Any plan submitted without this system shall be returned to the applicant and shall be subject to a resubmission fee.

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

§ 431-15. General standards and consideration.

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

A. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

C. Location, arrangement, appearance and sufficiency of off-street parking and loading.

D. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

E. Adequacy of stormwater management and drainage facilities and erosion and sediment control measures.

[Amended 4-12-2005 by ordinance (Res. No. 105-2005)]

F. Adequacy of water supply and sewage disposal facilities.

G. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

H. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

I. Special attention to the adequacy and impact of structure, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

J. Overall impact on the neighborhood including compatibility of design considerations.

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

§ 120-47. Applicability.

A. Except for one-family and two-family dwellings, approval of a site plan by the Planning Board is required for:

(1) The development or redevelopment of any property or structure for a new use.

(2) The expansion or relocation of any existing use.

(3) Any change of use of a property or structure for a permitted use where said use will increase traffic or the need for parking, water, sewer or other community services. Said determination shall be made by the Planning Board.

(4) Any use or alteration of land located within the one-hundred-year floodplain.

(5) Applications for special use permit approval.

(6) Any other provision requiring site plan approval by the Planning Board.

B. Where site plan approval is required, applications for the issuance of a building permit or certificate of occupancy must be accompanied by a copy of the approved site plan bearing the signature of the Planning Board Chairman. The continued validity of any certificate of occupancy shall be subject to continued conformity with such approved site plan and conditions. Revisions of approved site plans shall be subject to the same approval procedure.

This electronic version of the Code is provided for informational purposes only. For the official version of the Code, please contact the municipality.

§ 361-4. Applicable standards.

In acting on any site plan application, the Planning Commission, in addition to all other applicable laws, shall take into consideration the following standards:

A. Traffic access and roads. All proposed traffic access and roads are adequate but not excessive in number, adequate in width, alignment and visibility, and not located too near street corners or other places of public assembly. Necessary traffic signalization and other safety controls, devices and facilities have been properly given consideration and duly provided wherever appropriate or warranted.

B. Circulation and parking. Adequate off-street parking and loading spaces are provided to prevent the parking in public streets of vehicles of any persons connected with or visiting the site, and the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.

C. Screening and landscaping. All playground, parking, loading, public and other service areas are reasonably screened by a double row of hemlocks or equivalent, five feet in height and four feet on center, at all seasons, from the view of adjacent lots and streets, and the scale and quality of the landscaping or fencing of the site enhances the character of the neighborhood.

D. Natural and other significant features. All water bodies, wetlands, steep slopes, hilltops, ridgelines, trees, outstanding natural topography, significant geological features and other areas of scenic, ecological and historic value are preserved insofar as possible, and flood hazard is minimized.

E. Fire protection. All proposed structures, equipment or material shall be readily accessible for fire protection.

F. Drainage.

[Amended 6-30-1986 by L.L. No. 6-1986 Editor's Note: Section 1 of L.L. No. 6-1986 provided as follows: "Policy 14 of the Town of Mamaroneck - Village of Larchmont local waterfront revitalization program, adopted June 30, 1986, declared that activities and development 'shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development or at other locations.' It is the purpose of this local law to give effect to that policy through appropriate amendment of the Site Plan Approval Law of the Village of Larchmont." **]**

(1) A storm drainage system which demonstrates affirmative compliance with the form, scope and substance of all applicable design criteria shall be provided to accommodate expected loads from the tributary watershed when developed to the maximum density permitted under the existing zoning standards. Drainage shall be conducted to a point of adequate and suitable disposal.

(2) On sites of 10,000 square feet or more and in other instances determined by the Planning Commission to be appropriate after consultation with the Village Engineer, development shall be so designed and executed as to limit overflow from the site to zero increase in the rate of runoff and to create zero decrease in the rate of upstream runoff into the site, as related to existing conditions, except that the Planning Commission, after consultation with the Village Engineer, may substitute a different requirement for a particular site if it determines that the substituted requirement will be more effective in controlling flooding and erosion at the site and at other locations.

(3) On parcels of five acres or more, the Planning Commission may require that development is so designed and executed as to reduce the rate of runoff by a stipulated percentage not to exceed 20%, as compared with existing conditions, through drainage systems, water retention and/or the maintenance of open spaces, both those required under ordinary circumstances and such additional open spaces as may be required for this purpose, but without reducing the rate of runoff into the site from upstream. Such a requirement shall not be applied unless the Planning Commission determines that it is an appropriate and important means of preventing an increase in erosion and flooding at the site and/or at other locations. In making such determination, the Planning Commission shall consult with the Village Engineer and with the Westchester County Soil and Water Conservation District, who shall respond within the time limits set by this chapter. Failure to respond within such time limits shall be deemed approval by such agencies.

MODEL LOW IMPACT DEVELOPMENT STORMWATER MANAGEMENT BYLAW

SECTION 1. AUTHORITY.

This bylaw is adopted by the Town of _____under authority of 24 V.S.A. § 4410 and 24 V.S.A. § 4414 (9).

SECTION 2. PURPOSE

The purpose of this bylaw is:

(A) To promote stormwater management practices that maintain pre-development hydrology through site design, site development, building design and landscape design techniques that infiltrate, filter, store, evaporate and detain stormwater close to its source;

(B) To protect natural resources, particularly streams, lakes, wetlands, floodplains and other natural aquatic systems on the development site and elsewhere from degradation that could be caused by construction activities and post-construction conditions;

(C) To protect other properties from damage that could be caused by stormwater and sediment during construction activities and post-construction conditions on the development site;

(D) To reduce the impacts from impervious surfaces such as streets, parking lots, rooftops and other paved surfaces; and

(E) To protect public safety from flooding and streambank erosion, reduce public expenditures in removing sediment from stormwater drainage systems and natural resource areas, and to prevent damage to municipal infrastructure caused by inadequate stormwater controls.

SECTION 3. SCOPE AND APPLICABILITY

(A) This bylaw shall apply to all development within the Town of _____requiring a municipal land use permit.

(B) Exemptions:

> (1) Any activity that will disturb an area less than *[ ]* square feet or less than *[ ]*% of contiguous property, whichever is less;

(2) Any activity that will increase an impervious area or contiguous impervious area less than *[ ]* square feet;

(3) The construction of any fence that will not alter existing terrain or drainage patterns.

SECTION 4. LID/ STORMWATER MANAGEMENT APPLICATION MATERIALS

For all development requiring a municipal land use permit, the following information shall be presented on a plan or plans drawn to scale with supporting documents and technical details as necessary:

(A) An existing condition site assessment providing baseline information on features including slope profiles showing existing gradients, soil types, tree canopy and other vegetation, natural waterbodies, wetlands and sensitive natural communities, and site features that aid in stormwater management including natural drainage ways and forested and vegetated lands located on stream and wetland buffers;

(B) An erosion and sediment control plan that incorporates accepted management practices as recommended by the state in the most recent editions of the *Low Risk Handbook for Erosion Prevention and Sediment Control* or *The Vermont Standards and Specifications for Erosion Prevention and Sediment Control,* as determined by the *[AMP]*.

(C) A stormwater management plan identifying the construction disturbance area and demonstrating that stormwater runoff is minimized through the use of natural drainage systems and on-site infiltration and treatment techniques. The plan shall demonstrate that soils best suited for infiltration are retained and that natural areas consisting of tree canopy and other vegetation are preserved, preferably in contiguous blocks or linear corridors where feasible, for protection of the best stormwater management features identified in the site assessment. The Administrative Officer or *[AMP]* may consider and impose appropriate safeguards, modifications and conditions relative to the general standards and guidelines listed in Section 7 of this bylaw.

SECTION 5. GENERAL PRE-DEVELOPMENT AND CONSTRUCTION SITE STANDARDS.

All development in the Town of _____ is subject to the following pre-development and construction site standards to ensure that all sources of soil erosion and sediment on the construction site are adequately controlled, and that existing site features that naturally aid in stormwater management are protected to the maximum extent practical.

(A) Minimize Land Disturbance. Development of a lot or site shall require the least amount of vegetation clearing, soil disturbance, duration of exposure, soil compaction and topography changes as possible.

(1) To the extent feasible, soils best suited for infiltration shall be retained and natural areas consisting of tree canopy and other vegetation shall be preserved, preferably in contiguous blocks or linear corridors.

(2) The time the soil is left disturbed shall be minimized. The Administrative Officer or *[AMP]* may require project phasing to minimize the extent of soil disturbance and erosion during each phase of site development.

(3) There shall be no soil compaction except in the construction disturbance area, which shall be identified and delineated in the field with appropriate safety or landscape fencing. In areas outside the disturbance area there shall also be no storage of construction vehicles, construction materials, or fill, nor shall these areas be used for circulation.

(4) Development on steep slopes equal to or in excess of 15%, or which results in such slopes, shall be subject to conditional use review.

(B) Preserve Natural Areas. Development shall not result in an undue adverse impact on fragile environments, including wetlands, wildlife habitats, streams, lakes, steep slopes, floodplains and vegetated riparian buffers.

(1) Open space or natural resource protection areas shall be retained preferably in contiguous blocks or linear corridors where feasible, for the protection of the best stormwater management features identified in the site assessment as required in Section 4(A) of this bylaw.

(2) Forested lands located on stream and wetland buffers and steep slopes are priority areas and clearing them shall be avoided in order to protect wildlife habitats and prevent erosion and sedimentation resulting from stormwater runoff.

(3) A minimum 50-foot vegetated buffer shall be established along any lakes and/or streams located within the property lines. The buffer shall increase to 100-feet for watesheds greater than 2 square miles. The applicant shall default to the Fluvial Erosion Hazard (FEH) zone along streams if one has been established.

(4) Lot coverage and building footprints shall be minimized and where feasible, and development clustered, to minimize site disturbance and preserve large areas of undisturbed space. Environmentally sensitive areas, such as areas along streams, wetlands, and steep slopes shall be a priority for preservation and open space.

(C) Manage Water, Prevent Erosion and Control Sediment During Construction. Applicants shall maintain compliance with the accepted erosion prevention and sediment control plan as required by Section 4(B) of this bylaw.

(1) Runoff from above the construction site must be intercepted and directed around the disturbed area.

(2) On the site itself, water must be controlled, and kept at low velocities, to reduce erosion in drainage channels.

(3) The amount of sediment produced from areas of disturbed soils shall be minimized by utilizing control measures such as vegetated strips, diversion dikes and swales, sediment traps and basins, check dams, stabilized construction entrances, dust control, and silt fences.

(4) Immediate seeding and mulching or the application of sod shall be completed at the conclusion of each phase of construction, or at the conclusion of construction if not phased.

(5) The applicant shall follow the erosion prevention and sediment control practices for construction that occurs from October 15th to May 15th found in Section 3.2 *Winter Construction Limitations* as outlined in *The Vermont Standards and Specifications for Erosion Prevention and Sediment Control*, or the most recent Agency of Natural Resources standards for winter construction.

SECTION 6. LOW IMPACT DEVELOPMENT DESIGN

The use of LID design approaches is preferred and shall be implemented to the maximum extent practical given the site's soil characteristics, slope, and other relevant factors. To the extent that LID design approaches are not proposed in the stormwater management plan, as required in Section 4(C) of this bylaw, the applicant shall provide a full justification and demonstrate why the use of LID approaches is not possible before proposing to use conventional structural stormwater management measures which channel stormwater away from the development site.

SECTION 7. LID/ STORMWATER GENERAL POST CONSTRUCTION REVIEW STANDARDS AND GUIDELINES

All applications for development are subject to the following post construction stormwater management standards and guidelines to ensure that stormwater management approaches that maintain natural drainage patterns and infiltrate precipitation are utilized to the maximum extent practical.

Standards are statements that express the development and design intentions of this bylaw. The guidelines suggest a variety of means by which the applicant might comply with the standards. The guidelines are intended to aid the applicant in the design process and the Administrative Officer and the *[AMP]* when reviewing applications. Options for compliance with the standards are not limited to the guidelines listed.

Standard 1: Vegetation and Landscaping
Vegetative and landscaping controls that intercept the path of surface runoff shall be considered as a component of the comprehensive stormwater management plan.

> **Guideline 1.1.** Utilize two-track surfaces with grass in-between to provide water infiltration for roads, driveways, parking lots and other types of drivable or walkable surfaces.
>
> **Guideline 1.2.** Design parking lot landscaping to function as part of the development's stormwater management system utilizing vegetated islands with bioretention functions.
>
> **Guideline 1.3.** Incorporate existing natural drainage ways and vegetated channels, rather than the standard concrete curb and gutter configuration to decrease flow velocity and allow for stormwater infiltration.
>
> **Guideline 1.4.** Divert water from downspouts away from driveway surfaces and into bioretention areas or rain gardens to capture, store, and infiltrate stormwater on-site.
>
> **Guideline 1.5.** Encourage construction of vegetative LID stormwater controls (bioretention, swales, filter strips, buffers) on land held in common.

Standard 2: Development on Steep Slopes
Development on steep slopes equal to or in excess of 15% shall be sited and constructed, and slopes stabilized to minimize risks to surface and ground waters and to protect neighboring properties from damage.

> **Guideline 2.1.** Prohibit development, re-grading and clearing of vegetation on land where the slope is greater than 25%.
>
> **Guideline 2.2.** Locate house sites, subsurface sewage systems and parking areas on the flattest portion of the site.
>
> **Guideline 2.3.** Minimize crossing steep slopes with roads and driveways and lay them out to follow topographic contours in order to minimize soil and vegetation disturbance. Avoid long driveways.

Standard 3: Reduce Impervious Surfaces
Stormwater shall be managed through land development strategies that emphasize the reduction of impervious surface areas such as streets, sidewalks, driveway and parking areas and roofs.

> **Guideline 3.1.** Evaluate the minimum widths of all streets and driveways to demonstrate that the proposed width is the narrowest possible necessary to conform with safety and traffic concerns and requirements.

Guideline 3.2. Reduce the total length of residential streets by examining alternative street layouts to determine the best option for increasing the number of homes per unit length.

Guideline 3.3. Minimize the number of residential street cul-de-sacs and incorporate vegetated islands to reduce their impervious cover. The radius of cul-de-sacs should be the minimum required to accommodate emergency and maintenance vehicles. Consider alternative turn-around areas.

Guideline 3.4. Reduce driveway lengths by minimizing setback distances. Encourage common driveways.

Guideline 3.5. Use permeable pavement for parking stalls and spillover parking, sidewalks, driveways and bike trails.

Guideline 3.6. Establish parking maximums and utilize shared parking for uses with different peak demand periods.

Guideline 3.7. Reduce building footprints by using more than one floor level.

Standard 4: Low Impact Integrated Management Practices (IMPs)
Stormwater shall be managed through the use of small-scale controls to capture, store and infiltrate stormwater close to its source.

Guideline 4.1. Create vegetated depressions, commonly known as biorention areas or rain gardens that collect runoff and allow for short-term ponding and slow infiltration. Raingardens consist of a relatively small depressed or bowl shaped planning bed that treats runoff from storms of one inch or less.

Guideline 4.2. Locate dry wells consisting of gravel or stone-filled pits to catch water from roof downspouts or paved areas.

Guideline 4.3. Use filter strips or bands of dense vegetation planted immediately downstream of a runoff source to filter runoff before it enters a receiving structure or water body. Natural or man-made vegetated riparian buffers adjacent to waterbodies provide erosion control, sediment filtering and habitat.

Guideline 4.4. Utilize shallow grass-lined channels to convey and store runoff.

Guideline 4.5. Incorporate rooftop gardens which partially or completely cover a roof with vegetation and soil or a growing medium, planted over a waterproofing membrane.

Guideline 4.6. Use permeable paving and sidewalk construction materials that allow stormwater to seep through into the ground.

Guideline 4.7. Use rain barrels and cisterns of various sizes that store runoff conveyed through building downspouts. Rain barrels are generally smaller structures, located above ground. Cisterns are larger, often buried underground, and may be connected to the building's plumbing or irrigation system.

Guideline 4.8. Add minerals and organic materials to soils to increase its capacity for absorbing moisture and sustaining vegetation.

Guideline 4.9. Utilize tree box filters placed below grade, covered with a grate, filled with filter media and planted with a tree, to act both as a water retention tank and a natural filter.

SECTION 8. INDEPENDENT CONSULTANTS.

The *[AMP]* may retain independent consultants to facilitate the review of applications for development subject this bylaw and whose services shall be paid for by the applicant. The consultant(s) shall work at the *[AMP]*'s direction and shall provide the *[AMP]* such reports and assistance, as the *[AMP]* deems necessary to determine compliance with this bylaw.

SECTION 9. OTHER LAWS.
This bylaw is in addition to all other ordinances and bylaws of the Town of _____ and all applicable laws of the State of Vermont.

SECTION 10. SEVERABILITY.
If any section of this bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.

_____ _____
DATE

_____

_____

_____

_____
SIGNATURES

October, 2007

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
LOCAL LAW FOR FLOOD DAMAGE PREVENTION
INSTRUCTIONS

The attached MODEL LOCAL LAW is designed to comply with the floodplain management requirements of the National Flood Insurance Program contained in 44 CFR 60.3(b,c,&d). The Department of Environmental Conservation (DEC) has included several optional administrative provisions in the MODEL LOCAL LAW which are strongly recommended for proper administration. **Any changes made to this MODEL should be reviewed by the community's attorney and either the DEC or the Federal Emergency Management Agency (FEMA) before enacting. DEC and FEMA must be provided a list of any changes to this model at the time of filing.**

Department of State Filing Forms – insert all required information. Blank Local Law Filing Forms, including instructions and an online interactive version, can be found at http://www.dos.state.ny.us/lgss/publications.htm.

The following sections must be completed by the community:

Page 1, Sect. 1.1 - Insert legislative body and the name of the community twice.

Page 7, Sect. 3.1 - Insert the name of the community.

Page 7, Sect. 3.2 - Complete (1) through (5) as necessary, according to the documents your community has been furnished by the Federal Emergency Management Agency (FEMA). Cross out or delete any unused subsections. Documents you may have received are:

(a) Flood Insurance Study report--a brown or buff colored booklet, which contains technical data on flooding in the community;

(b) Flood Insurance Rate Map (FIRM)--a map in either an 11"x17" flat or a Z-fold (road map style) format. If the map consists of more than one panel, an index panel is usually included. The FIRM shows locations of areas of special flood hazard in the community; and,

(c) Flood Boundary and Floodway Map (FBFM)--a Z-folded sheet that shows the location of floodways in the community.

If your community received only a single FIRM map, fill in (1). The community number, a six digit number whose first two digits are 36, is required and is found in the lower right corner of the FIRM. The community number may also have a letter suffix, which should also be included. Also include the "effective date" shown on the map.

If you received a FIRM map with more than one panel, fill in (2). Be sure to show the community number and the panel numbers (e.g., 361540 0001-0025) and the letter suffix, if one is shown. Also include the "effective date" shown on the index panel.

If you received a Flood Insurance Study report, fill in (3) with the community name, name of your county(s) as shown on the report and date.

If you received a single FBFM, fill in (4).

If your community received a FBFM with multiple panels, fill in (5) with data from the index sheet.

If you are unsure what documents were sent to you, contact the DEC Regional Coordinator for your county (listed on page v) or the DEC Central Office (listed on page iv).

If you received a completed Page 7 from NYS DEC, you may substitute out that page. However, make sure you insert the location where the Flood Insurance Study and the maps are on file.

Page 7, Sect. 3.2 – Insert the location where the Flood Insurance Study and maps are on file.

Page 8, Sect. 3.5 - Same as 3.1.

Page 8, Sect. 3.6 - Same as 3.1.

Page 8, Sect. 4.1 - Insert the title of the individual or group responsible for administering the local law, such as the Building Inspector, Code Enforcement Officer or Planning Board. May not be the same as Sect. 6.1(1).

Page 9, Sect. 4.2-2 - Insert fee amount and community name.

Page 14, Sect. 5.1-3 - Insert the name of the community in the six blanks.

Page 17, Sect. 6.1(1) - Insert the name of the appeals board (in many instances the Zoning Board of Appeals serves this role) and the name of the community. It may be necessary to create a 3-5 person board to fulfill these duties. **In accordance with Town/Village/City Law, the appeals board may neither be the Town/Village/City Board, nor have any common members, nor be the same person or body as named in Sect. 4.1.**

Page 23, Sect. 6.1(2) - Insert the name of the appeal board.

Page 23, Sect. 6.1(3) - Same as 6.1(2).

Page 23, Sect. 6.1(4) - Same as 6.l(2).

Page 24, Sect. 6.1(5) - Same as 6.l(2).

Page 26 - Insert date of enactment, the names of the governing body, community and county, and the date on which the law becomes effective.

Attachment "A" (4 pages) to this document provides a recommended "Floodplain Development Permit Application" form. This form or its equivalent must be used in conjunction with Section 4.2 of this model local law.

Attachment "B" (1 page) to this document provides a recommended "Certificate of Compliance for Development in a Special Flood Hazard Area." This form or its equivalent should be used in conjunction with Section 4.4-7 of this model local law.

Please contact one of the DEC Central Office Program Coordinators listed on page iv should you have any questions about filling in the blanks or if you find any errors or omissions to these instructions, content, or attachments.

Optional Language is provided should your community wish to enact additional requirements to increase the level of safety. Note that many of these options result in points that can result in discounts on flood insurance premiums within communities that participate in FEMA's Community Rating System. Contact DEC for information about the Community Rating System.

NOTE: This document must be adopted in a manner that is legally enforceable.
File the indicated number of certified copies with each of the five offices listed below. Follow all instructions and use the official filing form.

1. **FEDERAL AGENCY (1 copy)**

Federal Emergency Management Agency
Mitigation Division
26 Federal Plaza, Room 1337
New York, New York l0278-0002

2. **COUNTY PLANNING (1 copy)**

The planning department for your county.

3. **SECRETARY OF STATE (3 copies)**

State Records and Law Bureau
Department of State
One Commerce Plaza
Albany, New York l2231

4. **DEC CENTRAL OFFICE (1 copy)***

NYS Department of Environmental Conservation
Floodplain Management Section
Attn: William Nechamen
625 Broadway, 4th Floor
Albany, NY 12233-3504
(518) 402-8185

5. **DEC REGIONAL OFFICE (1 copy)***

Regional Office address is determined by the county in which the community is located. See page iv for address of Regional Office covering your county.

***Please submit one copy of the "Local Law Acknowledgement" to the DEC Central Office and the DEC Regional Office upon receipt from the Department of State.** However, to expedite approval of your Local Law, please send a copy to the DEC Central Office immediately upon passage, prior to receipt of the "Local Law Acknowledgement."

New York State Department of Environmental Conservation
Bureau of Flood Protection and Dam Safety
625 Broadway, 4th Floor
Albany, NY 12233-3504
(518)402-8185

Central Office Floodplain Management Coordinators

Bill Nechamen:	518-402-8146	Chief, Floodplain Management	wsnecham@gw.dec.state.ny.us
Kelli Higgins:	518-402-8143	Environmental Engineer	kahiggin@gw.dec.state.ny.us
Dondi Saltsman:	518-402-8215	Environmental Engin. Tech	djsaltsm@gw.dec.state.ny.us

Regional Floodplain Management Coordinators

1	Nassau & Suffolk	NYS DEC Region 1 Loop Rd., Building 40 SUNY Campus Stony Brook, NY 11790-2356	Eric Star (631) 444-0423 exstar@gw.dec.state.ny.us
2	Bronx, Kings, New York, Queens & Richmond	NYS DEC Region 2 1 Hunters Point Plaza 4740 21st Street Long Island City, NY 11101-5407	Vichit Aramsombatdee (718) 482-4946 vxaramso@gw.dec.state.ny.us
3	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster & Westchester	NYS DEC Region 3 21 S. Putt Corners Rd. New Paltz, NY 12561	Mark Lewis (845) 256-3822 melewis@gw.dec.state.ny.us
4	Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady & Schoharie	NYS DEC Region 4 1150 North Westcott Road, Schenectady, NY 12306	Tom Blanchard (518) 357-2379 teblanch@gw.dec.state.ny.us
5 North	Clinton, Essex, & Franklin	NYS DEC Region 5 Route 86, PO Box 296 Ray Brook, NY 12977-0296	Fred Dunlap (518) 897-1243 fddunlap@gw.dec.state.ny.us
5 South	Fulton, Hamilton, Saratoga, Warren & Washington	NYS DEC Region 5 232 Hudson St. Warrensburg, NY 12885	Rob Streeter (518) 623-1211 rwstreet@gw.dec.state.ny.us
6 South	Herkimer, & Oneida	NYS DEC Region 6 207 Genesee Street Utica, NY 13501	Albert Ash (315) 793-2358 awash@gw.dec.state.ny.us
6 North	Jefferson, Lewis, & St. Lawrence	NYS DEC, Rome Fish Hatchery 8306 Fish Hatchery Rd. Rome, NY 13440	Carl Quance (315) 338-0481 cbquance@gw.dec.state.ny.us
7 North	Cayuga, Madison, Onondaga & Oswego	NYS DEC, Region 7 615 Erie Blvd. West Syracuse, NY 13204-2400	Kevin Delaney (315) 426-7501 kddelane@gw.dec.state.ny.us
7 South	Broome, Chenango, Cortland, Tioga & Tompkins	NYS DEC, Region 7 1679 NY Route 11 Kirkwood, NY 13795	Larry Lepak (607) 775-2545 ext 121 ltlepak@gw.dec.state.ny.us
8 North	Genesee, Livingston, Monroe, Ontario, Orleans, & Wayne	NYS DEC Region 8 6274 E. Avon-Lima Rd. Avon, NY 14414	Colleen Donovan (585) 226-5446 crdonova@gw.dec.state.ny.us
8 South	Chemung, Schuyler, Southern Seneca, Steuben & Yates	NYS DEC, Region 8 276 Sing Sing Rd. Horseheads, NY 14845	Scott Rodabaugh (607) 739-0809 sarodaba@gw.dec.state.ny.us
9	Allegany, Cattaraugus, Chautauqua, Erie, Niagara & Wyoming	NYS DEC, Region 9 270 Michigan Ave. Buffalo, NY 14203-2999	Rebecca Anderson (716) 851-7070 rjanders@gw.dec.state.ny.us

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 _____ of the _____of _____ finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the_____of _____ 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:

(l) 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 l00-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.

"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 Vl-V30, VE, VO or V.

"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:

(l) 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 l929, 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".

"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.

"Principally above ground" means that at least 5l 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.

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

"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 _____ of_____, Nassau County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

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

(1) Flood Insurance Rate Map Panel Numbers:

whose effective date is, 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, Nassau County, New York, All Jurisdictions" dated .

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 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 l5 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the _____ of _____ 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 _____ of _____, 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 _____ 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 $ _____. In addition, the applicant shall be responsible for reimbursing the _____ of _____ 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 permitee 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, 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 permitee 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 permitee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

(4) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.

(5) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.5, NON-RESIDENTIAL STRUCTURES.

(6) 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.

(7) 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.

(8) 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.

(9) In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.

(10) In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this local law.

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 5.1-2 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(8), 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

(l) 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) In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the Local Administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). 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. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(3) 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

(l) 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 COASTAL HIGH HAZARD AREAS

The following requirements apply within Zones V1-V30, VE and V:

(1) All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.

(2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.

(3) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

5.1-2 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):

(l) 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.

5.1-3 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 _____ of _____ 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 _____ of _____ for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the _____ of _____ 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 <u>any</u> increase in flood levels during occurrence of the base flood, or,

(ii) the_____ of _____ 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 _____ of _____ for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the_____ of _____ 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

(l) 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.

(4) Within Zones V1-V30 and VE, and also within Zone V if base flood elevation are available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with non-supporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

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 (EXCEPT COASTAL HIGH HAZARD AREAS)

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 5.1-2, SUBDIVISION PROPOSALS, and 5.1-3, 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 RESIDENTIAL STRUCTURES (COASTAL HIGH HAZARD AREAS)

The following standards, in addition to the standards in sub-sections 5.1-1, COASTAL HIGH HAZARD AREAS, and 5.1-2, SUBDIVISION PROPOSALS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1-V30, VE or V on the community's Flood Insurance Rate Map designated in Section 3.2.

5.4-1 ELEVATION

New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.

5.4-2 DETERMINATION OF LOADING FORCES

Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.

(1) The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave runup beyond the elevation of the base flood.

(2) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.

(3) Wind loading values used shall be those required by the building code.

5.4-3 FOUNDATION STANDARDS

(1) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).

(2) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

5.4-4 PILE FOUNDATION DESIGN

(1) The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles (this shall not apply to pile clusters located below the design grade). The maximum center-to-center spacing of wood piles shall not be more than 12 feet on center under load bearing sills, beams, or girders.

(2) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of 5 feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.

(3) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.

(4) The minimum acceptable sizes for timber piles are a tip diameter of 8 inches for round timber piles and 8 by 8 inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.

(5) Reinforced concrete piles shall be cast of concrete having a 28-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than 2 inches.

(6) Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.

(7) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.

(8) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support even if scoured from beneath.

(9) Diagonal bracing between piles, consisting of 2-inch by 8-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable type bracing is permitted in any plane.

(10) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline.

Knee braces shall be 2-by-8 lumber bolted to the sides of the pile/beam, or 4-by-4 or larger braces framed into the pile/beam. Bolting shall consist of two 5/8-inch galvanized steel bolts (each end) for 2-by-8 members, or one 5/8-inch lag bolt (each end) for square members. Knee braces shall not extend more than 3 feet below the elevation of the base flood.

5.4-5 COLUMN FOUNDATION DESIGN

(1) Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.

5.4-6 CONNECTORS AND FASTENERS

(1) Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.

5.4-7 BEAM TO PILE CONNECTIONS

(1) The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (of precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two (5/8)-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16 inch by 4 inches by 18 inches each bolted with two 1/2 inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.

5.4-8 FLOOR AND DECK CONNECTIONS

(1) Wood 2- by 4-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be 1- by 3-inch members, placed 8 feet on-center maximum, or solid bridging of same depth as joist at same spacing.

(2) Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than (3/4)-inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.

5.4-9 EXTERIOR WALL CONNECTIONS

(1) All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous 15/32-inch or thicker plywood sheathing--overlapping the top wall plate and continuing down to the sill, beam, or girder--may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then 2-by-4 nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of 1/2-inch diameter or galvanized steel straps not less than 1 inch wide by 1/16 inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of 3 inches shall be used at each end of the 1/2-inch round rods. These anchors shall be installed no more than 2 feet from each corner rod, no more than 4 feet on center.

5.4-10 CEILING JOIST/RAFTER CONNECTIONS

(1) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.

Gable roofs shall be additionally stabilized by installing 2-by-4 blocking on 2-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of 8 feet toward the house interior from each gable end.

5.4-11 PROJECTING MEMBERS

(1) All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of 2 feet and joist overhangs to a maximum of 1 foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.

5.4-12 ROOF SHEATHING

(1) Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion resistant material.

(2) All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.

(3) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.

5.4-13 PROTECTION OF OPENINGS

(1) All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 mph. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.

5.4-14 BREAKAWAY WALL DESIGN STANDARDS

(1) The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.

(2) Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components, and certifies that (1) the breakaway walls will fail under water loads less than those that would occur during the base flood; and (2) the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by the building code.

5.5 NON-RESIDENTIAL STRUCTURES (EXCEPT COASTAL HIGH HAZARD AREAS)

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 5.1-2, SUBDIVISION PROPOSALS, and 5.1-3, 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 elevation 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 5.2-3.

(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 sub-Section 5.5(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.

5.6 NON-RESIDENTIAL STRUCTURES (COASTAL HIGH HAZARD AREAS)

(1) In Zones V1-V30, VE and also Zone V if base flood elevations are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall have the bottom of lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1-V30, VE and V.

5.7 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, AH, V1-V30, V, and VE 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 5.7(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, AH, V1-V30, V, and VE 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. Elevation on piers consisting of dry stacked blocks is prohibited.

(3) Within Zones A or V, 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 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

(l) The _____ as established by the _____ of _____ shall hear and decide appeals and requests for variances from the requirements of this local law.

(2) 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 local law.

(3) 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.

(4) In passing upon such applications, the_____, 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.l(4) and the purposes of this local law, the _____ 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

(l) 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 elevation, 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"; 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 l, 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 the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this _____ day of _____, 20___ by the

_____ of the

_____,__-

_____ County, New York, to be effective

_____.

_____

_____

_____

_____

_____

_____

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 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.

_____

_____

_____

_____

_____

_____

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

ACTIVITY	STRUCTURE TYPE
■ New Structure	■ Residential (1-4 Family)
■ Addition	■ Residential (More than 4 Family)
■ Alteration	■ Non-residential (Floodproofing? ■ Yes)
■ Relocation	■ Combined Use (Residential & Commercial)
■ Demolition	■ Manufactured (Mobile) Home
■ Replacement	(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 herby 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.____of_____

Signed:_____ Dated:_____

b. Compliance is hereby certified with the requirements of Local Law No.____of_____,
as modified by variance no. _____, dated _____.

Signed:_____ Dated:_____

NYSDEC Optional Additional Language
Model Local Law for Flood Damage Prevention
Optional Additional Language

General Comments.

The Model Local Law for Flood Damage Prevention contains language that complies with the floodplain management requirements of the National Flood Insurance Program (NFIP) contained in federal regulations 44 CFR 60.3 through 44 CFR 60.6. These requirements are minimum requirements for participation in the NFIP. The Federal Emergency Management Agency (FEMA) has calculated that buildings built to these standards suffer 70% less flood related damage than unprotected buildings. However, they can still suffer damage, so higher protection levels are warranted in most instances. For example, floods can be higher than the base flood elevation for various reasons, including larger storms, downstream obstructions, increased watershed development and floodplain filling. Setting higher standards protects against these risks.

Many of the following techniques result in lower flood insurance premiums either directly or through the Community Rating System (CRS). The CRS is a FEMA program that provides discounts for communities that take measures that are beyond the minimum requirements of the NFIP. CRS certification requires a community to accumulate at least 500 points. Flood insurance policies within communities with over 500 CRS points receive a five percent discount on each individual insurance premium. Flood insurance policies within flood hazard areas in CRS communities receive an additional five percent discount for each additional 500 points. Contact NYS DEC or visit the CRS Resource Center at http://training.fema.gov/emiweb/crs/ for more information about the Community Rating System.

The following pages contain ideas for options to decrease your community's flood risk. These are all optional. Each page contains an explanation of the measure and language that may be used. Should your community decide to utilize any of these measures, please make sure that any changes are brought to the attention of NYSDEC so that we may review the final language and assure that it is compliant with FEMA's regulations.

For more information about techniques to reduce flood risk in your community, see the publication "No Adverse Impact: A Toolkit for Common Sense Floodplain Management" by the Association of State Floodplain Managers (ASFPM). The Toolkit may be viewed at http://www.floods.org/NoAdverseImpact/NAI_Toolkit_2003.pdf or ordered directly from ASFPM by calling 608-274-0123. Questions about these materials may be addressed to the NYS DEC Floodplain Management Section at 518-402-8185 or wsnecham@gw.dec.state.ny.us.

NYSDEC Optional Additional Language
Model Local Law for Flood Damage Prevention
Optional Additional Language

Compensatory Storage.

Explanation: Riverine floodplains and coastal floodplains inland from the "V" wave runup zone are either approximate "A" zones, which have not had detailed engineering analyses or flood elevations, or detailed "AE" zones or "A" zones with a number attached, that have detailed flood elevation studies. In Riverine floodplains with detailed studies, there is usually also a floodway analysis. Development is excluded from the floodway unless an engineering analysis determines that the development results in no measurable increase in the Base Flood Elevation (elevation of the 100-year flood). However, development, including fill, is allowed in "A" zones outside of floodways.

Flood Insurance Studies assume that when the entire Riverine floodplain is filled outside of the floodway, an increase of up to one foot in the Base Flood Elevation will occur at the location of the encroachment. Some communities may wish to avoid that potential increase, and to also make certain that an encroachment does not result in increased flood elevations upstream or downstream of the development, by requiring developments that encroach into the floodplain to provide compensatory flood storage.

The following language may be used for that purpose. Enforcement of the following policy could result in up to 70 credits towards flood insurance discounts in communities that participate in FEMA's Community Rating System (CRS).

To provide compensatory storage for any encroachment within a flood hazard area, add the following language to your Local Law for Flood Damage Prevention. Note that your community's section numbering may be different. Contact NYS DEC for assistance.

Add a new Part (3) to Section 5.1-2: "Encroachments".

> *Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.*

NYSDEC Optional Additional Language
Model Local Law for Flood Damage Prevention
Optional Additional Language

Repetitive Damage.

Explanation: FEMA's Increased Cost of Compliance (ICC) flood insurance coverage provides up to $30,000 towards elevating, floodproofing, demolishing or relocating a structure that has been substantially damaged or repetitively damaged. However, that coverage is only available to a repetitively damaged structure within a community that has adopted an ICC definition in its local law. Should your community wish to add a repetitive damage clause, a change must be made in the "Substantial Damage" definition.

Should you wish to include the definition, an insured structure which has been damaged twice within a ten year period for which the average damage equals or exceeds 25% of the market value of the structure would qualify for up to $30,000 towards elevating, floodproofing, demolishing or relocating the structure. Even without the repetitive damage clause, an insured structure that has been substantially damaged in a single flood event will qualify for this Aincreased cost of compliance@ coverage.

Note that the $30,000 in additional insurance coverage is available only up to the total limit of coverage under the National Flood Insurance Program. That limit is $250,000 for a residential structure and $500,000 for a non-residential structure. The total insurance claim plus the ICC claim may not exceed the above limits.

Should you decide to include a repetitive damage clause, the municipality will be responsible for keeping track of all flood related structural damages. Also, the requirement to bring a repetitively damaged structure up to the flood code would hold whether or not the property owner carries a flood insurance policy. This would apply to a building whether or not there has been a change in ownership of the building. Should you have questions about this requirement, please contact NYSDEC.

To add the definition, replace the definition on Page 6 of the model local law with the following language:

> ***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 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.*

NYSDEC Optional Additional Language
Model Local Law for Flood Damage Prevention
Optional Additional Language

Cumulative Substantial Improvement.

Explanation. The NFIP allows improvements valued at up to 50% of the building's pre-improvement value to be permitted without meeting the flood protection requirements. Over the years, a community may issue a succession of permits for different repairs or improvements to the same structures. This can greatly increase the overall flood damage potential for the structure and within a community. The community may wish to define "substantial improvement" cumulatively so that once a threshold of improvement within a certain length of time is reached, the structure is considered to be substantially improved and must meet flood protection requirements.

Enforcement of the following policy could result in up to 110 credits towards flood insurance discounts in communities that participate in FEMA's Community Rating System (CRS).

To add the requirement, replace the definition of "Substantial improvement on Page 6 of the model law with the following language:

> *"**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".*

In addition, there must be a definition for "Cumulative Substantial Improvement" as follows:

> ***"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.*

The community may wish to decrease the 50-percent threshold to a lower number, or change the ten-year tracking period. An alternative approach would be to remove the "cumulative substantial improvement" language and instead decrease the 50-percent improvement threshold.

NYSDEC Optional Additional Language
Model Local Law for Flood Damage Prevention
Optional Additional Language

Critical Facilities.

Explanation: Certain special hazard or otherwise critical facilities should not be located within a flood prone area due to the serious danger to life an health and widespread social or economic dislocation that would result when the facility is subjected to flooding. Such facilities either have the potential to create significant environmental or health risk, or are needed for community support services during a disaster.

Requiring protection for critical facilities serves several purposes: it reduces threats to life and health; it reduces damage to vital public facilities; it reduces pollution of floodwaters by hazardous materials; and it ensures that the facilities will be operable during most flood emergencies.

The Community Rating System (CRS) provides 100 points to communities that prohibit critical facilities within the 500-year floodplain.

To add the requirement, add a definition of "Critical Facilities" to page 3 of the Model Local Law as follows:

Critical facilities *means:*

(1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
(2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
(3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
(4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

Add a new Section 5.6 as follows:

5.6 Critical Facilities

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any Area of Special Flood Hazard, or within any 500-year flood zone shown as a B zone or a Shaded X zone on the Community's Flood Insurance Rate Maps.

NYSDEC Optional Additional Language
Model Local Law for Flood Damage Prevention
Optional Additional Language

Areas Behind Levees or below High Hazard Dams.

Explanation: Areas that are protected by levees that provide at least three feet of protection above the 100-year flood are usually not mapped as floodprone on FIRM's. Such levees can fail or overtop. There are also many areas that would be inundated by floodwaters should an upstream dam fail or overtop. While the probability of levee or dam failure is low in most areas, the consequences of such failure are large.

In the case of levees, a community may wish to apply flood elevation requirements to the levee protected area as though the levee was not there. In the case of a dam, the community may have access to an inundation map in the event of a dam failure.

For a community to apply flood protection development standards to areas below dams or behind levees, it must first have a map of the affected area. This process will become easier as FEMA's Map Modernization program provides more communities with digital Flood Insurance Rate Maps. To include these areas, the definition of "Area of special flood hazard" definition would have to be amended to include areas that the community has identified as part of map of levee protected areas and/or dam failure inundation zones. In addition, Section 3.2, which adopts the Flood Insurance Rate Map and Flood Insurance Study for the community, would have to be amended to include the appropriate maps.

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

§ 110-33. Floodplain regulations.

Any development within the one-hundred-year floodplain, as defined by the National Flood Insurance Rate Maps, which are on file in the office of the Village Engineer, shall comply with the following:

A. Residential development New construction or any repair, reconstruction or improvement of a structure, of which the cost of such repair, reconstruction or improvement exceeds 50% of the market value of the structure, shall have the lowest floor, including the basement, elevated to or above the base flood elevation at that point, as defined on the Flood Insurance Rate Map.

B. Nonresidential development. New construction or any repair, reconstruction or improvement as above defined shall either have the lowest floor, including the basement, elevated to or above the base flood elevation at that point, as defined on the Flood Insurance Rate Map, or the building and all attendant utilities shall be floodproofed to the satisfaction of the Village Engineer.

CHAPTER 39 FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Chenango 3-26-1987 by L.L. No. 2-1987.
Editor's Note: This local law also repealed § 73-11A, Flood Management District. Amendments noted where applicable.]
GENERAL REFERENCES

Environmental quality review — See Ch. 35.

Mobile homes and trailers — See Ch. 49.

Subdivision of land — See Ch. 62.

Zoning — See Ch. 73.

§ 39-1 Findings.

The Town Board of the Town of Chenango finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Chenango 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.

§ 39-2 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.

F.

Qualify for and maintain participation in the National Flood Insurance Program.

§ 39-3 Objectives.

The objectives of this chapter are to:

A.

Protect human life and health.

B.

Minimize the expenditure of public money for costly flood-control projects.

C.

Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D.

Minimize prolonged business interruptions.

E.

Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.

F.

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.

Provide that developers are notified that property is in an area of special flood hazard.

H.

Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 39-4 Definitions and word usage.

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 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 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 A99, V, VO, VE or V1 through V30. It is 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 through V30, VE, VO or V.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures or 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 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 of 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)

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

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

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 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

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, 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

That at least 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 § 39-12B 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; the 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 and 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, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT

(1)

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

(a)

Before the improvement or repair is started; or

(b)

If the structure has been damaged and is being restored, before the damage occurred.

(2)

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 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

(b)

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

TOWN

The Town of Chenango.

TOWN BOARD

The Town Board of the Town of Chenango.

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.

ZONING BOARD OF APPEALS
The Zoning Board of Appeals of the Town of Chenango.

§ 39-5 Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Chenango.

§ 39-6 Basis for establishing areas of special flood hazard.

The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the Town of Chenango of Broome County, New York," dated February 17, 1981, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (Community No. 36 0040; Flood Insurance Rate Map No. 360040 0001 0020, and Flood Boundary - Floodway Map No. 360040-0001-0020), which 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 Town Clerk of the Town of Chenango, Chenango Town Hall, 1137 Front Street, Binghamton, New York 13905.

§ 39-7 Effect on other laws; interpretation.

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.

§ 39-8 Penalties for offenses; other remedies; notification of noncompliance.

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 $250 or be 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 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 §§ 39-16 and 39-17 will be declared noncompliant, and notification will be sent to the Federal Emergency Management Agency.

§ 39-9 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, 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.

§ 39-10 Designation of local administrator.

The Ordinance Administrator/Building Inspector of the Town is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 39-11 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 § 39-6. 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 § 39-13C(1).

(4)

A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 39-14.

(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 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.

§ 39-12 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 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 § 39-13E, Encroachments.

B.

Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 39-6, 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 § 39-13D(4), in order to administer § 39-14, Specific provisions for flood hazard reduction, and § 39-15, 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 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 the mean sea level, to which the structure has been floodproofed.

(b)

Maintain the floodproofing certifications required in §§ 39-13 and 39-14.

(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 area of special flood hazard and actual field conditions.

(2)

Base flood elevation data established pursuant to § 39-6 and/or 39-12B, 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 issued by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 39-8 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 § 39-8 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 § 39-12G 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.

§ 39-13 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 three 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, the 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.

[Amended 4-20-1998]

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 floodwaters into the system.

(3)

New and replacement sanitary sewage systems shall be designed to minimize or eliminate the 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 50 lots or five 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 § 39-12A(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 § 39-12B or 39-13D(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 foot at any point.

(3)

In all areas of the special flood hazard where floodway data is provided or available pursuant to § 39-12B, the requirements of § 39-15, Floodways, shall apply.

§ 39-14 Specific standards.

In all areas of special flood hazard where flood elevation data has been provided as set forth in § 39-6, Basis for establishing areas of special flood hazard, and § 39-12B, Use of other base flood and floodway data, the following standards are required:

A.

Residential construction. New construction and substantial improvements of any residential structure shall have:

(1)

The lowest floor, including basement or cellar, elevated to or above the base flood elevation.

(2)

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 openings having a total net area of not less than one square inch shall be required 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 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]

A minimum of two openings having a total net area of not less than one square inch shall be required for every square foot of enclosed area subject to flooding.

[2]

The bottom of all such openings shall be no higher than one 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 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 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.

(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 § 39-12B or three feet above the highest adjacent grade where no elevation data is available.

[Amended 4-20-1998]
(1)

New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least three 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 shall be required 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 that they permit the automatic entry and exit of floodwaters.

§ 39-15 Floodways.

Located within areas of special flood hazard are areas designated as floodways. (See definition, § 39-4.) 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 §§ 39-6 and 39-12B, 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.

§ 39-16 Appeals.

A.

The Zoning Board of Appeals as established by the Town Board 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.

(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 § 39-16D 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.

§ 39-17 Variances.

A.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 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 § 31-16D(1) through (12) have been fully considered. As the lot size increases beyond the 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 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 increases 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 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.

§ 39-18 Amendment of § 267 of Town Law.

A.

This section is enacted pursuant to the authority of Chapter 365 of the Laws of 1976 which added a new Subparagraph (3) to Paragraph d of Subdivision 1 of § 10 of the Municipal Home Rule Law authorizing Towns to adopt a local law which may amend or supersede any provision of the Town Law in relation to the property, affairs or government of the Town or in relation to any of the other enumerated subject matters in such § 10 unless there is a state legislative restriction on such amendment or supersession.

B.

Section 267, Subdivision 2, of the Town Law is hereby amended and superseded in its application to the Town of Chenango to provide as follows:

> Such Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this Article.
> Editor's Note: "This Article" refers to Article 16 of the Town Law.
> It shall also hear and decide all matters referred to it or upon which it is required to pass under any such ordinance or the provisions of A Local Law for Flood Damage Prevention (Town of Chenango Local Law No. 2, 1987), as authorized by the New York State Constitution, Article IX, § 2, and Environmental Conservation Law, Article 36. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant any

	matter upon which it is required to pass under any such ordinance or said local law or to effect any variation in such ordinance or said local law. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town."

This electronic version of the Code is provided for informational purposes only. For the official version of the Code, please contact the municipality.

§ 148-26. Floodplain.

A. Purpose. The purpose of these regulations is to protect the inhabitants of the Village of Chittenango from hazards resulting from the periodic flooding of certain areas adjacent to Chittenango Creek and to prevent the encroachment of development and other constructions on such areas, thereby helping to preserve adequate flood flow capacity.

B. Floodplain areas are so designated on the Floodplain Maps and determined by data developed by the Army Corps of Engineers, the United States Geological Survey and/or the Flood Hazard Boundary Maps issued by the United States Department of Housing and Urban Development and the Village of Chittenango. This section does not imply that areas outside the designated floodplain areas will be free from flooding or flood damages.

C. Provisions regulating the use of and development on floodplain areas shall take precedence over the provisions of any other article or section of this Zoning Law or other regulation or law in the Village of Chittenango to the extent that floodplain provisions are inconsistent with such other provisions.

D. Special conditions.

(1) No structure, facility or landfill shall be erected or placed which would impede or change the direction of the flow of water in the flood area or which could collect or catch floating debris or be placed in such a way that the natural force of floodwater could carry dislodged material downstream to damage public and private property and improvements.

(2) Any structure, facility or landfill shall be constructed and placed so as to offer the minimum opportunity for scour or erosion of soil surface and shall be designed to have a minimum effect on the natural flow and height of floodwater.

(3) Structures and facilities shall be firmly anchored and interconnected to prevent disjointing and to prevent them from floating downstream where they could become a threat to life and property.

(4) Service facilities such as electrical and heating equipment shall be constructed at or above the flood protection elevation or shall be floodproofed.

(5) Floodproofing measures may be required by the Village Board for all buildings and structures other than those with a low flood damage potential.

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

§ 194-50. Lots subject to flooding.

A. For the purpose of safeguarding the public health and safety, preventing pollution or contamination of public watercourses, protecting watershed areas and natural aesthetic conditions and protecting persons and property in time of flood, there shall be no residential buildings or structures erected, built or otherwise placed and no private sanitary disposal system or water supply system located on land along watercourses in the Town of East Fishkill where areas are subject to periodic inundation and flooding by the one-hundred-year flood, or as delineated by the United States Department of Housing and Urban Development Flood Hazard Boundary Maps as adopted by the Town of East Fishkill on August 12, 1976.

B. All residential buildings located on land along watercourses in the Town of East Fishkill but outside the flood hazard boundary shall have the lowest habitable floor (basement or other) elevated to at least one foot above the one-hundred-year flood level.

C. Such uses as shall not be endangered by periodic or occasional inundation or as shall not procure unsatisfactory living conditions may be allowed by a special permit, at the discretion of the Zoning Board of Appeals.

D. In the event of uncertainty as to the delineation of the flood hazard boundary or any lot or parcel, said boundary in question shall be determined by resolution of the Town Board based upon topographic and engineering data as provided by the applicant or information otherwise available to the Town Board, and the Housing and Urban Development Flood Hazard Boundary Map shall be amended where applicable.

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

§ 195-32. Areas subject to flooding.

All applicants for building and use permits in areas ascertained by the Superintendent of Public Works as subject to flood conditions shall obtain from the Zoning Board of Appeals a special use permit, provided that the following standards and controls are complied with:

A. Elevation of the lowest floor to be used for any dwelling purpose in any residential structure shall be equal to or higher than the elevation of the high water level as determined by the Superintendent of Public Works in accordance with previous flood records.

B. Wherever desirable or necessary, the first floor level of any structure not used for residential purposes shall be equal to or higher than the elevation of the high water level as determined by the Superintendent of Public Works in accordance with previous flood records.

C. No storage in tanks of liquid fuel or any other combustible material shall be permitted.

D. Any other controls or restrictions which are deemed necessary to minimize or eliminate damage to buildings and structures from floodwaters shall be required by the Board of Appeals.

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

Sec. 2-29-255. Uses and/or structures rendered nonconforming by the adoption.

[Ord. No. 313, § 9-501, 12-7-1994]

Following the adoption of these provisions, any use or structure which is situated within the boundaries of the land conservation district and which does not conform to the permitted uses specified in subsection 2-29-252(a) herein, shall be a nonconforming use or structure, regardless of its conformance to the district in which it is located without consideration of these provisions. Therefore:

(1) Existing nonconforming uses and/or structures shall not be expanded.

(2) Substantial improvements of nonconforming uses and/or structures will be not be allowed, irrespective of the cause for the need of the substantial improvements.

(3) Uses and/or structures which continue to operate and/or exist within the boundaries of the one-hundred-year flood plain after nonconformance has been established will be required to obtain flood hazard insurance from the federal insurance administration. The city will simultaneously request a submission to rate on the structure to the Federal Emergency Management Agency. In the event the owners of structures or operations subject to this requirement fail to obtain such insurance within a reasonable period of time, the city shall secure such insurance and place the annual insurance premium costs as a lien against the title to the land and/or structure within the tax records of the city.

TOWN OF LEWISBORO

LOCAL LAW NO. 3 OF THE YEAR 2007

FLOOD DAMAGE PREVENTION

CHAPTER 126

126-1 FINDINGS

The Town of Lewisboro finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town 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.

126-2 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 accomplish the following:

(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.

126-3 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.

126-4 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 Building Inspector's interpretation of any provision of this chapter 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 through A30, A99, V, VO, VE, or V1 through V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this chapter, 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 through 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 through 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 through 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:

(l) 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 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 chapter by granting or denying development permits in accordance with its provisions. This
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 this chapter 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 126-14B of this chapter.

"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 chapter which permits construction or use in a manner that would otherwise be prohibited by this local law.

126-5 APPLICABILITY

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Lewisboro.

126-6 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Lewisboro, Community Number **361227**, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Numbers **36119C0062F, 36119C0064F, 36119C0066F, 36119C0067F, 36119C0068F, 36119C0069F, 36119C0090F, 36119C0095F and 36119C0185F,** whose effective date is **September 28, 2007**, and any subsequent revisions to these map panels that do not affect areas under the jurisdiction of the Town of Lewisboro.

(2) A scientific and engineering report entitled **"Flood Insurance Study, Westchester County, New York, All Jurisdictions"** dated **September 28, 2007**.

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 CLERK.

126-7 INTERPRETATION AND CONFLICT WITH OTHER LAWS

A. This chapter includes all revisions to the National Flood Insurance Program through March 20, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

B. 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, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

126-8 SEVERABILITY

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

126-9 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 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 Lewisboro 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 Sections 126-16 and 126-17 of this chapter will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

126-10 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 Lewisboro, any officer or employee or volunteer 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.

126-11 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector of the Town of Lewisboro is hereby appointed Local Administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

126-12 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 the Town of Lewisboro 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 126-6 of this chapter, 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 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

(1) All applications for a floodplain development permit shall be accompanied by a non-refundable application fee in an amount set forth in a fee schedule to be established by resolution of the Town Board. No fees shall be required from the Town.

(2) The Town Board, the Planning Board and the Zoning Board of Appeals, in the review of any application presented to it, may refer such application to any planner, engineer, environmental expert, legal counsel or other professional as such Board shall deem reasonably necessary to assist it in the review of such application as required by law. Fees charged by such professionals shall be in accordance with fees usually charged for such services in the metropolitan New York region and pursuant to a contractual agreement between the Town and such professional. All such charges shall be paid by the Town upon submission of a Town voucher. The applicant shall reimburse the Town for the cost of such professional review services upon submission of a copy of the voucher or, at the discretion of the appropriate agency, in accordance with Section 195-12(D)(2) herein concerning the establishment of escrow accounts. The payment of such fees shall be required in addition to any and all other fees required by this or any other section of this chapter or any other town law, ordinance or regulation.

(3) In addition, the applicant shall be responsible for reimbursing the Town of Lewisboro for any additional costs necessary for review, inspection and approval of this project. The Building Inspector may require an initial deposit of no more than $500.00 to cover these additional costs.

126-13 APPLICATION FOR A PERMIT

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

(1) A certificate from a New York licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 126-15D of this chapter.

(2) A certificate from a New York licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 126-15F of this chapter.

(3) 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 126-6 of this chapter, when notified by the Building Inspector, 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.

126-14 DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTOR

Duties of the Building Inspector shall include, but not be limited to the following.

A. PERMIT APPLICATION REVIEW

The Building Inspector shall conduct the following permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of Section 126-13 of this chapter, and for compliance with the provisions and standards of this chapter.

(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 126-15 of this chapter.

(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 Building Inspector 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 126-15 of this chapter, 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.

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 Building Inspector 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 126-13(7) of this chapter, 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 Building Inspector 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 chapter.

C. ALTERATION OF WATERCOURSES

(1) Prior to permitting any alteration or relocation of a watercourse, the Building Inspector shall require certified mail circulation of an acceptable notice, the cost of which may be required to be paid for by the applicant, to the following: the Lewisboro Town Clerk; the Town Clerk of any adjacent municipality within the watershed of said watershed of said watercourse; the Lewisboro Town and Planning Boards; the New York City Department of Environmental Protection, if any portion of the watershed of said watercourse is located within the New York City watershed area; the New York State Department of Environmental Protection; the United States Army Corps of Engineers; and the Regional Director, Region II of the Federal Emergency Management Agency.

(2) Prior to permitting any alteration or relocation of a watercourse, the Building Inspector shall determine that the applicant has provided for maintenance within the altered or relocated portion of a watercourse so that the flood carrying capacity is not diminished.

D. CONSTRUCTION STAGE

(1) In Zones A1 through 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 New York State 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 Building Inspector 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 Building Inspector 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 Building Inspector shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a floodplain development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 126-9 of this chapter.

(2) The Building Inspector shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this chapter and/or any conditions of a duly authorized floodplain development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 126-6 of this chapter.

G. CERTIFICATE OF COMPLIANCE

(l) In areas of special flood hazard, as determined by documents enumerated in this chapter, 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 Building Inspector stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the Building Inspector 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 126-14E of this chapter, 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) Upon completion of the lowest floor, the permitee shall submit to the Building Inspector an "as-built" elevation, certified by a New York State licensed professional engineer or surveyor.

(5) 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 through A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the Building Inspector the as-built elevation, certified by a New York licensed professional engineer or surveyor.

(6) 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 permitee shall submit to the Building Inspector the as-built floodproofed elevation, certified by a professional engineer or surveyor.

H. INFORMATION TO BE RETAINED

The Building Inspector 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 Section 126014G(4) of this chapter, and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to Section 126-14G(4) of this chapter, and whether or not the structures contain a basement;

(4) Variances issued pursuant to Sections 126-16 and 126-17 of this chapter; and,

(5) Notices required under Section 126-14(C) of this chapter.

126-15 CONSTRUCTION STANDARDS

A 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 126-6 of this chapter.

B. 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.

C. ENCROACHMENTS

(1) Within Zones A1 through 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 Lewisboro 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 Lewisboro 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 Lewisboro 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 126-6 of this chapter, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

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

(ii) the Town of Lewisboro 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 Lewisboro 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 Lewisboro for all costs related to the final map revisions.

D. STANDARDS FOR ALL STRUCTURES

(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.

(2) CONSTRUCTION MATERIALS AND METHODS

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

(b) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(c) For enclosed areas below the lowest floor of a structure within Zones A1 through 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 New York State 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.

(3) UTILITIES

(a) 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. 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;

(b) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(c) 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,

(d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. RESIDENTIAL STRUCTURES

(1) ELEVATION

The following standards, in addition to the standards in Sections 126-6 of this chapter, apply to structures located in areas of special flood hazard as indicated.

(a) Within Zones A through 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 level.

(b) 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.

(c) 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 this chapter (at least two feet if no depth number is specified).

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

F. 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 Sections 126-15B, 126-15C and 126-15D of this chapter.

(1) Within Zones A1 through 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 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 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 Section 126-15F(1)(ii) of this chapter.

(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 Building Inspector that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 126-15F(1)(ii) of this chapter, 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.

G. MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Sections 126-15 of this chapter 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 through A30, AE and AH shall either:

(i) be on site fewer than 180 consecutive days; or

(ii) be fully licensed and ready for highway use, or

(iii) meet the requirements for manufactured homes in Section 126-15G(2) through (4) of this chapter.

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 through A30, AE and AH 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.

(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 126-6 of this chapter (at least two feet if no depth number is specified).

126-16 APPEALS BOARD

A. The Zoning Board of Appeals ("ZBA") as established by the Town of Lewisboro shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The ZBA shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the ZBA 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 ZBA 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.

E. Upon consideration of the factors of Section 126-16D of this chapter and the purposes set forth in Section 126-2 and objectives set forth in 126-3 of this chapter, the ZBA may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Building Inspector shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

126-17 CONDITIONS FOR VARIANCES

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i) through (xii) as set forth in Section 126-l6D of this chapter. 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:

(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.

C. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(i) the criteria as set forth in Sections 126-17A, D, E and F of this chapter 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.

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:

(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.

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 signed by the Building Inspector 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 126-16F of this chapter.

Adopted: October 9, 2007
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CHAPTER 27 FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Neversink 3-25-1987 as L.L. No. 2-1987.
Editor's Note: This local law also repealed former Ch. 27, Flood Damage Prevention, adopted 7-13-1983 as L.L. No. 1-1983. This local law also provided that it shall be effective 4-1-1987.
Amendments noted where applicable.]
GENERAL REFERENCES

Planning Board — See Ch. 13.

Unsafe buildings — See Ch. 20.

Electrical Inspections — See Ch. 24.

Fire prevention and building construction — See Ch. 26.

Mobile home parks — See Ch. 30.

Subdivision of land — See Ch. 41.

ARTICLE I Statutory Authorization and Purpose (§ 27-1 — § 27-3)

§ 27-1 Findings.

The Town Board of the Town of Neversink finds that potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Neversink 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.

§ 27-2 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.

F.

Qualify for and maintain participation in the National Flood Insurance Program.

§ 27-3 Objectives.

The objectives of this chapter are to:

A.

Protect human life and health.

B.

Minimize expenditure of public money for costly flood control projects.

C.

Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D.

Minimize prolonged business interruptions.

E.

Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.

F.

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.

Provide that developers are notified that property is in an area of special flood hazard.

H.

Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II Definitions (§ 27-4)

§ 27-4 Word usage; terms defined.

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 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 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 VI-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 support 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 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 shear walls.

FLOOD BOUNDARY - FLOODWAY MAP (FBFM)

An official map of the community published dby 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 the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM)

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

The same meaning as "regulatory floodway."

FLOOR

The top surface of an enclosed area in a building, including the 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 the 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 nonelevation 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 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

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, a vertical control used as a reference for establishing 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 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 § 27-13B 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.

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 50% of the market value of the structure, excluding land values, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For 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

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 (§ 27-5 — § 27-10)

§ 27-5 Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Neversink.

§ 27-6 Basis for establishing areas of special flood hazard.

[Amended 10-14-1987 by L.L. No. 4-1987]

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Insurance Rate Map (FIRM) No. 360828 0005 C, dated May 25, 1984, and any revisions thereto are hereby adopted and declared to be a part of this chapter. The FIRM is on file at the Town Clerk's office. Town Hall.

§ 27-7 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 highest standards shall govern.

§ 27-8 Severability.

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

§ 27-9 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 $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 Board of the Town of Neversink 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 will be sent to the Federal Emergency Management Agency.

§ 27-10 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 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 Neversink, 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 (§ 27-11 — § 27-13)

§ 27-11 Designation of local administrator.

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

§ 27-12 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 § 27-6. 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)

Elevation, in relation to mean sea level, of the proposed lowest floor, including the basement or cellar, of all structures.

(2)

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 § 27-14C(1).

(4)

A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 27-15B.

(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 as-built 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 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.

§ 27-13 Duties of local administrator.

The 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 area of special flood hazard. For the purposes of this chapter,

"adversely affects" means physical damage to adjacent properties. A hydraulic 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 provision of § 27-14E, Encroachments.

B.

Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 27-6, 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 § 27-14D, in order to administer § 27-15, Specific standards, and § 27-16, 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 the 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 §§ 27-14 and 27-15.

(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 FHBM, FIRM or FBFM 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 § 27-6 and/or Subsection B of this section, 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 stopwork order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 27-9 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 § 27-9 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 this chapter.

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 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.

(3)

All certificates 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.

ARTICLE V Provisions for Flood Hazard Reduction (§ 27-14 — § 27-16)

§ 27-14 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. 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.

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 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 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 five 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 § 27-13A(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 § 27-13B or Subsection D(3) of this section 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 § 27-13B, the requirements of § 27-16, Floodways, shall apply.

§ 27-15 Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 27-6, Basis for establishing areas of special flood hazard, and § 27-13B, Use of other base flood and floodway 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 the 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 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.

(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 devices, provided that they permit the automatic entry and exit of floodwaters.

B.

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 the 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 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 shall be provided.

(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 devices, provided that 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 capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(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.

(3)

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.

(1)

New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including the basement, elevated at least two 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 shall be provided.

(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 devices, provided that they permit the automatic entry and exit of floodwaters.

§ 27-16 Floodways.

Located within areas of special flood hazard are areas designated as floodways. (See Article II, Definitions.) 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 § 27-13B, 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 (§ 27-17 — § 27-18)

§ 27-17 Appeals board.

[Amended 3-25-1992 by L.L. No. 4-1992]
A.

The Town of Neversink Zoning Board of Appeals, as established by Article X of Chapter 50 of the Code of the Town of Neversink, shall hear and decide appeals and requests for variances from the requirements of this chapter.

B.

The Town of Neversink 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.

C.

Those aggrieved by the decision of the Town of Neversink 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 Town of Neversink 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 plan 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.

(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 and the purposes of this chapter, the Town of Neversink 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.

§ 27-18 Conditions for variances.

A.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 27-17D has been fully considered. As the lot size increases beyond the 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 procedures set forth in this chapter.

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 threats 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 or 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.

Village of Scarsdale.

CHAPTER 167 FLOOD DAMAGE PREVENTION
[HISTORY: Adopted by the Board of Trustees of the Village of Scarsdale 9-25-2007 by L.L. No. 10-2007.
Editor's Note: Former Ch. 167, Flood Damage Prevention, adopted 5-26-1987 by L.L. No. 8-1987, as amended, was repealed 9-25-2007 by L.L. No. 9-2007.
Amendments noted where applicable.]
GENERAL REFERENCES
Freshwater wetlands— See Ch. 171.
Site plan review— See Ch. 251.
Stormwater management — See Ch. 254.
Removal of topsoil — See Ch. 277.
Diversion of watercourses — See Ch. 302.
Zoning — See Ch. 310.
Subdivision of land — See Ch. A319.

§ 167-1 Findings.
The Village Board of the Village of Scarsdale finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Scarsdale 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.

§ 167-2 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 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.
F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 167-3 Objectives.
The objectives of this chapter are to:
A. Protect human life and health.
B. Minimize expenditure of public money for costly flood-control projects.
C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D. Minimize prolonged business interruptions.
E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
F. 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. Provide that developers are notified that property is in an area of special flood hazard.
H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 167-4 Word usage and 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, 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
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, A99, V, VO, or VE. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."
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

ARTICLE III <u>General Dimensional Requirements (§ 310-14 — § 310-19)</u>

§ 310-14 <u>Area of lots.</u>

[Amended 3-28-1961; 7-19-1983 by L.L. No. 5-1983; 1-22-1985 by L.L. No. 5-1985; 1-13-1987 by L.L. No. 3-1987; 1-12-1988 by L.L. No. 1-1988; 5-10-1988 by L.L. No. 5-1988; 4-8-1997 by L.L. No. 3-1997; 3-24-1998 by L.L. No. 2-1998; 1-23-2001 by L.L. No. 4-2001; 10-9-2007 by L.L. No. 11-2007]

A. Subject to the exceptions specified in § 310-67 of this chapter, no building shall hereafter be erected in any residence district, except on a lot which, for each principal building, together with its accessory buildings, has an area of at least:
(1) In a Residence AA-1 District: two acres (87,120 square feet).
(2) In a Residence A-1 District: one acre (43,560 square feet).
(3) In a Residence A-2 District: 20,000 square feet.
(4) In a Residence A-2a District: 15,000 square feet.
(5) In a Residence A-3 District: 10,000 square feet.
(6) In a Residence A-4 District: 7,500 square feet.
(7) In a Residence A-5 or C District: 5,000 square feet.

B. No part of a lot shall be included in calculating the required lot area except such part as falls within either an inscribed quadrilateral, no part of which has less than 1/3 of the minimum required lot width, or an inscribed circle.

C. In calculating lot area, no more than 10% of the lot area shall consist of any body of water or portion thereof, floodplain property or property designed as a retention basin for drainage control. "Floodplain property" shall mean property within the special flood hazard areas subject to inundation by the one-percent (one-hundred-year) annual chance flood as shown on the Flood Insurance Rate Maps or other such document for the Village of Scarsdale, as issued by the Federal Emergency Management Agency, or such other agency of legal jurisdiction.

§ 310-15 Width and length of frontage.

§ 310-16 (Reserved)

§ 310-17 (Reserved)

§ 310-18 Special setback provisions for nonconforming lots.

§ 310-19 Lots at a distance from a street.

Has the same meaning as "basement."
CRAWL SPACE
An enclosed area beneath the lowest elevated floor, 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 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
(1) A nonbasement building:

(a) Built, in the case of a building in Zones 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 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
(b) 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.
(2) In the case of Zones 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 floodwaters.
(3) In the case of Zones 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
The federal agency that administers the National Flood Insurance Program.
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 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 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."
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 Subsection (1)(a) above.
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 nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY

See "regulatory floodway."

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 by an approved state program as determined by the Secretary of the Interior or 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 Building Inspector, Code Enforcement Officer, or employee of an engineering department.

LOWEST FLOOR

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 nonelevation 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, 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

See "manufactured home."

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.

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD

See "base flood."

PRINCIPALLY ABOVE GROUND

At least 51% 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 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 § 167-13B of this chapter.

START OF CONSTRUCTION

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

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% of the market value of the structure before the damage occurred.
SUBSTANTIAL IMPROVEMENT
Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an 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.
WATERCOURSE —
Any natural or artificial, intermittent, seasonal or permanent and public or private water body or watercourse. A "water body" is intermittently, seasonally or permanently inundated with water and contains a discernible shoreline and includes ponds and lakes. A "watercourse" includes rivulets, brooks, creeks, streams, rivers and other waterways flowing in a definite channel with bed and banks and usually in a particular direction.

§ 167-5 Applicability.
This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Scarsdale, Westchester County.
§ 167-6 Basis for establishing areas of special flood hazard.
A. The areas of special flood hazard for the Village of Scarsdale, Community Number 360932, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
(1) Flood Insurance Rate Map Panel Numbers 36119C0268F, 36119C0269F, 36119C0331F, 36119C0332F, 36119C0334F, and 36119C0351F whose effective date of which is September 28, 2007, 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, Westchester County, New York, All Jurisdictions," dated September 28, 2007.
B. 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 Village Engineering Office.

§ 167-7 Interpretation and conflict with other laws.
A. This chapter includes all revisions to the National Flood Insurance Program through March 20, 1997, 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, ordinances, or chapters, the most restrictive, or that imposing the highest standards, shall govern.

§ 167-8 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 Village of Scarsdale 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 §§ 167-19 and 167-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ **167-9 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 Scarsdale, 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.

§ 167-10 Designation of local administrator.
The Village Engineer is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 167-11 Purpose of floodplain development permit; fees.
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 ensuring 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 § 167-6, 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 established by resolution of the Village Board on an annual basis. In addition, the applicant shall be responsible for reimbursing the Village of Scarsdale for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit to cover these additional costs.

§ 167-12 Permit application.
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 AE or AH or Zone A if base flood elevation data is 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, to which any new or substantially improved nonresidential 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 § 167-15C, Utilities.
D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 167-17, Nonresidential structures (except coastal high-hazard areas).
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 § 167-6, 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 is 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 five acres.

§ 167-13 Duties and responsibilities of 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 § 167-12, Permit application, and for compliance with the provisions and standards of this chapter.
(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 §§ 167-14 through 167-18 and, in particular,

§ 167-14A, 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 §§ 167-14 through 167-18, 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 § 167-12G, 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 is 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 chapter.
C. Alteration of watercourses. The local administrator shall:
(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit 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. The local administrator shall:
(1) In Zones AE and AH and also Zone A if base flood elevation data is 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 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.
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 § 167-8 of this chapter.
(2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 167-8 of this chapter.
G. Certificate of compliance.
(1) In areas of special flood hazard, as determined by documents enumerated in § 167-6, 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) Certificates of as-built lowest floor elevations of structures, required pursuant to Subsection 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 §§ 167-19 and 167-20.
(5) Notices required under § 167-13C, Alteration of watercourses.

§ 167-14 General construction 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 § 167-6:
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 Zone 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 Scarsdale 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 Scarsdale 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 Scarsdale 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 § 167-6, 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 the occurrence of the base flood; or
(b) The Village of Scarsdale 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 Scarsdale 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 Scarsdale for all costs related to the final map revisions.
§ 167-15 Construction 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) Enclosed areas.
(a) For enclosed areas below the lowest floor of a structure within Zones AE or AH and also Zone A, if base flood elevation data is 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 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 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
[2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
(b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
C. 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. 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 floodwaters into the system.
(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. 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.
(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 167-16 Elevation of residential structures.
The following standards, in addition to the standards in § 167-14A, Subdivision proposals, and § 167-14B, Encroachments, and § 167-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:
A. Within Zones AE and AH and also Zone A if base flood elevation data is available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood level.
B. Within Zone A, when no base flood elevation data is available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
C. 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 § 167-6 (at least two feet if no depth number is specified).
D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 167-17 Construction of nonresidential structures.
The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 167-14A, Subdivision proposals, and

§ **167-14B, Encroachments, and § 167-15, Standards for all structures.**
A. Within Zones AE and AH and also Zone A, if base flood elevation data is available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
(1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
(2) Be floodproofed so that the structure is watertight below two feet 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 nonresidential structures shall:
(1) 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

(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 that 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 floodwaters around and away from proposed structures on slopes.
E. Within Zone A, when no base flood elevation data is available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.
§ 167-18 Manufactured homes and recreational vehicles.
The following standards, in addition to the standards in § 167-14, General standards, and § 167-15, 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.
A. Recreational vehicles.
(1) Recreational vehicles placed on sites within Zones 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, C and D.
(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 AE and AH 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.
C. Within Zone A, when no base flood elevation data is 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.
D. 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 § 167-6 (at least two feet if no depth number is specified).

§ 167-19 Appeals board.
A. The Planning Board as established by the Village of Scarsdale shall hear and decide appeals and requests for variances from the requirements of this chapter.
B. The Planning Board 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.
C. 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.

D. In passing upon such applications, the Planning Board 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.
(12) The costs of providing governmental services during and after flood conditions, including search-and-rescue operations and 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 and the purposes of this chapter, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purpose 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.

§ 167-20 Conditions for variances.
A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 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 § 167-19D(1) through (12) have been fully considered. As the lot size increases beyond the 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 an 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.
(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 or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing chapters or ordinances.
G. Notification.
(1) 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:
(a) 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
(b) Such construction below the base flood level increases risks to life and property.
(2) Such notification shall be maintained with the record of all variance actions as required in § 167-13H of this chapter.

§ 152-7 <u>Type II actions.</u>

The list of Type II actions as set forth in 6 NYCRR 617.13(d) shall be amended to add the following:

	(20)	Construction or alteration of a single-family or two-family residence and accessory appurtenant uses or structures not in conjunction with the construction or alteration of two or more such residences and not in one or more of the following areas:	
		i.	A freshwater wetlands area as defined in Article 24 of the Environmental Conservation Law;
		ii.	A freshwater wetlands controlled area as shown on the Village Freshwater Wetlands Map;
		iii.	A floodplain area having special flood hazards as defined in 6 NYCRR 500;
		iv.	A site as described in 6 NYCRR 617.12(b)(9) and (11).
	(21)	The extension of utility facilities to serve new or altered single- or two-family residential structures or to render service in approved subdivisions.	
	(22)	Construction or alteration of a store, office or restaurant designed for an	

		occupancy load of 20 persons or less, if not in conjunction with the construction or alteration of two or more stores, offices or restaurants and if not in one of the areas described in (20) above, and the construction of utility facilities to serve such establishments.

City of Yonkers

ARTICLE XIII, Flood Damage Prevention [Amended 11-13-1990 by L.L. No. 9-1990; 4-11-2000 by L.L. No. 2-2000; 9-25-2007 by L.L. N

§ 56-144. Objectives.

§ 56-145. Definitions.

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

APPEAL -- A request for a review of the local administrator's interpretation of any provision of this article or a request for a variance.

AREA OF SHALLOW FLOODING -- A designated AO, AH or VO Zone on a community's 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 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. For purposes of this article, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

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 -- Has the same meaning as "basement."

CRAWL SPACE -- An enclosed area beneath the lowest elevated floor, 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 nonbasement building 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 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 walls 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 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 floodwaters. 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 -- The federal agency that administers the National Flood Insurance Program.

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 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 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."

FLOOD or FLOODING --

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

B. " 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 Subsection A(1) above.

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 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."

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:

A. 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;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

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

(2) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR -- The person appointed by the community to administer and implement this article 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 -- 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 nonelevation design requirements of this article.

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, 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 -- 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-- The same meaning as "base flood"

PRINCIPALLY ABOVE GROUND -- That at least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE -- A vehicle which is:

A. Built on a single chassis;

B. Four hundred square feet or less when measured at the largest horizontal projections;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. 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 § 56-147D(2) this article.

START OF CONSTRUCTION -- 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 -- 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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT -- Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE -- A grant of relief from the requirements of this article which permits construction or use in a manner that would otherwise be prohibited by this article.

CHAPTER 109 FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Board of Trustees of the Village of Ellenville 5-26-2009 by L.L. No. 5-2009. Amendments noted where applicable.]
GENERAL REFERENCES

Building construction and fire prevention — See Ch. 70.

Historic preservation — See Ch. 127.

Mobile homes — See Ch. 142.

Subdivision of land — See Ch. 200.

Zoning — See Ch. 227.

ARTICLE I Findings; Purpose; Objectives (§ 109-1 — § 109-3)

§ 109-1 Findings.

The Village Board of the Village of Ellenville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Ellenville 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.

§ 109-2 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.

§ 109-3 Objectives.

The objectives of this chapter are to:

A.

Protect human life and health;

B.

Minimize expenditure of public money for costly flood control projects;

C.

Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D.

Minimize prolonged business interruptions;

E.

Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F.

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.

Provide that developers are notified that property is in an area of special flood hazard; and

H.

Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II Definitions (§ 109-4)

§ 109-4 Word usage; terms defined.

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 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

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." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

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

Has the same meaning as "basement."

CRAWL SPACE

An enclosed area beneath the lowest elevated floor, 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 nonbasement building 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 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 floodwaters. 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

The federal agency that administers the National Flood Insurance Program.

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)

Also, 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 Subsection (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 watercourses studied in detail in the Flood Insurance Study.

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 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 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."

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 Building Inspector, Code Enforcement Officer, or employee of an engineering department.

LOWEST FLOOR

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 nonelevation 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, 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

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

At least 51% 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 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 § 109-13B this chapter.

START OF CONSTRUCTION

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

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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an 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.

ARTICLE III General Provisions (§ 109-5 — § 109-9)

§ 109-5 Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Ellenville, Ulster County.

§ 109-6 Basis for establishing areas of special flood hazard.

A.

The areas of special flood hazard for the Village of Ellenville, Community Number 360975, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1)

Flood Insurance Rate Map Panel Numbers 36111C0685E, 36111C0700E, 36111C0705E, 36111C0715E whose effective date is September 25, 2009, 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, Ulster County, New York, All Jurisdictions," dated September 25, 2009.

B.

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: Village of Ellenville, Village Clerk's Office, 2 Elting Court, Ellenville, New York 12428.

§ 109-7 Interpretation and conflict with other laws.

A.

This chapter 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.

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, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

§ 109-8 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 Village of Ellenville 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.

§ 109-9 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 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 Ellenville, 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 (§ 109-10 — § 109-13)

§ 109-10 Designation of local administrator.

The Village of Ellenville Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 109-11 Floodplain development permits.

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 § 109-6, 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 of $100. In addition, the applicant shall be responsible for reimbursing the Village of Ellenville 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 to cover these additional costs.

§ 109-12 Application for 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.

B.

The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential 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 § 109-15C, Utilities.

D.

A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 109-17, Nonresidential 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 § 109-6, 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 50 lots or five acres.

§ 109-13 Duties and responsibilities of 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 § 109-12, Application for permit, and for compliance with the provisions and standards of this chapter.

(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, § 109-14A, 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 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 § 109-12G, 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 chapter.

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 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 § 109-8 of this chapter.

(2)

The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 109-8 of this chapter.

G.

Certificate of compliance.

(1)

In areas of special flood hazard, as determined by documents enumerated in § 109-6, 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 Subsection 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 Article VI, Variance Procedures; and

(5)

Notices required under Subsection C, Alteration of watercourses.

ARTICLE V Construction Standards (§ 109-14 — § 109-18)

§ 109-14 Subdivision proposals; encroachments.

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 § 109-6.

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 Ellenville 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 Ellenville 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 Ellenville 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 § 109-6, 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 Village of Ellenville 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 Ellenville 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 Ellenville for all costs related to the final map revisions.

§ 109-15 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 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 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 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.

C.

Utilities.

(1)

New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet 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 floodwaters into the system;

(3)

New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. 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.

§ 109-16 Residential structures.

A.

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 § 109-14A, Subdivision proposals, and § 109-14B, Encroachments, and § 109-15, 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 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 § 109-6 (at least two feet if no depth number is specified).

(4)

Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 109-17 Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 109-14A, Subdivision proposals, and § 109-14B, Encroachments, and § 109-15, 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 nonresidential structure, together with attendant utility and sanitary facilities, shall either:

(1)

Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

(2)

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.

B.

Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

(1)

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

(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 floodwaters 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.

§ 109-18 Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 109-14, Subdivision proposals; encroachments, and § 109-15, 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.

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, C and D.

(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 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.

C.

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.

D.

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 § 109-6 (at least two feet if no depth number is specified).

ARTICLE VI Variance Procedure (§ 109-19 — § 109-20)

§ 109-19 Appeals board.

A.

The Zoning Board of Appeals as established by the Village of Ellenville 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 Subsection D 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.

§ 109-20 Conditions for variances.

A.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 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 set forth in § 109-19D(1) through (12) have been fully considered. As the lot size increases beyond the 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 an historic structure; and

(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 for 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; 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.

Written notice.

(1)

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:

(a)

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

(b)

Such construction below the base flood level increases risks to life and property.

(2)

Such notification shall be maintained with the record of all variance actions as required in § 109-13H of this chapter.

109a Floodplain Dev Permit App 109b Cert of Compliance

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

§ 175-26. Subdivider's responsibility.

Prior to requesting approval of a final plat, the subdivider shall have made or furnished a performance guaranty to make, the following improvements:

A. Monuments. Permanent monuments (concrete, stones, iron pins or galvanized pipe) shall be set at all corners of the subdivision tract and at each corner of each lot in the subdivision. If backfilling is practiced, monuments shall be raised and be left visible. The location of such markers shall be shown on the final plat and approved by the Code Enforcement Officer.

B. Streets. All streets, roads and thoroughfares shall be graded to their full width and improved in accordance with specifications provided by the Town Highway Superintendent.

C. Curbs, gutters and sidewalks. Where curbs or gutters or sidewalks exist on abutting properties, their extension throughout the proposed subdivision shall be required of the developer if specified in the stormwater pollution prevention plan as defined in Chapter 166. In other cases the Planning Board may require curbs, gutters and sidewalks if, in its judgment, development densities, traffic volumes or other considerations warrant such improvements. Grades and construction specifications shall be approved by the Town Highway Superintendent.

[Amended 9-14-2005 by Res. No. 107-2005]

D. Water and sewer facilities. In areas where public water and sewer facilities exist or will exist, the subdivider shall install all water- and sewer lines and shall provide for the connection of each lot with the public system. In areas where public water and sewer facilities are not available, the subdivider or lot developer shall install wells and septic tanks which meet County Health Department standards.

E. Fire hydrants. If a subdivision is located in an existing or proposed water district, the subdivider shall install fire hydrants at intervals of no more than 1,000 feet and in accordance with the regulations of the New York State Board of Fire Underwriters.

F. Drainage.

[Amended 9-14-2005 by Res. No. 107-2005]

(1) All drainage ditches, culverts, storm sewers and erosion and sedimentation controls required by the Planning Board shall be provided by the subdivider and shall be designed and located in accordance with the stormwater pollution prevention plan as required by Chapter 166.

(2) The following guidelines are intended to ensure that stormwater runoff is safely conveyed through a development site, to minimize streambank erosion, to maintain groundwater recharge, and to reduce flooding related to land development:

(a) Any alteration of the hydrology of the site shall be designed to minimize adverse impacts on water quality, peak discharge, groundwater recharge, and drainage patterns.

(b) The quantity, quality, and timing of stormwater runoff during and after development shall not be substantially altered from predevelopment conditions.

(c) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in the surface waters of the State of New York.

(d) Preservation of natural watercourses and drainage patterns is generally preferable to the construction of drainage channels or the diversion of flow into other drainageways.

(e) Maintaining existing stormwater systems. Any existing stormwater management system, including a swale, ditch, basin, pond, dry well, catch basin, stream or other system component, shall be maintained in such a manner as to be functional or replaced by a system that meets or exceeds the standards of the existing system. No building or structure shall be erected, altered or moved within any drainagecourse, including a swale, ditch, or stream.

G. Utilities. The subdivider must submit evidence that the subdivision will receive electric service.

H. Street name signs. All street name signs shall be provided and installed by the town at the subdivider's expense.

I. Street trees.

(1) A tree of a least two-inch caliper at a height of four feet shall be planted in the front yard area (adjacent to the street) of each lot in the subdivision if no tree of at

least equal caliper exists. The Planning Board shall approve the type of tree to be planted. Trees shall be guaranteed by bond to live two years.

(2) At the discretion of the Planning Board, a planting screen may be required of the developer along the line of lots abutting land zoned for or presently used for commercial or industrial purposes or along lots abutting a major highway.

City of New Rochelle, NY
CHAPTER A361. LAND DEVELOPMENT

§ A361-19. Lots.

A. Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision for the type of development and for the use contemplated.

B. Lot sizes and area shall conform to the requirements of the Zoning Ordinance.
Editor's Note: See Ch. 331, Zoning.

C. Width and depth of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in the Zoning Ordinance.

D. Corner lots shall have sufficient width to provide an adequate boarding site within all the yard requirements.

E. All lots in a subdivision shall have frontage with adequate access to a public street.

F. Double frontage lots shall be avoided. Reverse frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic and to overcome difficulties of topography or other specific conditions. Screen planting and a fence or wall shall be provided along the rear property line within a reserved strip 10 feet or more in width, across which there shall be no right of access.

G. Side lot lines shall be substantially at right angles or radial to street lines.

H. On land subject to flooding no lots shall be platted for residential or any other use where danger to life or property or an aggravation of the flood hazard may result. Such land should be set aside for such uses as shall not be endangered by periodic or occasional inundation.

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§ 510-16. Lots.

A. Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision, for the type of development and for the use contemplated.

B. Lot sizes shall conform to the requirements of the Zoning Ordinance. Editor's Note: See Ch. 575, Zoning.

C. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in the Zoning Ordinance. Editor's Note: See Ch. 575, Zoning.

D. Corner lots shall have sufficient width to provide an adequate building site within all the yard requirements.

E. All lots in a subdivision shall have frontage with adequate access to a public street.

F. Double frontage lots shall be avoided. Reverse frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic and to overcome difficulties of topography or other specific conditions. Screen planting and a fence or wall shall be provided along the rear property line within an easement 10 feet or more in width, across which there shall be no right of access.

G. Side lot lines shall be substantially at right angles or radial to street lines.

H. No lots shall be platted for residential or any other use on land subject to flooding where danger to life or property or an aggravation of the flood hazard may result. Such land should be set aside for such uses as shall not be endangered by periodic or occasional inundation.

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§ 113-22. Easements.

A. It shall be the responsibility of the developer to furnish easements to the municipality, as required, for the installation and permanent operation of drains, sewers, mains or access roads where required.

B. These easements shall be prepared prior to the approval of the detailed plan and be so written as to be contingent upon the municipal approval of said plan.

C. It shall be the responsibility of the developer to determine if off-site easements are necessary for the proper discharge of stormwater onto private property downstream from the proposed development site.

D. Where a development is traversed by a watercourse, drainageway, channel or stream, or contains a pond which crosses a property line, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the line of such watercourse and of such width as will be adequate to preserve natural drainage and to accommodate the twenty-five-year flood area of such watercourse. In no case shall the easement be less than 20 feet in width. Piping of the watercourse may be provided.

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§ 62-11. Standards and requirements.

A. General standards. The subdivider shall observe the following general land subdivision standards:

(1) The proposed subdivision shall conform to the Official Map, the Zoning Ordinance Editor's Note: See Ch. 73, Zoning. and the Master Plan, if such exist.

(2) The arrangement of streets in the subdivision shall in general provide for the extension of these streets in adjoining subdivisions or be laid out in such a manner that they coincide with streets (if existing) in adjoining subdivisions. Street width should in all cases conform to the standards hereinafter defined. When streets are completed for only a portion of an approved subdivision, the extension of which are to be completed at a later date, the subdivider shall provide a temporary turnaround roadway as specified for temporary dead-end or temporary cul-de-sac streets.

(3) Location, width and improvement of streets. Streets shall be suitably located, of sufficient width and adequately improved to accommodate the prospective traffic and to afford satisfactory access to police, fire-fighting, snow removal or other road maintenance equipment and shall be coordinated so as to compose a convenient system. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties.

(4) Intersections.

(a) Intersections of major streets with other streets shall be at least 800 feet apart. Cross (four-cornered) street intersections shall be avoided. A distance of at least 150 feet shall be maintained between offset intersections.

(b) Streets shall be laid out so as to intersect as nearly as possible at right angles.

(c) Corner radii at intersections shall not be less than 20 feet at property lines.

(5) Dead-end streets (culs-de-sac), designed to be so permanently, shall be limited to 200 average daily trips per day (ADT), based on 10 ADT per single-family residence, and shall be provided at the closed end with a minimum turnaround radius of 50 feet at the property line. The Highway Superintendent

may require an increased turnaround radius and/or additional right-of-way space as deemed necessary for highway maintenance.

[Amended 8-22-2001]

(6) Continuation of streets into adjacent property. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties where such continuation is believed necessary by the Planning Board for convenient movement to traffic, effective fire protection and efficient provision of utilities and particularly where such continuation is in accordance with the Town Plan, if any.

(7) Relation to topography. Streets shall be logically related to the topography, and all streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.

(8) All streets shall be named, and such names shall be subject to the approval of the Planning Board. Names shall be sufficiently different in sound and in spelling from other street names in the Town so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.

(9) Side lines of lots, so far as practicable, shall be at right angles or radial to street lines.

(10) Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Ordinance and in providing access to buildings on such lots from an approved street.

(11) Access across a watercourse. Where a watercourse separates the buildable area of a lot from the street by which it is accessed, a covered pipe or culvert of diameter and length as designated by the Town Engineer will be installed prior to any type of occupancy of lot.

(12) Block lengths generally shall not exceed 1,200 feet in length.

(13) Each normal block shall be planned to provide two rows of lots, but irregularly shaped blocks indented by cul-de-sac streets and containing interior parks will be acceptable when properly designed and covered by prior agreements as to maintenance of interior parks.

(14) Land subject to flooding and deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard. Such uses as shall not be endangered by periodic or occasional inundation shall be permitted.

(15) In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further resubdivision.

(16) No reserve strips controlling access to land dedicated or to be dedicated to public use shall be permitted.

(17) In general, street lines within a block deflecting from each other at any one point more than 10º shall be connected with a curve, the radius of which for the inner street lines shall not be less than 150 feet on local streets. The outer street line in each case shall be parallel to such inner street line.

(18) Areas of reasonable size shall be set aside for neighborhood parks or other recreation uses when required by the Planning Board.

(19) Adequate storm drainage systems shall be required in all new subdivisions.

(20) Easements across lots or along rear or side lot lines shall be provided for utilities and shall be at least 20 feet wide. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the exterior lines of such watercourse and such further width or construction, or both, as will be required after a formal potential runoff analysis by a qualified engineer has been submitted.

B. Lot dimension requirements. The following lot dimensions and area shall be complied with by the subdivider:

(1) Residential lots. Refer to the Zoning Ordinance for lot dimensions. Editor's Note: See Ch. 73, Zoning.

(2) Fan-shaped lots caused by a cul-de-sac may provide the required lot width at the building setback line, except that no lots may have less road frontage than 55 feet.

(3) Lots which provide easements along any property line for public use must be increased in width or depth to accomplish this. Easement area may not be used to provide the required frontage or area of lot.

(4) All corner lots must have a minimum dimension of 100 feet on both streets.

C. Standards for street construction. The following standards of construction and layout shall govern the building of all new streets in the Town:

(1) Streets.

(a) Street widths shall be as follows:

[1] Neighborhood streets: 50 feet wide.

[2] Collector streets: 60 feet wide.

[3] Arterial streets: according to the Planning Board.

(b) All streets as shown herein defined and so designated by the Planning Board shall have a minimum right-of-way of 50 feet and roadbed of 32 feet and improved shoulders of nine feet on each side.

(2) Conformity with Town specifications. Streets shall conform in all respects to the Standard Specifications for Public Works adopted by the Town Board.

(3) Grades on all streets shall conform in general to the terrain and shall be the reasonable minimum but shall not be less than 0.5% with a recommended maximum of 5%. The Planning Board may approve streets with up to ten-percent grade when recommended by the Town Engineer.

(4) All streets shall have a permanent-type curb-and-gutter design to provide proper control of surface runoff. A typical section of the proposed curb and gutter shall be shown on the preliminary layout.

(5) Material.

(a) The roadbed or drive strip of all streets shall have a base of crushed stone or coarse gravel eight inches in depth topped with four inches of well-graded gravel. (See Sections 31 and 32 of Standard Specifications.) The finished surface shall be shaped to the required template and rolled with a ten-ton roller to a smooth compact surface. The surface course shall be as described in Section 33 of the Standard Specifications.

(b) The subbase of all streets and roads requiring fill to achieve the final approved grade shall be composed of bank-run gravel. Common shale will not be acceptable for any part of a roadbed. Compaction shall be as described in Subsection C(5)(a) above.

(6) The minimum width of sidewalks to be constructed in residential areas shall be four feet and in commercial or industrial areas, five feet.

D. Standards for water mains and appurtenances. These standards shall be in accordance with existing Town of Chenango standard specifications or further special requirements of the Board.

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§ 265-15. Character of land.

A. The land shown on any preliminary layout or subdivision plat shall be capable of being developed for the use or uses proposed. Areas proposed for dwelling purposes shall be free from hazard to life or property due to flooding, lack of access to required utilities, lack of adequate access by emergency vehicles or services or other comparable hazard.

B. Due regard shall be paid to the preservation of natural features that will enhance the value of the subdivision, such as trees, watercourses, scenic views or historic sites.

Conservation Development

§ 125-51. Intent.

It is the purpose of this article to enable and encourage flexibility of design and development of land in such a manner as to preserve its natural and scenic qualities, protect areas of meaningful ecological value, reduce flood hazards, facilitate the adequate and economical provision of streets and utilities, minimize negative environmental impacts, improve the aesthetic quality of new residential developments, expand the variety of housing opportunities, encourage the conservation of energy, increase recreational opportunities and otherwise promote the planned and environmentally desirable use of land by permitting the Town Board to authorize the Planning Board, simultaneously with the approval of subdivision plats, to modify otherwise applicable provisions of the Zoning Ordinance in accordance with the standards, conditions and limitations as set forth herein.

§ 125-52. Applicability.
The use of this conservation development procedure shall apply to lots without residence structures in the R-4A, R-2A, R-1A, R-1/2A and R-1/4A Districts which have a minimum contiguous area of 10 acres or five times the minimum lot size of the zoning district in which they are located, whichever is greater.

§ 125-53. Request; Town Board approval. [Amended 5-7-1985; 6-7-1994]

Approval of a conservation development may be granted only upon a written request for the use of this procedure submitted by the property owner and only where the Town Board determines that, if approved, the development will comply with all requirements contained herein and will benefit the Town of Bedford by satisfying one or more of the purposes as set forth above.

§ 125-54. Development standards and controls.

Except as modified by the Town Board pursuant to the authority hereby conferred, all regulations normally applicable to residential uses in the zoning district in which the property is located shall continue to apply. In addition, the following requirements are hereby established specifically for conservation developments:

A.Permitted uses. The permitted uses and accessory uses permitted within a conservation development shall be the same as those permitted in the zoning district in which the property is located, except that two-family, multifamily and townhouse dwelling units are permitted.

B.Density.

(1)The number of dwelling units or building lots permitted in a conservation development of detached one-family dwellings shall in no case exceed the number which

could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to all normally applicable requirements of the Zoning Ordinance, Land Subdivision Regulations EN and other related land use and development controls. The basis for this determination by the Planning Board shall be a sketch layout of a conventional subdivision prepared and submitted by the applicant, which layout shall include topographic information and such other data as may be required by the Planning Board to assist in making its determination.

(2)Where attached dwelling units are requested, the maximum permitted number of dwelling units shall be calculated in accordance with the following formula, which formula is designed on the basis of achieving approximate population equivalency on the site, regardless of the actual mix of dwelling unit sizes selected by the applicant. For each one-family dwelling unit or building lot which could be permitted as determined above by the Planning Board, either one such unit or the following will be permitted:

(a)One four-bedroom or larger attached dwelling unit; or

(b)One and two-tenths three-bedroom attached dwelling units; or

(c)One and five-tenths two-bedroom attached dwelling units; or

(d)Two one-bedroom or smaller attached dwelling units; or

(e)A proportionate combination of dwelling unit sizes equivalent to the above.

C.Density incentives. The permitted number of dwelling units as determined in § 125-54B(2) above may be increased by not more than 25% if the applicant constructs the additional units as middle-income dwelling units for sale or for rent as specified in § 125-56 of this chapter. The sale or rental of these dwelling units shall be administered by a housing agency appointed by the Town Board pursuant to § 125-56 herein.

D.Maximum rent and sales price. [Amended 10-18-1994 by L.L. No. 3-1994]

(1)In determining which dwelling units qualify as middle-income dwelling units, the monthly rent for such units shall not exceed 1.75%, excluding utilities (gas, oil and electricity), or 2%, if utilities are included, of the aggregate annual family income for a middle-income family as defined in § 125-3 of this chapter for the maximum size of family that may occupy such unit as set forth in Subsection C above. The maximum gross sales price for a middle-income dwelling unit shall not exceed two times the maximum aggregate family income above. There shall be no extra charge for minimum required facilities, such as but not limited to parking and recreation facilities.

Diversified Housing District Zone

(2)In a DH Diversified Housing District Zone, the maximum price which may be charged for the 20% of the housing units designated for middle-income families shall be determined at the time such units are offered for sale by the application of a formula based upon the mortgage capacity limit of such average annual income, determined in accordance with the definition of "Middle-Income Family" in § 125-3 herein, assuming and providing for 90% mortgage financing and a 10% equity investment by the purchasing middle-income family, a housing expense ratio of 29% and rates of interest as shall generally prevail at the time for thirty-year, zero-point mortgage loans with a one-year adjustable rate of interest ("one-year ARM") as demonstrated by end loan financing commitments or proposals issued to the developer by a duly licensed institutional lender actually engaged in residential mortgage lending in the marketplace which includes the Town of Bedford. Developers shall have the capacity to ensure such an interest rate level for all required designated middle-income units so as to determine the maximum prices for such units at the time the units are offered for sale. The town and the developer shall jointly use their best efforts to obtain third-party public and/or privately funded subsidies to reduce further the housing costs of eligible middle-income families purchasing designated units.

E.Middle-income families applying for middle-income dwelling units shall be selected on the basis of the following categories of priority:
(1)Town of Bedford municipal employees.
(2)Employees of the Bedford Central and Katonah -- Lewisboro School Districts.
(3)Residents of the Town of Bedford.
(4)Other persons employed in the Town of Bedford.
(5)Relatives of residents of the Town of Bedford.
(6)Other residents of Westchester County.
(7)Other persons employed in Westchester County.
(8)All others.
F.Continued eligibility.
(1)Applicants for middle-income rental units referred to in this Article shall, if eligible and if selected for occupancy by the owner or manager of the development, sign leases for a term of no more than two years.

(2)As long as a resident remains eligible and has complied with the terms of the lease, said resident shall be offered a two-year renewal of the lease. If a resident's annual gross income should subsequently exceed by more than 20% the maximum then allowable, as defined in this section, and if there is at that time an otherwise eligible applicant within one of the categories in Subsection E above, said resident may complete his current lease term and shall be offered a non-middle-income rental unit available in the development at the termination of such lease term, if available. If no such dwelling unit shall be available at said time, the resident may be allowed to sign one additional one-year lease for the middle-income dwelling unit he occupies but shall not be offered a renewal of the lease beyond the expiration of said term.

(3)In the case of owner-occupied middle-income dwelling units, the title to said property shall be restricted so that in the event of any resale by the home buyer or any successor,

the resale price shall not exceed the then maximum sales price for said unit, as determined in accordance with Subsection D of this Article.

G.Administration.

(1)The Town Board shall establish a Town Housing Agency, which shall be responsible for the administration of the middle-income housing requirements of this section as well as for the promulgation of such rules and regulations as may be necessary to implement such requirements.

(2)At the time of the issuance of a certificate of compliance, the Building Inspector shall send a copy of such certificate to the Town Housing Agency, who shall then inform the applicant of the maximum rental or sales charge which may be established for the middle-income dwelling units in such development and the maximum annual gross family income for eligibility for occupancy of said units.

(3)The Town Housing agency shall certify as eligible all applicants for rental or sales of middle-income dwelling units and shall annually reexamine or cause to be reexamined each occupant family's income.

(4)On or before March 30 of each year thereafter, the Town Housing Agency shall notify the owner or manager of each multifamily development containing middle-income units as to the rent, sales and income eligibility requirements for such units based upon figures derived from the preceding calendar year.

(5)The owner or manager of such multifamily development shall certify to the Town Housing Agency on or before May 31 of each year that the current rental or sales prices of all middle-income dwelling units comply with the terms of this Article.

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§ 170-23. Drainage.

A. Watercourses.

(1) Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Engineer.

(2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Engineer, conforming substantially with the line of such width as will be adequate to preserve natural drainage but in no case less than 20 feet in width. Such easements shall be maintained by the owners of the properties traversed by the easement.

(3) The costs for all reviews of drainage and engineering studies by the Town Engineer shall be borne by the project applicant.

B. Water bodies. If a tract being subdivided contains a water body or portion thereof, lot lines shall be so drawn as to distribute the ownership of the water body among the fees of the adjacent lots. The Planning Board may approve an alternate plan whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a town responsibility. No more than 25% of the minimum lot area required under zoning regulations if such exist may be satisfied by land under water.

C. Required state and federal permits.

(1) Any subdivider proposing to disturb or alter any state designated protected stream, as established pursuant to Article 15 of Environmental Conservation Law, or proposing to disturb or alter any state designated wetland and buffer area, as established pursuant to Article 24 of Environmental Conservation Law, must obtain the appropriate permits from the New York State Department of Environmental Conservation, as required for such disturbance or alteration activities as specified in Part 608 and Parts 663 through 665 of the New York Code of Rules and Regulations.

(2) Any subdivider proposing to disturb or alter any federal designated wetland over one acre in area, as established pursuant to § 404 of the United States Clean Water Act (United States Code Part 1344), must obtain the appropriate regional, conditioned national or individual permits from the New York District of the United States Army Corps of Engineers, as specified in §§ 320 through 330 of Part 33 of the Code of Federal Regulations.

D. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width maintained by the owners of the properties traversed by the easement.

E. Drainage structures to accommodate potential development upstream. A culvert or other drainage facility shall be suitably sized to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of this facility based on the anticipated runoff.

F. Responsibility from drainage downstream. The subdivider's engineer shall study the effect of the proposed plat on the existing downstream drainage facilities outside the area of the subdivision. This study shall be reviewed by the Town Engineer. Where is anticipated that the additional runoff incident to the development of the subdivision will overload and existing downstream drainage facility, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provisions have been made for the improvement of said condition.

G. Stormwater runoff. The subdivider may provide, or may be required by the Planning Board to provide, stormwater runoff control techniques and measures, such as but not limited to detention basins and ponds, and materials used to line drainage channels. Such stormwater control facilities shall be located in perpetual unobstructed easements of appropriate length and width maintained by the owners of the properties traversed by the easement.

H. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such use as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous condition.

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§ 113-29. Flood damage considerations.

[Added 4-9-1974; amended 9-27-1977; 9-13-1988 by L.L. No. 16-1988]

Within areas of special flood hazard, the Planning Board shall also review subdivision proposals for compliance with the requirements of Chapter 70, Flood Damage Prevention.

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§ 200-21. Natural features.

The planning and design of the plat, including related streets, drainage, parks and other improvements, shall provide for preservation of significant natural features of the tract as follows, provided that the Planning Board may approve plans which modify such natural features after consideration of the alternatives to such modification and the community benefits which may be achieved and when any required permission for modification has been obtained by the applicant from any regulatory agency having jurisdiction:

A. By avoiding cuts or fills which result in potential soil erosion and excessive tree removal or which disturb water resources.

B. By avoiding construction which results in relocation of or encroachment upon watercourses and water bodies.

C. By avoiding filling or excavation of or encroachment upon wetlands, floodplains and other land subject to potential flooding.

D. By avoiding removal of large isolated trees and mature woods and other desirable vegetation and removal of stone walls.

E. By providing for preservation of wetlands, watercourses and water bodies and for the protection thereof by easement, reservation area or other controls to prevent excavation, filling or encroachment.

F. By avoiding rock excavation by blasting which may cause unintended damage or injury to property or persons in the vicinity.

[Added 2-9-1999 by L.L. No. 1-1999]

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§ 200-26. Storm drainage planning and design.

Storm drainage shall be planned and designed in accordance with the following standards and criteria:

A. General. The storm drainage system shall provide for drainage from the entire area of the plat and shall take into account land outside the plat which normally drains across the area of the plat as well as the effects of the plat upon downstream drainage systems. The drainage system for the plat shall make use of and protect and improve, if needed, the natural drainage system. The drainage system shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control Editor's Note: See Ch. 193, Stormwater Management and Erosion and Sediment Control. and shall provide for the following:

[Amended 3-27-2007 by L.L. No. 3-2007; 12-26-2007 by L.L. No. 8-2007]

(1) Adequate drainage of proposed streets, including future extensions thereof into adjoining property, and adequate drainage from existing streets that are extended into the plat.

(2) Interception or management of existing channeled drainage coming from any adjoining property or street.

(3) Protection of locations necessary for on-site sewage disposal and water supply facilities.

(4) Prevention of flooding and soil erosion and protection of wetlands, watercourses and water bodies.

(5) On-site stormwater detention as needed to maintain existing site peak flow runoff and provide for continuity of flow in watercourses.

B. Design storm. Drainage shall be designed under the United States Soil Conservation Service formula or other method that conforms to sound engineering practice; provided, however, that the Rational Formula, whereby Q = CIA, may not be used to compute flows from drainage areas of more than 200 acres or from one-hundred-year storms. Street drainage systems shall be designed on the basis of a ten-year storm. Cross culverts and passages under bridges, and channel and encroachment lines, shall be designed on the basis of both of the following:

(1) A twenty-five-year storm without causing the depth of the headwater pool to exceed 1.2 times the height of the culvert barrel or flooding of the street pavement or nearby buildings, sewage disposal systems or water supply systems.

(2) A one-hundred-year storm without causing flood damage to the culvert, bridge or pavement or nearby buildings, sewage disposal systems or water supply systems and so that bridges have a minimum underclearance (the water surface to the closest bottom projection of the bridge) of one foot at the design flow.

C. Pipe design. The minimum size of stormwater pipe shall be 15 inches in diameter. Coefficients used in design for pipe shall be in accordance with the most recent, accepted engineering data available for the piping proposed. The minimum slopes of pipes shall be 0.5%. Pipe size and slope shall be such that the head on the culvert will not exceed 1.5 diameters at design storm, and there is at least one foot underclearance from the bottom of the catch basin inlet grate. Pipes, except for underdrains, shall be laid on straight alignments, both horizontally and vertically, with manholes spaced not more than 400 feet apart, providing access at all deflection points or at the junction of two or more lines. The open end of any pipe shall be provided with a headwall and/or an end section. The minimum cover over the top of the pipe shall be 24 inches. Culverts under streets shall extend to the edge of the right-of-way.

[Amended 3-27-2007 by L.L. No. 3-2007; 12-26-2007 by L.L. No. 8-2007]

D. Spacing of catch basins. Catch basins shall be connected to a stormwater pipe and shall be provided in order that surface water will not cross any intersection nor travel on any street more than 400 feet on streets with grades up to and including 5% and not more than 300 feet on streets with grades over 5%.

E. Discharge.

(1) The discharge of all stormwater that has been collected or otherwise artificially channeled shall be into suitable natural streams or into Town, County or state drainage systems with adequate capacity to carry the discharge. There shall be no discharge onto or over private property within or adjoining the plat unless:

(a) Proper easements and discharge rights have been secured by the applicant;

(b) Such easements and rights are transferable to the Town where the discharge includes stormwater from any street; and

(c) There will be adequate safeguards against soil erosion and flood danger.

(2) No stormwater shall be diverted from one watershed to another. Discharge shall be made in a manner that protects wetlands, watercourses and water bodies from pollution, erosion and siltation.

F. Encroachment lines. Each watercourse that functions as part of the drainage system, and any related wetland or floodplain, shall be provided with channel, building or other encroachment lines to prevent encroachment, constriction or diversion by building, filling or excavation. The encroachment lines shall be shown on the final plat map accompanied by a note specifying the restrictions in a manner approved by the Planning Board.

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§ 200-6. Preliminary plat: minor subdivision.

[Amended 7-27-1993 by L.L. No. 3-1993; 12-30-1996 by L.L. No. 10-1996]

Whether or not an application for sketch plan is submitted and acted upon, application shall be made to the Planning Board for preliminary approval of the plat, and if so approved, for subsequent final approval of the plat. The applicant may request the Planning Board to accept an application for final consideration of a minor subdivision plat without preliminary plat consideration and approval. (See § 200-2 for the definition of "minor subdivision.") The Planning Board may, at its discretion, accept such final approval application for a minor subdivision plat when:

A. The final approval application is accompanied by a minimum in accordance with the Standard Schedule of Fees of the Town of North Salem. Editor's Note: See Ch. 85, Fees.

B. The plat incorporates all of the tract from which lots are proposed to be divided.

C. The plat map shows all watercourses, water bodies, wetlands and areas subject to potential flooding within the plat and any drainage onto the plat from any existing state highway, County road or Town street.

D. The Board determines that sufficient information will be provided under final plat submission procedures to make a reasonable decision on the application.

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§ 94-12. Character of land; conformity with Official Map.

A. Character of land. Land which cannot be used without danger to health or peril from fire, flood or other menace shall not be subdivided for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate a flood hazard, but such land shall be set aside for such uses as shall not be endangered by periodic or occasional flooding or shall not produce satisfactory living conditions.

B. Conformity to Official Map and Village Plan. Subdivisions shall conform to the Official Map of the Village and shall be in harmony with such portions of the Village Plan as may be in existence from time to time.

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§ 255-16. Storm drainage.

A. All subdivisions shall be related to the drainage pattern affecting the areas involved, with proper provision to be made for adequate storm drainage facilities. Storm drainage plans shall reflect potential surface runoff within the drainage area after development and shall comply with the requirements of the engineer.

B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm easement or drainage right-of-way conforming substantially with the lines of such watercourse and of such width as to encompass the five-year flood area of such watercourse.

C. Right-of-way for storm drainage must be sufficient for facilities to handle not only the anticipated discharge from the property being subdivided, but also the anticipated runoff that will occur when property at a higher elevation in the drainage basin is developed.

Village of Port Chester, NY

CHAPTER A402. LAND SUBDIVISION REGULATIONS

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§ A402-10. General.

A. Land of such a character that it cannot be used without danger to health or peril from fire, flood or other menace shall not be subdivided for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate a flood hazard, but such land shall be set aside for such uses as shall not be endangered by periodic or occasional flooding or shall not produce unsatisfactory living conditions.

B. Subdivisions shall conform to the Official Map of the village land shall be in harmony with the Village Plan, as it is developed and adopted by the Village Planning Board.

Town of Somers

Conservation District

§ 170-13.1. Purposes.

The Town Board hereby finds that it is to the benefit of both property owners and the town to promote the conservation of Somers' remaining open space lands, to preserve the town's environmentally sensitive areas in their natural state, to encourage subdivisions that are compatible with the natural topography and any on-site cultural features that may exist and to protect Somers' existing aesthetic qualities. It is therefore the purpose of this article to enable and encourage flexibility of design and development of land in such a manner as to accomplish the above, wherever practicable, including facilitating the adequate and economical provision of streets and utilities, protecting areas of meaningful ecological, architectural, archaeological, scenic and historic value (including roadside vistas), preserving proposed open space areas as shown on the Town Plan Map in the Planning Board's Comprehensive Master Plan and reserving suitable lands for park and recreation purposes.

§ 170-13.2. Authorization.

The Planning Board of the Town of Somers is hereby authorized, simultaneously with the approval of a subdivision plat(s), to modify applicable provisions of this chapter, subject to the limitations, procedures, conditions and requirements as set forth in this Article IIIA as well as the applicable requirements of the Town's Regulations for the Subdivision of Land (Chapter 150 of the Town Code) and § 278 of the Town Law, so as to create conservation subdivisions.

A. This procedure may be followed at the discretion of the Planning Board if, in said Board's judgment, its application would benefit the town by satisfying one or more of the purposes as set forth in § 170-13.1. In the event that the Planning Board makes a determination that a conservation subdivision plan is appropriate, but the property owner does not present such a plan to the Board, the Planning Board is hereby authorized to require said owner to submit such a plan as a condition for the further consideration of the owner's subdivision application.

B. This authorization shall be applicable only to land in the Town's Residence R120, R80 and R40 Districts.

§ 170-13.3. Standards and requirements.

A. The number of building lots or dwelling units permitted within a conservation subdivision shall in no case exceed the number that would be acceptable, in the judgment of the Planning Board, if the land were subdivided into lots conforming to all normally applicable requirements of this chapter and all other chapters of the Town Code, the Westchester County Department of Health Regulations and all other applicable governmental requirements. Where a proposed conservation subdivision is located within two or more contiguous zoning districts, the Planning Board may approve a plat representing the cumulative density as derived from the summing of all building lots or dwelling units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts. In all cases, the basis for the Planning Board's density determination

shall be a conventional preliminary subdivision plat found acceptable by said Board, plus such other information as may be required by them.

B. The type of residential dwelling units permitted within a conservation subdivision shall be limited to one-family detached dwellings, unless otherwise specifically authorized on a case-by-case basis by the Town Board. Other permitted principal and accessory uses shall be the same as those otherwise permitted in the zoning district(s) in which the property is located.

C. Each conservation subdivision plat shall indicate areas within which structures and/or lots may be located; all minimum or maximum dimensional requirements, as appropriate; the proposed height and spacing of buildings; the locations of proposed open spaces; and, where appropriate, landscaping, streets, driveways and off-street open or enclosed parking spaces; plus any other such features as may be required by the Planning Board.

D. Within the framework of the limitations as set forth in this Article IIIA, in the Land Subdivision Regulations (Chapter 150) and in § 278 of the Town Law, the Planning Board shall establish, on a case-by-case basis, the appropriate modifications of lot and building dimension requirements which said Board determines are necessary or appropriate to properly accomplish the purposes as set forth in § 170-13.1 and which are consistent with the protection of private property values and the preservation of the character of land and buildings on neighboring sites.

(1) Notwithstanding the foregoing flexibility afforded to the Planning Board in connection with the review and approval of conservation subdivision plats, the following minimum dimensional standards shall apply, unless otherwise specifically authorized on a case-by-case basis by the Town Board:

(2) Notwithstanding the maximum building coverage and floor area ratio permitted in the zoning district in which the lot is located, a one-family detached dwelling in a conservation subdivision shall not be required to occupy less than 3,600 square feet in the R120 District, 3,200 square feet in the R80 District and 2,400 square feet in the R40 District, and the maximum permitted floor area shall not be required to be less than 6,000 square feet in the R-120 District, 4,800 square feet in the R80 District and 3,600 square feet in the R40 District.

(3) All other dimensional standards and requirements of the district in which the property is located shall apply, other than as modified above.

E. Conservation subdivisions shall result in the preservation of open space or conserved land areas having meaningful scenic, ecological, environmental, recreational and/or buffer value, which open spaces shall have such access, and be of such shape, size and location as determined appropriate by the Planning Board to satisfy the intended purpose. The permanent preservation of all open space shall be legally assured to the satisfaction of the Planning Board by the filing of appropriate covenants, deed restrictions, easements or other such legal agreements, in such form as may be found acceptable by the Town Attorney. All open space shall also be subject to the following specific conditions:

(1) The ownership of all open space areas shall be divided equally among all owners of building lots within the conservation subdivision, except where all or an appropriate portion of such lands is deeded to a recognized conservation

organization dedicated to the preservation of open space and such dedication is acceptable to both the conservation organization and the Town Planning Board; or unless such lands are offered for dedication to the Town of Somers and the Town Board has voted to accept such offer.

(2) Except in those cases where the ownership of the open space is to be vested in the Town of Somers or an approved conservation organization, the subdivider shall execute and file with the Planning Board such documents as, in the opinion of the Town Attorney, will be sufficient to create a property owners' association responsible for the continued ownership, use and maintenance of all such areas in accordance with the following requirements:

(a) Membership in the association must be mandatory for each property owner within the subdivision and for any successive property owners.

(b) All restrictions on the ownership, use and maintenance of open space must be permanent.

(c) The association must be responsible for liability insurance, local taxes and the permanent maintenance of the open space, including any active recreation areas and related facilities incorporated therein.

(d) Each lot owner within the subdivision shall be made responsible for paying a proportionate share of the association's costs, and the assessment levied by the association shall become a lien on the lot owner's property if not paid.

(e) The association shall have the power to adjust assessments to meet changing needs.

(f) In the event that the maintenance, preservation and/or use of any of the open space areas ceases to be in compliance with any of the above requirements or any other requirements specified by the Planning Board when approving the subdivision plat, the Town of Somers shall be granted the right to take all necessary action to assure such compliance and to assess against the association and/or each individual property owner within the subdivision all costs incurred by the town for such purpose.

(g) The establishment of such an association shall be required prior to the approval of the final plat.

(3) Except where otherwise approved by the Planning Board, all open space areas shall be preserved in their natural state, and the use of such areas shall be limited to appropriate conservation, open space and recreation purposes, as determined by the Planning Board.

F. The requirements for the reservation of land for park or playground purposes, and/or the payment of a fee in lieu thereof, shall be the same in conservation subdivisions as set forth in § 150-24 of the Town's Regulations for the Subdivision of Land (Chapter 150 of the Town Code). If the reservation of land is deemed necessary by the Planning Board, said reserved land area must be depicted on both the conventional and conservation subdivision layouts.

§ 170-13.4. Procedure.

A. Each proposed conservation subdivision application shall be accompanied by a written statement specifically describing how it is intended to accomplish the

purposes as set forth in § 170-13.1 of this chapter and a conventional preliminary subdivision plat prepared to a sufficient level of detail as determined necessary by the Planning Board in order to allow them to make the necessary density determination.

B. Conservation subdivision applications shall be subject to review and public hearing by the Planning Board in accordance with the same procedures otherwise applicable to conventional subdivision plats.

C. Upon the filing of a conservation subdivision plat in the office of the Westchester County Clerk, a copy shall also be filed with the Town Clerk, who shall make appropriate notations and references thereto on the official copy of the Town Zoning Map.

Town of North Castle

Conservation Development

§ 213-25. Conservation subdivisions.

Simultaneously with the approval of a subdivision plat and pursuant to § 281 of the Town Law, at the written request of the applicant, the Planning Board is authorized to modify the zoning regulations in residence districts with respect to lot area and dimensions, provided that:

A. Purposes. Such modifications result in design and development which promote the most appropriate use of the land, facilitates the adequate and economical provision of streets and utilities and preserves the natural and scenic qualities of open lands.

B. Eligibility. This authorization shall be applicable to all residentially zoned lands within the Town of North Castle and shall be utilized only when the property owner makes written application for the use of this procedure and the Planning Board determines that its utilization will benefit the Town.

C. Permitted use. The permitted uses within a conservation subdivision shall be the same as those otherwise permitted in the zoning district in which it is located, except that single-family attached and semidetached dwelling units shall also be permitted in subdivisions the area of which, whether all or partially within the Town of North Castle, is adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, or on smaller parcels when specifically authorized by resolution of the Town Board, following a determination by the Town Board that the proposed conservation subdivision is compatible with adjacent land uses as determined by the procedure set forth in Subsection D(1) below.

D. Development standards and controls. Except as specified herein, all development standards and controls normally applicable to other residential subdivisions shall also be applicable to conservation subdivisions:

(1) Density. The number of building lots permitted in a conservation subdivision shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to all normally applicable requirements of this Town Zoning Ordinance, the Land Subdivision Regulations, EN the Westchester County Health Department Regulations and all other applicable requirements. The basis for this determination by the Planning Board shall be a conventional preliminary subdivision plat for the subject property, plus such other information as may be required by said Board.

(2) Type and arrangement of buildings. The type of residential dwelling units permitted within a conservation subdivision shall be, at the discretion of the Planning Board and subject to the conditions set forth below, in detached, semidetached and/or attached buildings.

(3) Minimum required lot area. In subdivisions the area of which is not adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, and when not specifically authorized by the Town Board, as determined by the procedure set forth in Subsection D(1) above, the minimum

required area for building lots within a conservation subdivision shall be one acre, except that larger minimums may be required in specific instances where determined necessary or appropriate by the Planning Board or the Westchester County Health Department. In subdivisions the area of which is adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, or on smaller parcels when specifically authorized by resolution of the Town Board, as determined by the procedure set forth in Subsection D(1) above, dwelling units may be grouped on one or more separate parcels of land, or located on individual lots, for which there is no minimum size requirement.

(4)Minimum lot dimension requirements.

(a)Where the minimum required lot area is one acre, the minimum lot frontage, width, depth and yard setback requirements for building lots within a conservation subdivision shall be the same as required in the R-1A Residence District, except that where a building lot within a conservation subdivision abuts an existing residential lot complying with conventional lot dimensional standards, any front, side or rear yard adjoining such property shall comply with the normally applicable setback requirements of the zoning district in which it is located.

(b)Where there is no minimum required lot area and dwelling units in a conservation subdivision abut or are directly across the street from a privately owned residential property, the minimum front, side or rear yard adjoining or facing such property shall be equal to at least twice the normally applicable setback requirement for detached one-family dwellings in the zoning district in which it is located, but not less than 100 feet, or as otherwise determined appropriate by the Planning Board for parcels specifically authorized by the Town Board but not less than twice the normally applicable setback, measured from the boundary of the conservation subdivision. In reviewing the development plan, the Planning Board shall consider the setback and proposed screening of parking and active recreation areas and may require setbacks up to twice the normally applicable setback requirement for one-family dwellings in the zoning district in which the conservation subdivision is located.

(5)Building dimension requirements. The maximum permitted building height and building coverage and the minimum dwelling unit size shall be the same as that normally applicable to the dwellings and buildings in the zoning district in which the building is located, except that for semidetached and attached dwelling units, the minimum dwelling unit size shall be as follows:

(a)Efficiency: 450 square feet.

(b)One bedroom: 700 square feet.

(c)Two bedroom: 900 square feet.

(d)Three bedroom: 1,100 square feet.

(e)Four-bedroom: 1,300 square feet.

(6)Off-street parking.

(a) Parking shall be the same as otherwise required in conventional development, but for attached or semidetached dwelling units the following standard shall prevail: one space per dwelling unit plus 1/2 space per bedroom. No less than 1/3 nor more than 2/3 of the required off-street parking spaces shall be enclosed. Of the unenclosed parking spaces, an amount equal to at least 1/3 of the total number of required spaces shall not be reserved for specific dwelling units and shall be open and available for the use of visitors and guests.

(b) For conservation subdivisions having no minimum required lot area, the following shall apply:

[1] All self-propelled maintenance equipment, including accessories, shall be stored in enclosed structures only, which structures shall conform in architectural theme to the residential buildings of the development.

[2] The Planning Board may require, if deemed appropriate, the provision of a suitably screened parking area solely for the storage of boats, motor homes, travel trailers and pickup coaches belonging to inhabitants of the development.

E. Design considerations. For conservation subdivisions having no minimum required lot area, in order that such subdivisions will be properly planned in relation to the community and personal needs of people, and after referral to the Architectural Review Board for review and report, the following design elements shall be considered by the Planning Board in addition to the specific provisions of the Land Subdivision Regulations EN and the normal factors examined in development plan review:

(1) Need for personal privacy.

(a) Visual privacy shall be preserved for residents through the proper design of rear yards and/or patio spaces. Proper screening through the use of vegetation, fencing and partially or fully enclosed patios shall be provided.

(b) Audio privacy shall be maintained by requiring proper standards for solid party walls that will satisfactorily limit sound transmission between adjoining dwelling units.

(2) Need for maintaining the scale of buildings to insure compatibility with natural and man-made surroundings. Four dwelling units shall be the normal maximum permitted per building to ensure that attached and semidetached units will be compatible in scale with the character of surrounding development and to insure a pleasant environment for the residents of such units through maximizing views and by providing a close relationship to immediately adjacent open space at the sides of units as well as to the front and rear. The Planning Board may, where it deems necessary, limit the number of dwelling units per building to less than four and may permit up to six units in circumstances where building layout or natural terrain conditions can help assure aesthetic design, adequate private and semiprivate open space areas and significant views.

(3) Need for preserving existing neighborhood indentity and community scale. In large-scale subdivisions (such as those exceeding 100 dwelling units) the Planning Board shall consider the layout of small neighborhoods or clusters within the development, each having some open space immediately surrounding it, as a goal of proper site plan so that a large, massive concentration of units, with little or no differentiation, can be avoided, and so that the character of the conservation subdivision will match the character of the neighborhood in which it is located. In this manner a sense of small neighborhood communities can be preserved, open space can be provided in direct relationship to the living units and the sense of a semirural character can be retained. This guideline, however, should not be arbitrarily applied where intrinsic land capabilities and natural terrain features could not be properly respected or where it can be proven, to the satisfaction of the Planning Board, that a particular design of a large subdivision would be more ecologically sensitive through the concentration of development on a particular section of land.

(4) Water and sewerage facilities.

(a) All dwelling units in conservation subdivisions having no minimum required lot area shall be served by public water and sewerage treatment facilities, and no certificate of occupancy shall be issued until all dwellings units are connected to approved and functioning public water and sewerage treatment facilities. Where, in the opinion of the Planning Board, connection to or establishment of public water and/or sewerage treatment facilities is not possible or not warranted, a central water supply and sewerage treatment shall be designed and constructed to serve all dwelling units in accordance with the standards and subject to the approval of the Westchester County Department of Health and the New York State Department of Environmental Conservation. Such central systems shall be designed and located in such way as to readily permit their connection and/or conversion to off-site systems at such time as they are constructed.

(b) Where, in the opinion of the Planning Board, the geology of an area is such that wells of large capacity will adversely impact existing wells on adjoining properties, individual water meters for each dwelling unit shall be installed, sufficient measures shall be taken by the applicant to prevent such adverse impact or to indemnify the owners of such impacted wells, and/or where feasible, an off-site source of water supply shall be developed.

(5) Antenna system. A central television antenna system, a dish antenna or cable service where available, shall be provided for each group of attached dwelling units.

F. Conserved land areas. Conservation subdivisions shall result in the preservation of open space areas having meaningful scenic, ecological, environmental and/or recreational characteristics, with such access, shape, size and location as determined appropriate by the Planning Board to satisfy the intended purpose. The permanent preservation of such open space areas shall be legally assured to the satisfaction of

the Planning Board and the Town Attorney, by the filing of appropriate covenants, deed restrictions, easements or other agreements.

(1) Ownership of conserved land areas. The ownership of conserved land areas shall be divided equally among all owners of building lots within the conservation subdivision, except where all or an appropriate portion of the conserved land areas are deeded to a recognized conservation organization dedicated to the preservation of open space and such dedication is acceptable to the conservation organization and to the Town Planning Board, or offered for dedication to the Town of North Castle and the Town Board has voted to accept such offer. Except in those cases where the ownership of the conserved land areas is to be vested in the Town of North Castle or an approved conservation organization, the subdivider shall execute and file with the Planning Board such documents as, in the opinion of the Town Attorney, will be sufficient to create a property owners' association responsible for the continued ownership, use and maintenance of all conserved land areas in accordance with the following requirements:

(a) Membership in the association must be mandatory for each property owner within the subdivision and for any successive property owners.

(b) All restrictions on the ownership, use and maintenance of conserved land areas must be permanent.

(c) The association must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas, including any active recreation areas and related facilities.

(d) Each lot owner within the subdivision shall be made responsible for paying his proportionate share of the association's costs, and the assessment levied by the association shall become a lien on the property if not paid.

(e) The association shall have the power to adjust assessments to meet changing needs.

(f) In the event that the maintenance, preservation and/or use of the conserved land area(s) ceases to be in compliance with any of the above requirements or any other requirements specified by the Planning Board when approving the subdivision plat, the Town shall be granted the right to take all necessary action to assure such compliance and to assess against the association and/or each individual property owner within the subdivision, all costs incurred by the Town for such purposes.

(g) The establishment of such an association shall be required prior to the final approval of the plat.

(2) Permitted uses in conserved land area. Except where otherwise approved by the Planning Board, conserved land areas shall be preserved in their natural state and the use of such areas shall be limited to appropriate conservation, open space and recreation purposes as determined by the Planning Board. A portion of the conserved land area(s) may be designated "active recreation area" on the subdivision plat, in a location approved by the Planning Board. Such active recreation area shall not exceed 5% of the total area of the proposed subdivision. Within such area structures and facilities for active

recreational purposes, including playground equipment, swimming pools, tennis courts and so forth, may be constructed and operated for the use of the property owners in the conservation subdivision and their guests. Where determined appropriate, the Planning Board may specify a phased construction schedule for such structures and facilities. Enlargement of such structures and facilities, or establishment of such structures and facilities not shown on the filed plat, shall be subject to site plan approval procedures as set forth in this Town of North Castle Zoning Ordinance.

G. Application procedure. In addition to compliance with any special standards, requirements and procedures as set forth in this section, conservation subdivisions shall also be subject to review and public hearing by the Planning Board in accordance with the same procedures as would otherwise be applicable to conventional subdivisions. The proposed development plan, as required by Town Law § 281(e) and including areas within which the structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, and streets, driveways and all other physical features as shown on said plat or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes, or supplementations of existing zoning provisions as are not shown on said development plan, and in the case of conservation subdivisions having no minimum required lot area, floor plan of each dwelling unit design, shall likewise be subject to the same review and public hearing by the Planning Board. For conservation subdivisions having no minimum required lot area, the Planning Board shall forward one copy of the proposed development plan to the Conservation Board, the Architectural Review Board and the Town Engineer. Upon filing of the plat in the Office of the County Clerk, a copy shall also be required to be filed with the Town Clerk, who shall make the appropriate notations and references thereto on the official copy of the Town Zoning Map. EN

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§ 107-2. Findings.

The following findings are made:

A. Wetlands and watercourses in the Town of North Salem are invaluable resources for flood protection, wildlife habitat, open space and water resources.

B. Wetlands and watercourses in the Town of North Salem have been or are in jeopardy of being lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such wetlands and watercourses.

C. Recurrent flooding of areas of the Town of North Salem, aggravated or caused by the loss of wetlands or alteration of watercourses, has serious effects upon natural ecosystems and presents serious hazards to the health, safety, welfare and property of the people of the Town, within and outside such wetlands and watercourses, including loss of life; loss of and damage to private and public property; disruption of lives and livelihoods; interruption of commerce, transportation, communication and governmental services; and unsanitary and unhealthful living environmental conditions.

D. Wetland and watercourse conservation is a matter of concern to the entire Town, and the establishment of preservation, protection and conservation practices is essential to the public health, safety and welfare since acts on wetlands and watercourses in one location affect persons and property in other locations.

E. Wetlands and watercourses overlap many properties and neighborhoods, and experience has demonstrated that effective wetland and watercourse protection requires uniformity of preservation, protection and conservation throughout the Town.

F. Loss, despoliation or impairment of wetlands deprives people of the Town of some or all of the many and multiple benefits to be derived from wetlands, such as the following:

(1) Flood- and stormwater runoff control by hydrologic absorption and storage capacity of wetlands.

(2) Protection of wildlife habitat by providing for breeding, nesting and feeding grounds and cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl and rare species.

(3) Protection of subsurface water resources and provision for valuable watersheds and recharging of groundwater supplies.

(4) Recreation by providing resource areas for hunting, fishing, boating, hiking, bird watching, photography, camping and other uses.

(5) Pollution treatment by serving as biological and chemical oxidation basins.

(6) Erosion control by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and water bodies.

(7) Education and scientific research by providing outdoor biophysical laboratories, living classrooms and resources for training and education.

(8) Open space and aesthetic appreciation.

(9) Sources of nutrients in freshwater food cycles and the nursery ground and sanctuary for fish.

(10) Vegetation providing temperature modification, purification of the air and natural products for harvest.

G. Improper use and despoliation or impairment of watercourses deprives people of the benefits thereof, such as the following:

(1) Surface drainage free from erosion and sedimentation and with capacity to carry runoff without danger of flooding.

(2) Freshwaters for potable water supply and for boating, swimming, fishing and other recreation.

(3) Continuity of water flows and supplies throughout the year.

H. Regulations of wetlands and watercourses is consistent with the legitimate interests of farmers and other landowners to graze and water livestock, make reasonable use of water resources, harvest natural products of the wetlands, selectively cut timber and otherwise engage in the use of land for agricultural production.

Town of Mount Pleasant

Freshwater Wetlands

§ 111-1. Statement of purpose.

A. The Town Board hereby finds and declares that the public interest and general welfare of the residents of the Town of Mount Pleasant will be served through the creation of procedures for the preservation, proper maintenance and utilization of natural resources within the Town of Mount Pleasant and for the protection of said natural resources from encroachment upon, spoiling, pollution or elimination resulting from population growth attended by commercial development, housing, roads and other construction.

B. The preservation and maintenance of rivers, wetlands, water bodies and watercourses in an undisturbed and natural condition constitute important physical, ecological, social, aesthetic, recreational and economic assets necessary to promote the health, safety and general welfare of present and future residents of the town and of downstream drainage areas.

C. The loss of freshwater wetlands and watercourses deprives the people of the Town of Mount Pleasant of the many and multiple benefits derived from wetlands, as follows:

(1) Control of floods and storms by the hydrologic absorption and storage capacity of freshwater wetlands.

(2) Wildlife habitats by providing breeding, nesting and feeding grounds and predator escape cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl and rare species.

(3) Protecting subsurface water resources, providing valuable watersheds and recharging groundwater supplies.

(4) Recreation throughout the town by providing areas for fishing, boating, hiking, bird-watching, photography, camping and other uses.

(5) Pollution treatment by serving as biological and chemical oxidation basins.

(6) Erosion control by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and harbors.

(7) Education and scientific research by providing readily accessible outdoor biophysical laboratories, living classrooms and education resources.

(8) Open space and aesthetic appreciation.

(9) Sources of nutrients in freshwater food cycles and the nursery ground and sanctuary for freshwater fish.

D. It is therefore the intent of this chapter to promote the public purposes identified in this section by providing for the protection, proper maintenance and use of the rivers, wetlands, water bodies and watercourses located within the town by preventing or minimizing erosion due to flooding and stormwater runoff, maintaining the natural groundwater supplies; protecting subsurface water resources and providing valuable watersheds; preserving and protecting the purity, utility, water-retention capability, ecological functions, recreational usefulness and natural beauty of all rivers, wetlands, water bodies, watercourses and other related natural features of the terrain; and establishing and protecting wildlife habitats by providing

breeding, nesting and feeding grounds and predator escape cover for many forms of wildlife.

§ 111-4. Prohibited activities.

Except as provided in § 111-5 of this chapter, the following activities shall be prohibited and unlawful:

A. To deposit, directly or indirectly, or permit to be deposited any material into, upon or within 50 feet of the edge of any river, wetlands water body or watercourse situated in an area that has been designated as a wetlands control district.

B. To construct or permit to be constructed any building or structure of any kind within, upon or within 50 feet of the edge of any river, wetlands water body or watercourse situated in an area that has been designated as a wetlands control district.

C. To remove or permit to be removed any material (other than debris, refuse or water) from any river, wetland, water body or watercourse which is situated in an area that has been designated as wetlands control district or from the land within 50 feet of the edge of any such wetlands water body or watercourse.

Village of Scarsdale

Freshwater Wetlands

§ 171-1. Findings; policy.

A. Wetlands in their natural state serve multiple functions, including:

(1) Removing pollutants from surface waters by trapping sediment, removing nutrients and detoxifying chemicals.

(2) Recharging groundwater and surface waters, thereby maintaining stream flows needed by plants and animals to survive.

(3) Controlling flooding by storing and then slowly releasing stormwater runoff.

(4) Stabilizing stream banks by protecting against erosion caused by stream currents or construction activities.

(5) Providing unique or essential habitats for diverse fish and wildlife species, including many of those on the New York State and federal lists of special concern, threatened, rare and endangered species.

(6) Supporting unique vegetative associations specifically adapted for survival in low-oxygen environments.

(7) Providing areas of unusually high plant productivity which support wildlife diversity and abundance.

(8) Providing open space and visual relief from intense development.

(9) Providing recreational opportunities, including fishing, nature study, hiking and wildlife watching.

(10) Serving as outdoor laboratories and living classrooms for the study and application of biological, natural and physical sciences.

B. In addition, the Long Island Sound has been declared an Estuary of National Significance by the federal government, and nonpoint source pollution, especially excessive nutrient loadings, has been determined to be a major cause of the water quality problems in Long Island Sound. Siltation into streams, lakes and harbors is a concern to downstream communities.

C. It is therefore the policy of the Board of Trustees of the Village of Scarsdale to protect its citizens and those of downstream communities, including future generations, by preventing the further despoliation and destruction of wetlands and watercourses within the village while taking into account varying ecological, water quality, economic, recreational and aesthetic values. Activities that may damage wetlands functions or cause the loss of wetlands and watercourses should be avoided and, where avoidance is not practicable, minimized to the fullest practicable extent.

§ 171-2. Intent.

It is the intent of the Board of Trustees of the Village of Scarsdale that activities in and around wetlands conform with the Building Code (Chapter 132), the Flood Damage Prevention Code (Chapter 167) and all other related codes and regulations, and that such activities not threaten public safety or the natural environment or cause nuisances by:

A. Impeding flood flows, reducing flood storage areas or destroying storm barriers, thereby resulting in increased flood heights, frequencies or velocities on other lands.

B. Increasing water pollution through inappropriate siting of stormwater control facilities; excessive or unauthorized application of fertilizers, pesticides, herbicides

and algicides; disposal of solid wastes at inappropriate sites; creation of unstabilized fills; or the destruction of wetlands soils and vegetation serving pollution and sediment control functions.

C.Increasing erosion.

D.Adversely altering the recharge or discharge functions of wetlands, thereby impacting groundwater or surface water supplies.

E.Significantly altering the wetlands hydrology and thereby causing either short- or long-term changes in vegetative composition, soils characteristics, nutrient recycling or water chemistry.

F.Destroying sites needed for educational and scientific research, such as outdoor biophysical laboratories, living classrooms and training areas.

G.Destroying or damaging aesthetic and property values.

§ 171-4. Controlled activities requiring permit.

Within a freshwater wetlands controlled area, no person shall allow or conduct, either directly or indirectly, any of the following activities without a permit issued in accordance with the requirements of this chapter:

A.Any form of draining, dredging, excavation or removal of soil, mud, sand, gravel or other material. EN

B.Any form of dumping, filling, grading or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind.

C.Erection of any structures or roads if the actual construction activity is within 100 feet of a wetlands shown on the Freshwater Wetlands Map.

D.Driving of pilings or the placement of any other obstructions, whether or not changing or diverting the flow of water, or alteration or modification of natural drainage patterns.EN

E.Alteration or modification of the contours of the land.

F.Introduction of any form of pollution, including but not limited to installing a septic tank, running a sewer outfall discharging sewage treatment effluent or other liquid wastes into or so as to drain into a freshwater wetlands area.

G.Destruction of natural growth, including living trees and shrubs.EN

H.Any other activity which may substantially impair the natural functions served by the wetlands or the benefits derived therefrom, as described in § 171-1 of this chapter.

§ 171-5. Activities not controlled.

Controlled activities under this chapter shall not include any of the following:

A.Swimming or fishing, where otherwise legally permitted.

B.Public health activities, orders and regulations of the State or County Department of Health.

C.Mosquito control projects, unless determined by the Planning Board of the village to have an adverse impact upon the wetlands.

D.Gardening.

E.Construction activities that are more than 100 feet from a wetlands shown on the Freshwater Wetlands Map.

F.Operation and maintenance of dams, retaining walls, walkways, terraces, sluices, culverts or other water-control structures or devices as were in existence on the effective date of this chapter.

G. Conduct of normal land maintenance and conservation measures, including tree trimming and pruning, the removal of dead or diseased vegetation, lawn and garden care and the planting of decorative shrubs or trees, subject to the limitation that excessive amounts of fertilizers should not be applied and that application of herbicides and pesticides shall be as regulated pursuant to Article 33 of the New York Environmental Conservation Law and Section 608 of the New York Public Health Law. EN

Town of North Castle

Watercourses

§ 206-2. Declaration of policy.

It is declared to be the public policy of the Town of North Castle that the public interest requires the preservation and protection of the streams, lakes, ponds, swamps, marshes and other watercourses in the Town of North Castle and the protection of lands adjoining the same for the purpose of protecting the town against the detrimental use of such watercourses and to conserve the watershed area of the town and to prevent the contamination and pollution of same, all for the health, safety and welfare of the public.

§ 206-4. Discharge of pollutants prohibited.

No person shall cause or permit the discharge of sewage, wastes or other pollutants in any watercourse in the town.

§ 206-5. Permit required for spraying or similar equipment.

No person shall clean, flush, empty or fill spraying or other similar equipment in any watercourse in the town without having obtained a permit from the Town Clerk, who is authorized to issue such permit upon proof that the equipment to be used is in operating order and that the materials used would not tend to pollute or contaminate any watercourse.

§ 206-6. Restrictions on locations where spraying or similar equipment may be used.

No person shall clean, flush, empty or fill spraying or other equipment into, or where polluted material may run into, any watercourse in the town, except at such locations as shall be designated by the Town of North Castle.

Wetlands

§ 209-6. Permit requirements.

A. Permitted uses. The following uses shall be permitted as of right within a wetland or wetland buffer to the extent that they are not prohibited by any other ordinance in North Castle; and to the extent that they do not constitute a pollution or erosion hazard or interfere with proper drainage; and provided they do not require structures, grading, fill, draining or dredging except as authorized by permit:
   (1) Seasonal hand pruning of vegetation.
   (2) Removal of dead or diseased vegetation.
   (3) Maintenance of existing walkways and walls.
   (4) Public health activities, orders, and regulations of the Westchester County Department of Health and/or the New York State Department of Health for emergencies only.

B. It shall be unlawful to disturb, place, discharge, or deposit pollutants or introduce effluents which cause deleterious ecological effects in any wetland, water body, adjacent area, or drainage system.

C. Regulated acts. Regulated acts require a wetlands permit. It shall be unlawful in the absence of a written wetlands permit issued by the approval authority to conduct in a wetland, watercourse, or buffer area any of the following activities:
   (1) To place or construct any structure.

(2)To conduct any form of draining, dredging, excavating, or removal of material either directly or indirectly.
(3)To conduct any form of dumping, filling, or depositing material either directly or indirectly.
(4)To install any service lines or cable conduits.
(5)To introduce any form of pollution, including but not limited to the installation of a septic tank, the running of a sewer outfall, or the discharging of sewage treatment effluent or any other liquid wastes into, or so as to drain into, a wetland, water body, watercourse, or buffer area.
(6)To alter or grade natural features and contours, alter drainage conditions, or divert any flow of a wetland, buffer area, drainage system, water body, or watercourse.
(7)To construct docks, dams or other water control devices, pilings, or bridges, whether or not they change the drainage characteristics.
(8)To install any pipes or wells.
(9)To construct or expand a driveway, road or parking area.
(10)To clear or to strip any area of vegetation.
(11)To conduct any activity that substantially impairs any of the natural functions of wetlands, water bodies, watercourses, and buffer areas.
(12)To deposit or introduce harmful organic or inorganic chemicals.
(13)To discharge stormwater.

Village of Croton-on-Hudson

Wetlands & Watercourses

§ 227-4. Creation and organization.

The Board of Trustees is hereby authorized and empowered to create, within 90 days of the effective date of this chapter, a Water Control Commission, which shall consist of five resident members, who shall be qualified by reason of training or experience in engineering, in water-related science, community planning, conservation, landscape architecture, wildlife management, forestry, ecology, hydrology or other related business or profession. The Commission may also obtain access to such training through qualified consultants. The members and the Chairman of the Water Control Commission shall be appointed by the Mayor subject to the approval of the Board of Trustees, and the Board of Trustees may authorize and budget for such expenses as may be necessary and proper. Each member of the Commission shall serve for a term of five years, provided that, of the members first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for term of five years. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Mayor, subject to the approval of the Board of Trustees, by appointment to the unexpired term. The Mayor shall, subject to the approval of the Board of Trustees, designate a member of the Commission to act as Chairman thereof, or, on failure so to do, the Commission shall elect a Chairman from its own members. Meetings of the Commission shall be held at such times as the Commission may determine. All business of the Commission shall be conducted at public meetings. Three members of the Commission shall constitute a quorum for holding a hearing and making a decision on an application. The Commission shall keep minutes of its proceedings, showing the vote of each member upon any question or, if absent or failing to vote, indicating such fact, and shall also keep records of its official actions.

§ 227-10. Activities requiring permit. [Amended 8-3-1992 by L.L. No. 6-1992]

A. The following activities, unless exempted pursuant to the provisions of § 227-10B of this chapter, are expressly prohibited within a controlled area or minimum activity setback without a wetlands permit issued pursuant to Article V of this chapter:
   (1) Deposition/removal in controlled or minimum activity setback areas: deposition or removal, either directly or indirectly, of material from controlled or minimum activity setback areas.
   (2) Drainage/alterations in controlled areas: draining or altering of any controlled area except for agriculture purposes allowed under § 227-9F.
   (3) Alteration of waterways: alteration, either directly or indirectly, of natural drainage systems and/or the velocity, volume, temperature or direction of any wetland, water body or watercourse.
   (4) Construction: construction of, without limitation, buildings, structures, roads, dams, driveways, culverts, water-control devices, pilings, bridges, tennis courts, swimming pools, decks. docks, wells or septic systems.

(5) Pollution: discharge of any contaminant or pollutant, from any point or nonpoint source into any controlled area or minimum activity setback, including, without limitation, the running of a sewer outfall, the discharge of any sewage treatment effluent or other liquid wastes or the installation of a septic tank or field.

(6) Clear-cutting: clear-cutting of trees, as defined in § 227-3.

(7) Grazing: grazing of horses or other animals for nonagriculture purposes.

(8) Manure storage: storage of manure.

(9) Application of chemicals: application or addition of any algaecide. herbicide or other growth-regulating agent, both aqueous and nonaqueous.

(10) Gardening: gardening in the minimum activity setback area only, where otherwise in accordance with applicable state and local laws and ordinances.

(11) Lines and cables: installation of any service lines, cables, pipes or any conduits of any description whatever.

(12) Miscellaneous: any other activity not specifically enumerated in this chapter.

B. Any activity outside a controlled area and its prohibited buffer zone that the Water Control Commission, by majority vote of all its members, determines will not adversely impact the controlled area shall be exempted from the requirement of obtaining a wetlands activity permit.

(1) To qualify for such an exemption, the activity must not require an excavation and/or fill permit under Chapter 120 of the Village Code.

(2) In granting an exemption under this section, the Water Control Commission may impose such conditions as it deems necessary to safeguard controlled areas.

(3) In order to enable the Commission to make a determination whether the activity should receive an exemption under this section, the Commission may require the applicant for an exemption to furnish such information regarding the proposed action as the Commission deems appropriate.

(4) If, after granting an exemption, the Commission determines that any of the circumstances relating to the action have changed so that it may adversely impact a controlled area, the Commission may rescind the exemption and require the applicant to obtain a wetlands activity permit in accordance with the provisions of this chapter.

(5) Any exemption granted by the Water Control Commission, including any conditions imposed by the Commission pursuant to such an exemption, shall be reflected in the minutes of the Commission.

(6) An administrative fee, as set by the Board of Trustees, shall be paid for each application for an exemption pursuant to this section.

Village of Tarrytown

Wetlands

§ 173-2. Findings; intent.

A.The Village Board of Trustees of the Village of Tarrytown hereby finds that freshwater wetlands play a fundamental role in the environment of the Village of Tarrytown. Freshwater wetlands provide a natural habitat for many forms of wildlife; aid flood control and storm drainage by absorbing and storing excess precipitation; protect subsurface water resources and recharge groundwater supplies; protect water quality by functioning as sedimentation and filtration basins; facilitate recreational and educational activities; and offer natural open spaces where such open spaces are in very short supply.

B.Therefore, the Village of Tarrytown, pursuant to Article 24 of the Environmental Conservation Law of the State of New York, declares that it is the intent of this chapter to promote these public purposes through the creation of procedures to ensure the preservation, restoration, enhancement and proper utilization of wetlands and the natural resources and processes attendant thereto.

§ 173-6. Prohibited activities.

The following activities shall be prohibited in freshwater wetlands and the adjacent areas to such freshwater wetlands:

A.Placement or deposit of any solid waste.

B.Discharge of any toxic organic or inorganic chemical, diluted or undiluted, or of any chemical waste, except as permitted by the Westchester County Department of Health.

C.Discharge of any effluents creating a thermal gradient in the wetland, pond, lake, reservoir or tributary thereto, deleterious to indigenous plants, fish and/or wildlife.

§ 173-7. Activities requiring a permit. [Amended 10-8-1979 by L.L. No. 15-1979]

A.All activity (as defined in Subsection B of this section) which takes place in a controlled area and which is not expressly prohibited in § 173-6 nor allowed in § 173-8 hereof and all such activity outside of a controlled area which foreseeably would have a significant environmental impact on freshwater wetlands shall be conducted only upon the obtaining of a permit issued by the Board of Trustees or its designated agent and pursuant to the terms and conditions of such permit.

B.Activities subject to regulation shall include any form of draining, dredging, excavation or removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland, either directly or indirectly; any form of dumping, filling or

depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; the erecting of any structures or roads, the driving of pilings or the placing of any other obstructions, whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes into or so as to drain into a freshwater wetland; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in § 173-2 hereof.

§ 173-8. Activities not requiring a permit; emergency activities.

Notwithstanding the provisions of § 173-7 herein, no permit shall be required prior to the following activities:

A.The conservation of soil, water, vegetation, fish and wildlife.

B.Outdoor recreation, including play and sporting areas, field trails for nature study, hiking, horseback riding restricted to trails established for that purpose, swimming, camping, boating, trapping, hunting and fishing where otherwise legally permitted and regulated.
C.The maintenance of lawns, grazing, farming, gardening and harvesting of crops where otherwise legally permitted, except for use of chemicals as provided in § 173-6B.
D.The repair and maintenance of existing structures and roads.
E.Scientific and educational pursuits not inconsistent with the intent of this chapter.
F.Public health activities, orders and regulations of the Westchester County Department of Health or the New York State Department of Health undertaken in compliance with § 24-0701 of the State Environmental Conservation Law.
G.Any emergency activity which is immediately necessary for the protection of life, property or natural resources. Within 48 hours of the commencement of such emergency activity, the person conducting such activity shall notify the Board of Trustees that such activity is being conducted. Within five days of the cessation of such emergency activity, the person conducting such activity shall provide the Board with a full written report specifying the need for the activity and including the information required in § 173-6B.

Lakes & Waterways
§ 201-2. Purpose.
The purpose of this chapter is to accord greater protection against contamination of the source of public water supply.
§ 201-3. Applicability.
The rules and regulations set forth in this chapter, duly made and enacted in accordance with the provisions of §§ 1100-1107 of the Public Health Law, shall apply to the Tarrytown Lakes and all watercourses, wells or springs tributary thereto or which may ultimately discharge into said Tarrytown Lakes.
§ 201-5. General restrictions.

No person, business or industry, including state agencies or political subdivisions, shall pollute or cause to be polluted any watershed properties, as defined by this chapter, or any inland waterway or areas adjacent to any inland waterway within the Village of Tarrytown.

§ 201-6. Specific restrictions; penalties for offenses.

A. Specific restrictions shall be as follows:

(1) Cemeteries. No interment of a human or animal body shall be made within a two-hundred-fifty-foot linear distance of any reservoir or watercourse.

(2) Chloride salt. No chloride shall be stored within a five-hundred-foot linear distance of a reservoir or watercourse unless permission is granted by the Village of Tarrytown and then only in weatherproof or watertight containers. However, in no way shall this prohibition apply to the Village of Tarrytown's use of chloride salt compounds to remove ice to facilitate public transportation anywhere within the village.

(3) Herbicides and pesticides. No herbicides or pesticides shall be stored, discharged, applied or allowed to enter into any watershed area or any inland waterway directly unless a permit to do so has been obtained from the appropriate agency having jurisdiction.

(4) No human excreta or sewage shall lie deposited or be allowed to escape into any reservoir, watercourse on the watershed or inland waterway.

(5) No accumulative animal excreta or sewage shall be deposited or allowed to escape into any reservoir, watercourse on the watershed or inland waterway.

(6) Before any sewage disposal system is altered or any new sewage disposal system is constructed within a five-hundred-foot linear distance of the watershed, the plans in relation thereto shall have been first approved by the Village of Tarrytown and/or the appropriate state or county agency.

(7) No radioactive material shall be disposed of by burial in soil within a one-thousand-foot linear distance of any watershed, reservoir, watercourse or inland waterway unless authorization has been obtained from the appropriate state agency and such burial is in accordance with the provisions of Part 16 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR 16).

(8) No radioactive material being emitted into the atmosphere by any industrial, commercial or any other source shall be allowed to enter into the reservoir watershed area or watercourse unless authorization has been obtained from the appropriate state agency and in accordance with such regulations that presently exist as to the monitoring and reporting of various levels of such materials.

(9) No person or business firm of any type shall draft or discharge any liquid of any form into or from any watercourse reservoir or inland waterway unless prior written permission has been obtained from the Village of Tarrytown.

(10) No container used for the bulk storage of toxic substance shall be allowed within a one-thousand-foot linear distance of the watershed area, watercourse reservoir or any inland waterway.

(11) No activity shall be permitted that would disturb or alter the free flow of any watercourse or inland waterway in the village.

(12) Any construction activity near or within the watershed area, exclusive of village maintenance and operations of water and recreation facilities, shall be classified as a Type I action under the State Environmental Quality Review Act. EN

(13) No activity shall be permitted that would accelerate erosion or runoff or impair the existing drainage patterns.

(14) It shall be unlawful for any person to fish in the lakes or inland waterways of the Village of Tarrytown, to set bait or traps or cast a net, line or hook for or to remove fish or amphibious creatures from such lakes or waterways or from their immediate environs without first obtaining a license therefor from the Village Clerk, which license shall be issued annually. Fishing shall be permitted only from April 1 through November 30 of any year.

(15) Licenses for the purposes set forth in Subsection A(14) of this section shall be issued annually to all persons residing in the Village of Tarrytown and all persons who are on active duty with the Armed Forces of the United States upon application therefor and upon payment of a fee as set by resolution of the Board of Trustees; provided, however, that no fee shall be charged to residents of the village under the age of 16 years or over the age of 70 years or to members of the Armed Forces of the United States.EN

(16) No person shall picnic; dine; distribute, sell or consume food or food products; cast food or food products, waste, waste materials, debris or trash; or feed ducks, pigeons, birds, turtles, fish, fowl or other wildlife in, on, about or in the immediate environs of the lakes and inland waterways of the Village of Tarrytown. It shall be unlawful for any person to enter or swim in the aforementioned waterways and lakes.

B. Penalties shall be as provided in Chapter, 1, General Provisions, Article II. [Amended 5-6-1991 by L.L. No. 5-1991]

Village of Mount Kisco

Wetlands

§ 107-1. Statement of findings and intent.

A. Findings.

(1) The Board of Trustees of the Village/Town of Mount Kisco finds that growth, the spread of development and increasing demands upon the natural resources have the potential of encroaching upon, despoiling, polluting or eliminating many of the wetlands, ponds and streams, rainfall-drainage systems and water-retention areas in the Village/Town of Mount Kisco and other natural resources and the processes associated therewith, which, if preserved, constitute important physical, economic, social, aesthetic and recreational assets to the Village/Town of Mount Kisco and its present and future residents.

(2) In their natural state, wetlands serve multiple functions, including:

(a) Protecting water resources by providing sources of surface water, recharging groundwater and aquifers, serving as chemical and biological oxidation basins and/or functioning as settling basins for naturally occurring sedimentation.

(b) Controlling flooding and stormwater runoff by storing or regulating natural flows.

(c) Providing unique nesting, migratory and wintering habitats for diverse wildlife species, including many on the New York State and Federal Endangered Species Lists.

(d) Supporting unique vegetative associations specifically adapted for survival in low-oxygen environments.

(e) Providing areas of unusually high plant productivity which support significant wildlife diversity and abundance.

(f) Providing breeding and spawning grounds, nursery habitat and food for various species of fish.

(g) Serving as nutrient traps for nitrogen and phosphorus and filters for surface water pollutants.

(h) Providing open space and visual relief from development in urbanized and growing areas.

(i) Serving as outdoor laboratories and living classrooms for the study and appreciation of natural history, ecology and biology.

(3) Considerable acreage of these important natural resources has been lost or impaired by draining, dredging, filling, excavating, building, polluting and other acts inconsistent with the natural uses of such areas. Remaining wetlands are in jeopardy of being lost, despoiled or impaired by such acts, contrary to the public safety and welfare.

B. Intent.

(1) The Board of Trustees declares it to be the policy of the Village/Town of Mount Kisco to protect its citizens, including future generations, by preventing the despoliation and destruction of wetlands while taking into account varying ecological, economic, recreational and aesthetic values.

(2) It is the intent of the Board of Trustees of the Village/Town of Mount Kisco that activities in and around wetlands be required to conform to all applicable building codes, sediment control regulations and other regulations and that such activities not threaten the public safety or the natural environment or cause nuisances by:

(a) Impeding flood flows, reducing flood storage areas or destroying storm barriers, thereby resulting in increased flood heights, frequencies or velocities on other lands.

(b) Increasing water pollution through location of domestic waste-disposal systems in wet soils; inappropriate siting of stormwater-control facilities; unauthorized application of fertilizers, pesticides, herbicides and algicides; disposal of solid wastes at inappropriate sites; creation of unstabilized fills; or the destruction of wetland soils and vegetation serving pollution- and sediment-control functions.

(c) Increasing erosion.

(d) Decreasing breeding, nesting and feeding areas for many species of waterfowl and shorebirds including those which are rare and endangered.

(e) Interfering with the exchange of nutrients needed by fish and other forms of wildlife.

(f) Decreasing habitat for fish and other forms of wildlife.

(g) Adversely altering the recharge or discharge functions of wetlands, thereby impacting groundwater or surface water supplies.

(h) Significantly altering the wetland hydroperiod and thereby causing either short- or long-term changes in vegetational composition, soils composition, soils characteristics, nutrient recycling or water chemistry.

(i) Destroying sites needed for education and scientific research, such as outdoor biophysical laboratories, living classrooms and training areas.

(j) Interfering with the recreation opportunities provided by wetlands for fishing, boating, hiking, birdwatching, photography and other passive uses.

(k) Destroying or damaging aesthetic property values, including significant public viewsheds.

§ 107-4. Permit required; exempt, excluded and regulated activities.

A. Permit required. No activity, other than an exempt activity or an excluded activity, shall be conducted in a wetland or wetland buffer except in accordance with a permit granted by the permitting authority pursuant to this chapter and in compliance with the terms of this chapter and other applicable regulations. All activities that are not exempt or excluded shall be defined as regulated and shall be prohibited except when conducted pursuant to such a permit.

B. Exempt activities. The following activities shall be permitted within a wetland or wetland buffer, except to the extent that they are prohibited by any other local law, constitute a pollution or erosion hazard, interfere with proper drainage or require structures, grading, fill, draining or dredging.

(1) Normal ground maintenance, including mowing, trimming of vegetation and removal of dead or diseased vegetation around a residence.

(2)Repair of walkways and walls.
(3)Decorative landscaping and planting in wetland buffers.
(4)Emergency activities necessary to protect life, property or natural resource values, provided that the person responsible for taking such emergency measures notifies the Village Engineer, in writing, within two days of commencing such emergency measures, describing the emergency, the property, life or natural resource values being protected and the measures being taken.
(5)Restoration of preexisting structures partially or entirely destroyed by casualty loss after the effective date of this chapter, provided that such restoration occurs within six months of the date of the loss.
(6)Recreational activities.

C.Excluded activities. The regulations imposed by this chapter shall not apply to activities conducted in accordance with a permit issued pursuant to the predecessor to this chapter, enacted as Local Law No. 5-1976, and as thereafter amended, provided that such activities were commenced prior to the effective date of the law, or activities conducted by the village and its agencies.

D.Regulated activities. Regulated activities include all activities within a wetland or wetland buffer other than those specified as exempt or excluded in the sections above. Regulated activities include but are not limited to:
(1)Placement or construction of any structure.
(2)Any form of draining, dredging, excavation or removal of material, either directly or indirectly.
(3)Any form of dumping, filling or deposition of material, either directly or indirectly.
(4)Installation of any service lines or cable conduits.
(5)Introduction of any form of pollution, including but not limited to the installation of a septic tank, the running of a sewer outfall or the discharge of sewage treatment effluent or other liquid wastes into or so as to drain into a wetland.
(6)Alteration or modification of natural features and contours.
(7)Alteration or modification of natural drainage patterns.
(8)Construction of dams, docks or other water-control devices, pilings or bridges, whether or not they change the natural drainage patterns.
(9)Installation of any pipes or wells.
(10)Clear-cutting.
(11)Deposition or introduction of organic or inorganic chemicals, including pesticides and fertilizers.
(12)Grazing of animals and any agricultural activity which involves draining or excavation of a wetland.
(13)The subdivision of land.
(14)Any other activity that may impair the natural function(s) of a wetland as described in § 107-1.

Town of Mamaroneck

Erosion & Sediment Control

§ 95-3. Findings; intent; purpose.

A.Findings. Stormwater runoff from developing areas can lead to off-site problems, including flooding, erosion and water quality degradation. Pollutants and sediment in runoff from construction sites can have a significant effect on the quality of downstream waters. It may also destroy fish habitats, impair viability of aquatic plants and reduce the channel capacity of watercourses, thereby affecting the public, business and commerce. These effects are caused partly by faults in the design of development and partly by inadequate control of surface water, erosion and sediment during construction.

B.Intent. It is the intent of these regulations to control and regulate land-disturbing activities to assure that best management practices are used which minimize water pollution, retain valuable topsoil and vegetation and prevent flooding, erosion and sedimentation.

C.Purpose. The Town of Mamaroneck therefore declares that the purpose of this chapter is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land situated in the Town of Mamaroneck.

§ 95-7. Permit not required.

For the purpose of this chapter, a surface water and/or erosion and sediment control permit(s) shall not be required for the following activities:

A.Routine lawn and landscaping maintenance of existing cultivated areas.

B.Existing nursery and agricultural operations conducted as a permitted use.

C.Grading of land in a uniform manner, provided that the existing flow of surface water at the property lines is not altered and, upon completion of the grading, the exposed surfaces are permanently stabilized with vegetation.

D.Alteration of the interior of a building and alteration of the exterior of a building, provided that such exterior alteration does not increase land coverage by the building or pavement or the alteration does not involve the demolition of a part or all of the exterior of an existing building.

E.Any addition to a structure of one hundred (100) square feet or less or any structure of one hundred (100) square feet or less and/or any deck. [Amended 3-31-1993 by L.L. No. 5-1993]

F.Any emergency activity which is immediately necessary for the protection of life, property or natural resources, as determined by the Town Engineer.

§ 95-9. Approval of erosion and sediment control permit.

A.The Town Engineer shall not approve the issuance of an erosion and sediment control permit or authorize the release of a performance bond or, when a waiver of the requirement for the issuance of a separate erosion and sediment control permit has been granted as herein provided, authorize the issuance of a building permit or certificate of occupancy except in accordance with the following requirements and shall visit the site to observe the progress of work and immediately after completion to further ensure compliance with these minimum requirements:

(1)An erosion and sediment control plan may at the discretion of the Town Engineer be referred to the Westchester County Soil and Water Conservation District for their review and comments, in accordance with the Memorandum of Agreement between the town and the county. Any expense or fees caused by the referral to the District shall be the responsibility of the applicant and will be in addition to any other fee items in this chapter.

(2)Development.

(a)Development shall reflect the topography and soils of the site so as to create the least potential for erosion. Areas of steep slope where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible. Clearing or grading shall generally not occur on slopes in excess of twenty-five percent (25%).

(b)In the design of cut-and-fill slopes, consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. Slopes which are found to be eroding excessively must be provided with additional measures until the problem is corrected. Fills shall not encroach on areas designated as control areas under Ch. 114, Freshwater Wetlands, or the state's Freshwater or Tidal Wetlands Laws EN or designated as critical environmental areas and/or significant fish and wildlife habitat under Ch. 92, Environmental Quality Review, unless undertaken under an appropriate permit issued under such regulations.

(c)Development shall preserve salient natural features, keep cut-and-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential based upon the Westchester County Best Management Practices Manuals. Aesthetics and the requirements of continuing maintenance shall be considered.

(3)Natural vegetation and trees shall be retained and protected wherever possible. The applicant shall be guided by the requirements of the Best Management Practices Manuals and the Town Tree Commission. In the event of a conflict, the most stringent regulations shall apply. Disturbed soils shall be stabilized as soon as practicable and in any event within the time specified in the permit. Properties adjacent to the site of land disturbance shall be protected from sediment deposition. Specific timing for stabilization of denuded areas and soil stockpiles, sediment trapping measures and waterways and outlets shall be as follows:

(a)Stabilization of denuded areas and soil stockpiles. Adequate barriers to prevent erosion/siltation shall be applied at the end of each day. Permanent or temporary soil stabilization must be applied to denuded areas within two (2) days after final grade is reached on any portion of the site. Soil stabilization must also be applied within two (2) days to denuded areas which may not be at final grade but may remain dormant (undisturbed) for longer than two (2) weeks. Soil stabilization refers to measures which protect soil from the erosive forces of raindrop impact and flowing water and high wind. Applicable practices include vegetative establishment, mulching, covering and the early application of gravel base on areas to be paved.

(b)Timing and stabilization of sediment trapping measures. Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment on-site must be constructed as a first step in grading and must be made functional before upslope land disturbance takes place. Earthen structures such as dams, dikes and diversions must

be seeded and mulched within two (2) days of installation and prior to any first step in the disturbance of upslope land, whichever comes first.

(c)Stabilization of waterways and outlets. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a ten-year-frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels.

(4)All storm drain inlets operable during construction shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

(5)Temporary vegetation and/or mulching shall be used to protect exposed land areas during development. The applicant shall restore vegetative cover in disturbed areas as directed by the Town Engineer. The permanent (final) vegetation and erosion control measures shall both be installed within the time specified in the permit and in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM). Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the Town Engineer, is mature enough to control soil erosion satisfactorily and to survive severe weather conditions.

(6)Until a disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or similar measures or as more specifically may be determined by the Town Engineer in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM).

(7)Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.

(8)All fills shall be compacted to provide stability of material and to prevent undesirable settlement in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM).

(9)Fills shall not encroach on natural watercourses or constructed channels without proper walls or sheet piling, provided that such walls or sheet piling do not result in an unacceptable increase in the elevation of the one-hundred-year flood as described in Chapter 110, Flood Damage Prevention.

(10)Fills placed adjacent to or having an impact upon natural watercourses, constructed channels or floodplain shall have suitable protection against erosion during periods of flooding, as determined by the Town Engineer.

(11)Stripping of vegetation, regrading or other land-disturbing activity shall be done in such a way as to minimize erosion and dust. Appropriate measures for dust control shall be exercised in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM).

(12)Construction vehicles shall be kept out of watercourses to the greatest extent possible. Where in-channel work is necessary, precautions must be taken, including the use of rubber-wheeled vehicles and geofabric, to stabilize the work area during construction to minimize erosion. The channel (including bed and banks) must be restabilized immediately after in-channel work is completed in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM). Where a watercourse must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided in

accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM).

(13)Where no acceptable paved access exists for construction vehicles to enter the site, a stabilized construction entrance shall be created. This shall consist of an area ten by forty (10 x 40) feet in size, to be paved with three (3) inches of one-and-one-half-inch gravel or crushed stone. This construction entrance shall be placed at an area acceptable to the Town Engineer and shall be shown on the plans filed with the Building and Engineering Department.

(14)All temporary erosion and sediment control measures shall be disposed of within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the Building Inspector. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be removed from the site and disposed of in accordance with pertinent regulations or permanently stabilized to prevent further erosion and sedimentation.

(15)The construction of underground utility lines involving installation, maintenance or repair which disturbs more than ten thousand (10,000) square feet shall be subject to the following criteria:

(a)No more than three hundred (300) feet of trench are to be opened at one (1) time unless approval to open a greater length is granted by the Town Engineer.

(b)Where consistent with safety and space considerations, excavated material is to be placed on the uphill side of trenches.

(c)Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems or off-site property.

B.If the Town Engineer determines that the proposed method of controlling erosion and sedimentation are not provided in accordance with this section, he shall disapprove the application unless the applicant has, within thirty (30) days of being advised of the Town Engineer's determination, modified the development proposal so that the requirements of this section are satisfied. Such submittal shall be considered modifications under § 95-12A(2).

C.A copy of the approved erosion and sediment control plan shall be on file in the Building and Engineering Department and shall be maintained on-site at all times for the duration of the project and available to the Town Engineer and/or Building Inspector on request.

Town of North Castle

Steep Slopes, Hilltops, & Ridgelines

§ 213-17. Hilltops, ridgelines and steep slopes.

A. For the purpose of preventing erosion, minimizing stormwater runoff and flooding, preserving the town's character and property values, it is the intent of this chapter to prevent the development of hilltops, ridgelines and steep slopes. Toward this end, wherever possible, new construction shall avoid such areas and existing vegetation in such areas shall not be disturbed. The Planning Board, the Zoning Board of Appeals and the Building Inspector shall take this objective into consideration in reviewing and acting on any plans submitted pursuant to the provisions of this chapter. For purposes of this section, "steep slopes" shall be considered to be those areas with an average slope of 25% or greater over a horizontal distance of 25 feet or more. When development in such areas is proposed, the approval authority shall assure that adequate safeguards for the protection of such measures and the minimization of impacts to their essential functions are assured. Any application for the development of such areas shall include:

(1) A soil erosion and sediment control plan and a stormwater management plan prepared in accordance with these regulations, the Town Flooding, Erosion and Sediment Control Law (Local Law No. 3-1982), EN the Westchester County Best Management Practices Manual Series for Construction-Related Activities, and including any necessary drainage calculations required by the Town Engineer. Such plans shall demonstrate that no substantial sedimentation nor any increase in the peak rate of runoff that would create hazard to the development or to other properties shall result from the proposed development.

(2) A plan for the protection of groundwater resources if the same would be affected by the proposed development.

(3) A plan for appropriate landscaping and revegetation to minimize the impacts on scenic views and vistas and to wildlife habitat as well as to assure the long-term stability of areas of steep slopes.

B. Addition materials as may be required by the approving authority shall also be submitted describing necessary design features to be incorporated within the proposed development.

Town of North Castle

Erosion & Sedimentation

§ 101-3. Findings; purpose.

A. Findings. The Town Board of the Town of North Castle hereby finds that:

(1) Excessive quantities of soil may erode from areas undergoing development for certain uses, including but not limited to the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways and the construction of recreational facilities.

(2) The washing, blowing and deposition of eroded soil across and upon roadways endangers the health and safety of users thereof by decreasing visibility and reducing traction of road vehicles.

(3) Soil erosion necessitates the costly cleaning of gullies and repair of washed-out fills and embankments.

(4) Sediment from soil erosion clogs culverts, fills ditches and pollutes and silts rivers, streams, lakes, ponds and reservoirs.

(5) Sediment limits the use of water and watercourses for some beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life and is costly and difficult to remove.

(6) Sediment reduces the channel capacity of watercourses and increases the likelihood of flooding.

B. Purpose. The Town Board therefore declares that the purpose of this chapter is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land situated in the town.

§ 101-5. Objective; principles.

The objective of this chapter is to control soil erosion and sedimentation caused by development activities in the town. Measures taken to control erosion and sedimentation shall be adequate to ensure that sediment is not transported from the site by a storm event of ten-year frequency or less. The following principles shall apply to all development activities within the town and to the preparation of the submissions required under § 101-6 of this chapter:

A. Selection of control measures. The selection of erosion and sedimentation control measures shall be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on an evaluation of the risks and benefits involved.

B. Protection of adjacent properties.

(1) Properties adjacent to the site of a land disturbance shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance by installing perimeter controls, such as sediment barriers, filter screens, dikes or sediment basins or by a combination of such measures.

(2) Vegetated buffer strips may be used alone only where runoff in sheet flow is expected and the location of the proposed construction is such that a vegetated

buffer strip of at least 20 feet in width can be provided. If at any time it is found that a vegetated buffer strip alone is ineffective in preventing sediment movement onto adjacent property, additional perimeter controls must be provided.

C.Cut and fill slopes.

(1)Development shall reflect the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible and natural contours shall be followed as closely as possible.

(2)In the design of cut and fill slopes, consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. Slopes which are found to be eroding excessively within one year of construction must be provided with additional measures until the problem is corrected. Fills shall not encroach on areas designated as controlled areas under the town's Freshwater Wetlands and Drainage Law EN or the state's Freshwater Wetlands and Drainage Law unless undertaken under an appropriate permit issued under such regulations. In no case shall fills encroach on constructed channels or floodways or adjacent properties.

D.Vegetation.

(1)Natural vegetation shall be retained and protected wherever possible. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation and related structures shall be installed as soon as practical or within the time specified in the permit. Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the Town Engineer or his designated agent, is mature and able to control soil erosion satisfactorily and to survive severe weather conditions.

(2)The smallest practical area of land shall be exposed for the shortest practical time during development.

E.Stabilization of denuded areas and soil stockpiles. Permanent or temporary soil stabilization must be applied to denuded areas within two weeks after final grade is reached on any portion of the site. Soil stabilization must also be applied within two weeks to denuded areas which may not be at final grade but will remain dormant (undisturbed) for longer than two months.

F.Sediment basins. Sediment basins, silt traps or filters shall be installed and maintained to remove sediment from runoff waters from land undergoing development.

G.Timing and stabilization of sediment trapping measures. Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment on-site must be constructed as a first step in grading and must be made functional before upslope land disturbance takes place earthen structures, such as dams, dikes and diversions, must be seeded and mulched immediately after completion of construction.

H.Stabilization of waterways and outlets. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a

twenty-five-year frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels.

I. Storm sewer inlet protection. All storm sewer inlets which are made operable during construction shall be protected, so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

J. Working in or crossing watercourses.

(1) Construction vehicles should be kept out of watercourses to the greatest extent possible. Where channel work is necessary, precautions must be taken to stabilize the work area during construction to minimize erosion. The channel, including bed and banks, must be restabilized immediately after in-channel work is completed.

(2) Where a watercourse must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided. In the event that any work is conducted in a wetlands, as that term is defined in the town's Fresh Water Wetlands and Drainage Law, the town's wetlands law shall control. EN

K. Stormwater management criteria for controlling off-site erosion.

(1) Provision shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainageways shall be designed so that the final gradients and the resultant velocities of discharges will not create additional erosion.

(2) Stormwater management design will follow the procedures and methodology set forth in the Westchester County Best Management Practices Manual for Stormwater Runoff or some other method acceptable to the Town Engineer and as set forth with the town's Flood Damage Prevention Law and the Land Subdivision Regulations and Zoning Ordinance.EN The permittee shall submit a plan for controlling stormwater runoff based upon the aforementioned manual simultaneously with the site plan to the permitting authority.

L. Underground utility construction.

(1) The construction of underground utility lines involving installation, maintenance or repair which disturbs more than 10,000 square feet shall be subject to the following criteria:

(a) No more than 300 feet of trench are to be opened at one time unless approval to open a greater length is granted by the Town Engineer.

(b) Where consistent with safety and space considerations, excavated material is to be placed on the uphill side of trenches.

(c) Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems or off-site property.

(2) Individual service connections, telephone and electric lines and underground public utility lines under existing hard-surfaced roads, streets or sidewalks, provided that such land-disturbing activity is confined to the area which is hard-surfaced, are exempt from the above requirements.

M. Construction access routes. Wherever construction vehicle access routes intersect paved public roads, provisions must be made to minimize the transport of sediment

by runoff or vehicle tracking on to the paved surface in accordance with the Westchester County Best Management Practices. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling and sweeping and transported to a sediment control area. Street washing shall be allowed only after sediment is removed in this manner.

N. Disposition of temporary measures. All temporary erosion and sediment control measures shall be disposed of within one month after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the town. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be properly removed.

O. Maintenance. All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure continued performance of their intended function. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance shall be considered.

P. Grading. During grading, operations, appropriate measures for dust control shall be exercised. Grading equipment shall not be allowed to enter into or cross any watercourse, except in accordance with the terms of the permit issued by the Town Engineer.

Village of Croton-on-Hudson

Steep Slopes

§ 195-1. Findings; purpose.

A. The Board of Trustees finds that maintenance and protection of natural terrain and vegetation features is essential to the protection of the general health, safety and welfare, environmental balance and maintenance of aesthetic quality, including the protection of the village's character, property values and its scenic views and vistas. Therefore, specific regulations for development and density outside conventional zoning controls are needed in order to protect the health, safety and general welfare of the residents of the village. It is for this purpose that this chapter is enacted to establish appropriate safeguards and standards to meet the particular problems associated with development of steep slope areas and to ensure proper and orderly development and not adversely affect the site or adjoining area as a result of water runoff, disruption of natural plant and tree growth or soil movement, not only during the time of construction but also thereafter, and, further, to provide for a safe means of ingress and egress of vehicular and pedestrian traffic to and within the site and to furnish required access of emergency vehicles thereto.

B. Toward this end, new construction shall avoid areas that contain steep slopes, as are defined below, and existing vegetation in such areas shall not be disturbed. The Planning Board, the Zoning Board of Appeals and the Village Engineer shall take this objective into consideration in reviewing and acting on any plans or applications submitted pursuant to the provisions of this chapter.

§ 195-5. Restrictions on steep slope disturbance. [Amended 4-21-1991 by L.L. No. 4-1991]

A. For any lot, site or portion thereof that includes a slope in excess of 15% but less than 20%, not more than 25% of such steep slope area shall be developed and/or regraded or stripped of vegetation.

B. For any lot, site or portion thereof that includes a slope in excess of 20%, no more than 10% of such steep slope area shall be developed and/or regraded or stripped of vegetation.

C. Notwithstanding Subsections A and B above, the maximum percentages of steep slope areas which may be developed and/or regraded or stripped of vegetation, that is, 25% in Subsection A and 10% in Subsection B, may be exceeded in open space uses where an acceptable erosion and sedimentation control plan has been prepared for the use, where an environmental impact statement has been prepared for the use and where the lead agency's findings statement acknowledges that all environmental impacts associated with the disturbance of steep slope areas will be minimized, adequately controlled and sufficiently mitigated. [Added 12-21-1992 by L.L. No. 13-1992]

§ 195-6. Building permit requirements.

A. Applications for building permits in areas of fifteen-percent slope or greater shall include the following information: [Amended 12-21-1992 by L.L. No. 13-1992]

(1) A site plan of the property at a scale deemed appropriate by the Planning Board for the size of the particular property involved, but at a scale of no smaller than one inch equals 50 feet, indicating existing grades with contour lines at two-foot intervals and proposed grades within the area of the proposed construction.
(2) A landscaping plan indicating proposed paved areas, storm drainage facilities, retaining walls and ground cover, as well as the locations of trees and ornamental shrubs.
(3) Architectural plans, elevations and sections of the structures and related improvements.
(4) A statement prepared by a licensed architect, registered landscape architect or engineer stating an explanation of the methods to be used in overcoming foundation and other structural problems created by slope conditions, in preserving the natural watershed and in preventing soil erosion.
(5) A plan submitted under the seal of a licensed professional engineer showing and certifying the following:
(a) All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion and water.
(b) The calculated volume of water runoff from the slopes and from the lot in question, as unimproved.
(c) The calculated volume of water runoff from the slopes and from the lot in question, as improved.
(d) The existence, location and capacity of all natural and artificial drainage courses and facilities within 500 feet of the lot which are or will be used to carry or contain the water runoff from the slope and the lot.
(e) The effect of any increased water runoff on all adjacent properties and any other property which will be materially affected by increased water runoff.

B. In connection with any subdivision or site plan application or any application for a building permit on a lot or lots containing a steep slope, the developer or applicant for a building permit shall submit a plan which shall describe how trees and similar vegetation protected by § 195-5 of this chapter, will be protected from damage during the course of construction. Such plans shall be reviewed by the Conservation Advisory Council of the Village of Croton-on-Hudson for their adequacy in connection with a subdivision or site plan application for a building permit. [Amended 4-21-1991 by L.L. No. 4-1991]

§ 195-9. Special hardship permit for one-family lots. [Amended 4-21-1991 by L.L. No. 4-1991]

A. The Village Board of Trustees may grant a special hardship permit to any person to except from some or all of the provisions of § 195-5 of this chapter a separate lot which otherwise meets the minimum requirements for the construction of a one-family dwelling unit if the lot was owned by the applicant on the effective date of this chapter and was owned by the applicant at all times thereafter or if the lot was owned individually and separately on the effective date of this chapter and

at all times thereafter and, in addition, is part of a subdivision approved by the Planning Board after January 1, 1981. Such a special hardship permit may be granted upon the lot owner's demonstration that the application of this chapter to the lot reduces the square footage of the lot below the minimum square footage required by Article IV of the Zoning Law of the Village of Croton-on-Hudson EN to the extent that the lot cannot be utilized for the construction of a one-family dwelling unit, provided that the lot owner also demonstrates that: [Amended 12-21-1992 by L.L. No. 13-1992; 3-18-1996 by L.L. No. 1-1996; 10-21-2002 by L.L. No. 7-2002]

(1) The steep slope area or areas will be disturbed to the minimum extent consistent with the use of the lot as a one-family dwelling and be otherwise consistent with the objectives of this chapter as set forth in § 195-1 above;

(2) Appropriate mitigation measures will be taken to prevent, to the maximum extent practical, the adverse environmental effect of such disturbance of the steep slope area; and

(3) The requirements of § 195-6 of this chapter are met to the extent required by the Planning Board. The Planning Board may consult the Village Engineer for the purpose of determining which of the requirements of § 195-6 shall be met. Nothing in this section shall except the special hardship applicant from complying with all building permit requirements applicable to areas of less than fifteen-percent slope.

Village of Croton-on-Hudson

Tree Preservation

§ 208-18. Tree removal permit required.

A. General regulations. A tree removal permit will be required before removing:
   (1) Any tree eight inches or more DBH on any parcel of land capable of being subdivided under the zoning provisions applicable to the district in which the parcel is situated or on any parcel of land without a residential structure or on any property which would require site plan approval to be developed.
   (2) Any tree growing on slopes of over 25%.
   (3) Any threatened or endangered species of tree as defined by the New York State Department of Environmental Conservation.
   (4) Any tree of a species determined by the Board of Trustees by resolution to require a permit before removing.
   (5) Landmark trees as herein defined, regardless of size.

B. Exceptions. Trees may be removed by the appropriate agency or authority as may be necessary to maintain village, county, state or utility right-of-way or as a control measure to fight forest or other fires.

C. Standards for the granting of permits. The criteria to be used by the enforcing officials in granting a tree removal permit shall include but not be limited to the following:
   (1) The physical condition of the tree.
   (2) The proximity of trees to existing or proposed improvements if located:
      (a) Within three feet of a sidewalk or driveway.
      (b) Within 10 feet of a cesspool, dry well, leeching pit, septic tank or field or other subsurface improvement.
      (c) Within five feet of a roadway.
   (3) The effect of the removal on the ecological systems, including the erosion potential of the property.
   (4) The effect on the area of removal as determined by accepted tree management practices.
   (5) The effect of the removal on the property values and aesthetics of the neighborhood.
   (6) The effect of the removal on the solar access of existing or proposed structures on the property.

D. Planning Board action which is deemed approval of tree removal.
   (1) Where tree removal is proposed in connection with any site plan or subdivision plat submitted or to be submitted to the Planning Board for approval, trees shall be removed from the affected property only in conjunction with an approved final subdivision plat or final site plan. The Planning Board shall apply the same criteria and procedures set forth herein for tree permits granted by the Village Engineer or Code Enforcement Officer.
   (2) Subdivision construction plans or site plans approved by the Planning Board showing trees to be removed and trees to be preserved shall be deemed a tree removal permit for the removal of trees so designated.

(3) The Planning Board, in connection with any site plan or subdivision application, may require the replacement of trees removed from the affected property prior to site plan or subdivision application. The Planning Board may require that structures shown on the plans be moved or relocated in order to preserve trees considered by the Board to have particular value. The Planning Board may refer such subdivision construction plans or site plans to the Village Engineer for his or her recommendation. The Planning Board may designate certain trees to be preserved and specify means for their preservation.

1996]

Town of Somers

Tree Preservation

§ 156-1. Legislative intent.

The Town of Somers finds and declares that the preservation of trees within the Town is necessary to protect the health, safety and general welfare of the Town of Somers because trees provide shade, impede soil erosion, aid water absorption and retention, inhibit excess runoff and flooding, enhance air quality, offer a natural barrier to noise, provide a natural habitat for wildlife, provide screening, enhance property values and add to the aesthetic quality of the community.

§ 156-3. Regulated activities; permit required.

Except as provided in § 156-4, it shall be unlawful to conduct, directly or indirectly, any of the following activities in the Town of Somers unless a permit is obtained pursuant to § 156-5:

A. Clearing.
B. Tree removal within a property's landscape buffer zone or regulated buffer zone.
C. Removal of a specimen tree.
D. Removal of a tree within any area designated as a scenic resource pursuant to Chapter 138 of the Town of Somers Town Code.

§ 156-4. Activities permitted by right.

The following activities are permitted by right:

A. Removal of any tree not regulated by this chapter.
B. Removal of any tree under an actual or ongoing emergency condition when such tree removal is necessary for the protection and preservation of life or property is permitted by right.
C. Forest management activities on properties under § 480-a of the Real Property Tax Law.
D. Removal of any tree, other than in the area set forth in § 156-3B, by a cemetery association regulated by the New York State Division of Cemeteries. In the event that such cemetery association applies for a permit pursuant to § 156-3B, such application may be in the name of the cemetery association and not in the name of individual plot owners.
E. Removal of any tree, other than in the area set forth in § 156-3B, on properties that currently receive an agricultural assessment pursuant to the New York State Board of Real Property Services Agricultural Assessment Program.
F. Removal of any tree by a public utility company.
G. Removal of any tree by the New York State Department of Transportation.

The owner shall keep all and every part of any vacant structure in attractive condition and good repair, including but not limited to the following;

A. Exterior surfaces of buildings and structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative.
B. Buildings and structures shall be secured at all doorways, windows and other openings.

C. Buildings and structures shall be maintained free of vermin and rodents and the grounds maintained free of overgrown grass, foliage or noxious weeds.

D. Damage caused to the exterior of any structure by fire, explosion or natural disaster shall be repaired within six months of the date when such damage is sustained.

§ 157-4. Responsibilities of owners and others.

Owners of premises and other persons, as defined in § 157-6B shall be responsible for compliance with this chapter.

§ 157-5. Enforcement.

A. The Building Inspector and other duly appointed law enforcement officers of the Town of Somers shall be charged with the duty of administering and enforcing this chapter.

B. It shall be the duty of the Building Inspector to issue a notice of violation or to order in writing the correction of all conditions found to exist in or on any premises which violate the provisions of this chapter.

§ 157-6. Penalties for offenses; "person" defined.

A. Any person, upon conviction of a violation of this chapter, shall be fined a sum of money of not less than $100 nor more than $500 for the first offense and not less than $1,000 nor more than $5,000 for the second or any subsequent offense within a twelve-month period. In addition, such person shall be subject to an injunction prohibiting and otherwise preventing any further violations.

B. The term "person" shall include the owner, tenant, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, sublessee, agent or any other person, firm or corporation directly or indirectly in control of any premises, building or part thereof.

§ 157-7. Service of notice of violation; hearing and appeal.

A. A notice of violation issued by the Building Inspector relative to a premises shall be served either personally upon the person or by posting the violation notice in a conspicuous place upon the premises affected. If a notice of violation is served by posting it upon a premises, a copy thereof shall be mailed to the person to whom it is directed and to the owner of the property at his last known address as shown on the records maintained by the Receiver of Taxes of the Town of Somers.

B. A notice of violation shall state that unless, within five days from service of notice, a written request is made for a hearing before the Building Inspector, such notice shall, at the expiration of such five-day period, be deemed an order to cease and desist from and to abate the described violation. Such notice shall prescribe a reasonable time within which such person shall be required to cease and desist from and abate such violation. The notice shall also contain an outline of remedial action which, if taken, will effect compliance with this chapter.

C. If a hearing is requested, it shall be commenced not later than 10 days after the request is made, provided that, for good cause, the Building Inspector may postpone such hearing for a reasonable time. If, after the hearing, the enforcement officer finds that no violation exists, he shall withdraw the notice. If he finds that a violation does exist, he shall forthwith issue an order requiring the abatement of same within a prescribed reasonable time. The proceedings at such hearing, which shall be informal in all respects, shall be summarized in a report reduced to writing and entered as a matter of public record in the office of the Building Inspector.

D. Any party aggrieved by the decision of the Building Inspector may, within five days of the decision of the Building Inspector, appeal said decision to the Zoning Board of Appeals of the Town of Somers by filing the appropriate form.

E. The provisions of § 157-5B and § 157-7A notwithstanding, it shall not be necessary for the Building Inspector to issue a notice of violation or to order in writing the correction of a condition in the instance of a second or any subsequent offense within a twelve-month period, and in the case of a second or subsequent offense, the person in violation may immediately be served with an appearance ticket or summons.

§ 157-8. Emergencies.

Whenever the Building Inspector or enforcement official finds that an emergency exists which requires immediate attention to protect the public health or safety, he may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall take effect immediately. Any person to whom such order is directed shall comply therewith immediately but, upon petition to the Building Inspector or the local justice court, shall be afforded a hearing as soon as possible. After such hearing, the Building Inspector or court shall continue such order in effect or shall modify or withdraw it.

§ 157-9. Action upon noncompliance.

A. Upon the failure, neglect or refusal of any owner, person or agent so notified to properly comply with this chapter within 20 days after the service of notice as provided herein, the Building Inspector is hereby authorized and empowered to pay for the correction of such violation, subject to the approval of the Town Board of the Town of Somers.

B. When the town has effected the correction of the violation or has paid for its removal, the actual cost thereof, plus the accrued legal rate of interest per annum from the date of the completion of the work, if not paid by the owner prior thereto, shall be charged to such owner by the town, and such charge shall become due and payable by said owner or person at the time of the rendering of such bill.

C. When the full amount due the town is not paid by such owner within 20 days after the correction of such violation as provided in Subsections A and B above, then, and in that case, the Building Inspector shall cause to be filed in the office of the Town Clerk a sworn statement showing the cost and expense incurred for the work, the date the work was completed and the location of the property by section, lot and block on which said work was done and the name of the reputed owner thereof. The filing of such sworn statement shall constitute a lien and privilege on the property and shall remain in full force and effect for the amount due in principal and interest, plus cost of court, if any, for collection until final payment has been made. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty at the legal rate of interest in the event that the same is not paid in full on or before the date the tax bill upon which such charge appears becomes delinquent. Sworn statements filed in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and the work has been properly and successfully done and shall be full notice to every person concerned, and the

amount of the statement, plus interest, constitutes a charge against the property designated and described in the statement and that the same is due and collectible as provided by law.

§ 157-10. Conflict with other provisions.

All ordinances, local laws or resolutions or part of ordinances, local laws or resolutions of the Town of Somers inconsistent with the provisions of this chapter are hereby superseded to the extent of such inconsistency and that in all respects this chapter shall be in addition to other legislation regulating and governing the subject matter covered by this chapter.

§ 157-11. Severability.

If any section, paragraph, subsection or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

Off-Road Vehicles

§ 160-1. Legislative intent.

The purpose of this chapter is to protect the public health, welfare. safety, peace and tranquility by regulating the operation of motorcycles, limited-use motorcycles, snowmobiles and limited-use off-road vehicles within the Town of Somers. It is also the purpose of this chapter to prevent those who wish to operate and use motorcycles, limited-use motorcycles, snowmobiles and limited-use off-road vehicles from trespassing on public or private property in the Town of Somers, from annoying any person or persons and from creating a public nuisance.

§ 160-3. Operating restrictions.

A. It shall be unlawful for any person to drive or operate any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle on private lands of another person within the Town of Somers without written permission of the owners or occupants of said property. The written permission must be in the possession of the persons operating the motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle and must be presented upon demand to any peace officer or police officer so demanding.

B. The following are prohibited within the Town of Somers at all times:

(1) The operation of any motorcycle, limited-use motorcycle, snowmobile or off-road limited-use vehicle in such a manner as to disturb or interfere with the peace and tranquility of persons by creating loud, unnecessary or unusual noise.

(2) The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle in a careless, reckless or negligent manner so as to endanger or be likely to endanger the safety or property of any persons, including the operator of the vehicle.

(3) The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle at a rate of speed greater than reasonable or proper under the surrounding circumstances.

(4) The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle, with or without written permission, within 1,000 feet of any dwelling other than the dwelling house of the operator.

(5)The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle on any lands leased, owned or controlled by the Town of Somers, except as provided by local law. This shall not be construed to prohibit lawful operation of vehicles on public streets or thoroughfares.

§ 160-4. Exceptions.

A.Section 160-3 shall not apply in those instances where a duly licensed operator of a duly licensed motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle is entering the public highway from a private driveway.

B.This chapter shall not apply to police and emergency vehicles.

§ 160-5. Penalties for offenses.

A failure to comply with the provisions of this chapter shall be deemed a violation, and the violator shall be subject to a fine not exceeding $250 or imprisonment not exceeding 15 days, or both.

§ 160-6. Impoundment confiscation.

A.Notwithstanding § 160-5, any enforcement officer of the Town of Somers Police Department or New York State Police who shall encounter any person operating a motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle in violation of this chapter may impound said vehicle and shall place said vehicle in a location designated by the officer in command for the day. The owner or duly designated agent of the owner of such vehicle may regain the same payment of expenses and charges necessarily and actually incurred by the removal of said vehicle, with the minimum fee being an amount set by resolution of the Town Board. EN [Amended 10-17-1991 by L.L. No. 7-1991]

B.In the case of a second or subsequent violation, the court may order confiscation of said vehicles in lieu of any fine and/or imprisonment. Any vehicle which is confiscated pursuant to this section will be sold at public auction according to the appropriate procedures and law affecting public auctions by municipalities. (Minimum bid should reflect cost and penalties to date.)

§ 160-7. Enforcement.

The Town of Somers Police Department and the New York State Police shall enforce the provisions of this chapter.

Wetlands & Watercourses

§ 167-1. Findings of fact and intent.

A.Findings of fact.

(1)Wetlands and watercourses serve multiple functions, including:

(a)Protecting water resources by providing sources of surface water, recharging groundwater and aquifers, serving as chemical and biological oxidation basins and functioning as settling basins for naturally occurring sedimentation.

(b)Controlling flooding and stormwater runoff by storing or regulating natural flows.

(c)Providing unique nesting, migratory and wintering habitats for diverse wildlife species, including many on the New York State and federal endangered species lists.

(d)Supporting unique vegetative associations specifically adapted for survival in low oxygen environments.

(e)Providing areas of unusually high plant productivity which support significant wildlife diversity and abundance.

(f)Providing breeding and spawning grounds, nursery habitat and food for various species or fish.

(g)Serving as nutrient traps for nitrogen and phosphorus and filters for surface water pollutants.

(h)Helping to maintain biospheric stability by supporting particularly efficient photosynthesizers capable of producing significant amounts of oxygen and supporting bacteria which process excess nitrates and nitrogenous pollutants and return them to the atmosphere as inert nitrogen gas.

(i)Providing open space and visual relief from intense development in urbanized and growing areas.

(j)Serving as outdoor laboratories and living classrooms for the study and appreciation of natural history, ecology and biology.

(2)Considerable acreage of these important natural resources has been lost or impaired by draining, dredging, filling, excavating, building, polluting and other acts inconsistent with the natural uses of such areas. Remaining wetlands are in jeopardy of being lost, despoiled or impaired by such acts, contrary to the public safety and welfare.

§ 167-2. Applicability.

A.General applicability. The regulations established in this chapter shall apply to all wetlands, watercourses and wetland/watercourse buffers as these areas are defined in § 167-3 and to any proposed regulated activity as defined in § 167-4B not physically completed prior to the effective date of this chapter.

B.Rules for establishing and interpreting wetland boundaries. The boundaries of a wetland ordinarily shall be determined by field investigation, flagging and subsequent survey by a licensed land surveyor unless the last is waived by the approval authority. The approval authority may consult and/or may require the applicant to consult with biologists, hydrologists, soil scientists, ecologists/botanists or other experts as necessary to make this determination pursuant to the definitions contained in § 167-3.

C.Grandfathered projects. The provisions of this chapter shall not apply to any land use, improvement or development that has been physically completed prior to the effective date of this chapter. As used in this section, the term "physically completed" shall mean the actual completion of construction activities related to a regulated activity, including filling, erecting structures or other improvement or development activities.

D.Current projects. A regulated activity that was approved prior to the effective date of this chapter and to which significant economic resources have been committed pursuant to such approval but which is not in conformity with the provisions of this chapter may be continued subject to the following:

(1)All such activities shall continue to be governed by the present regulations of the Town of Somers.

(2)No such activity shall be expanded, changed, enlarged or altered in such a way that increases its size or impact without compliance with this chapter.
(3)If such activity is discontinued for 12 consecutive months, any resumption of the activity shall conform to this chapter.
(4)If any such use or activity is destroyed by human activities or an act of God, it shall not be resumed except in conformity with the provisions of this chapter.
(5)Activities or adjuncts thereof that are or become nuisances shall not be entitled to continue.

§ 167-4. Activities subject to regulation.

No activity shall be conducted in a wetland or wetland buffer, unless identified in § 167-4A as an exempt activity, without a written permit from the approval authority and full compliance with the terms of this chapter and other applicable regulations.

A.Exempt activities. The following uses shall be permitted as-of-right within a wetland or wetland buffer to the extent that they are not prohibited or regulated by any other law, ordinance or regulation and to the extent that they do not constitute a pollution or erosion hazard or interfere with proper drainage and provided that they do not require structures, grading, fill, draining or dredging:
(1)Normal ground maintenance, including mowing, trimming of vegetation and removal of dead or diseased vegetation around a residence but excluding the use of fertilizers, pesticides and herbicides.
(2)Selective cutting as defined in § 167-3.
(3)Repair of walkways and walls.
(4)Public health activities, orders and regulations of the Westchester County Department of Health or the New York State Department of Health for emergencies only.
(5)Deposition or removal of natural products of wetlands in the process of recreational or commercial fishing, shellfishing, aquiculture, hunting or trapping, but excluding excavation and removal of peat or timber, except as provided above in Subsection A(2).

B.Regulated activities subject to review of Planning Board. Regulated activities subject to review of the Planning Board include all activities within a wetland or wetland buffer other than those specified in § 167-4A and C and may be permitted upon written application to the approval authority. These regulated activities include but are not limited to:
(1)Placement or construction of any structure.
(2)Any form of draining, dredging, excavation or removal of material, either directly or indirectly.
(3)Any form of dumping, filling or depositing of material, either directly or indirectly.
(4)Installation of any service lines or cable conduits.
(5)Introduction of any form of pollution, including but not limited to the installation of a septic tank, the running of a sewer outfall or the discharging of sewage treatment effluent or other liquid wastes into or so as to drain into a wetland.
(6)Alteration or modification of natural features and contours.
(7)Alteration or modification of natural drainage patterns.

(8)Construction of dams, docks or other water control devices, pilings or bridges, whether or not they change the natural drainage characteristics.
(9)Installation of any pipes or wells.
(10)Tree removal, except as permitted pursuant to Chapter 156 of the Code of the Town of Somers. [Amended 10-17-2002 by L.L. No. 8-2002]
(11)Removal or cutting of any vegetation except as permitted in § 167-4A.
(12)Deposition or introduction of inorganic chemicals, including pesticides and fertilizers.
(13)Grazing of one or more horses or other animal and any agricultural activity which involves draining or excavation of a wetland, except as permitted in § 167-4A.
(14)Decorative landscaping and planting in wetland buffers.
(15)Agricultural activities.
(16)Any other activity that may impair the natural function(s) of a wetland as described in § 167-1.

C.Regulated activities subject to administrative permit. The following activities when proposed for single-family residential parcel are determined by this chapter to be limited in scope and limited in potential impact. The approval authority for applications to conduct these activities shall be the Town Engineer. The Town Engineer may, at his discretion, refer any application for an administrative wetland activity permit to the Planning Board for its review and action. Activities for which an application may be made for an administrative permit are:
(1)Removal of water-deposited silt, sand and other material to restore preexisting land elevations and restoration of storm and erosion damage and where movement of such material is not in excess of 15 cubic yards of material.
(2)Construction of driveways and culvert pipes within regulated area, to serve a residential home and other supporting improvements not located within the wetlands.
(3)The application of non-polluting chemicals and dyes for the purpose of maintenance.
(4)Other activities which do not require subdivision, site plan or special exception use permit approval and which involve less than 15 cubic yards of earth.
(5)Customary improvements associated with a single-family residential parcel, including but not limited to the installation of a storage shed, an aboveground swimming pool, an addition to an existing home, installation of a fence, provided that these improvements are proposed only within the buffer area of a wetland.
(6)Annual maintenance permits for certain activities associated with lake communities and existing golf courses.

§ 167-8. Standards for application for permit decisions.

A.Criteria to be considered. In granting, granting subject to conditions or denying any application for a permit under this chapter, the approval authority shall evaluate wetland functions and the role of the wetland in the hydrologic and ecological system and shall determine the impact of the proposed activity upon public health and safety, rare and endangered species, water quality and the additional wetland

functions listed in § 167-1. In this determination, the approval authority shall consider the following factors and shall issue written findings with respect to:

(1) The impact of the proposed activity and existing and reasonably anticipated similar activities upon neighboring land uses and wetland functions as set forth in § 167-1, including but not limited to the:

(a) Infilling of a wetland or other modification of natural topographic contours.

(b) Disturbance or destruction of natural flora and fauna.

(c) Influx of sediments or other materials causing increased water turbidity or substrate aggradation.

(d) Removal or disturbance of wetland soils.

(e) Reductions in wetland water supply.

(f) Interference with wetland water circulation.

(g) Reduction or increases in wetland nutrients.

(h) Influx of toxic chemicals or heavy metals.

(i) Thermal changes in the wetland water supply.

(j) Changes affecting natural aesthetic values.

(2) Any existing wetland impacts and the cumulative effect of reasonably anticipated future wetland activities in the wetland subject to the application.

(3) The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage and water quality.

(4) The safety of the proposed activity from flooding, erosion, hurricane winds, soil limitations and other hazards and possible losses to the applicant and subsequent purchasers of the land.

(5) The adequacy of water supply and waste disposal for the proposed use.

(6) Consistency with all applicable statutes or regulations of comprehensive land use plans.

(7) The availability of preferable alternative locations on the subject parcel or, in the case of an activity which cannot be undertaken on the property without disturbance to wetlands, the availability of other reasonable locations for the activity whether or not such locations are under the ownership or control of the applicant.

B. Basis for denial. The approval authority shall deny a permit if:

(1) The proposed activity may significantly threaten public health and safety, result in fraud, cause nuisances, impair public rights to the enjoyment and use of public waters, threaten a rare or endangered plant or animal species, violate pollution control standards or violate other federal, state or local regulations.

(2) It finds that the detriment to the public, measured by the factors listed in this section, that would occur on issuance of the permit outweighs the nonmonetary public benefits associated with the activity.

(3) Both the affected landowner and the local government have been notified by a duly filed notice, in writing, that the state or any agency or political subdivision of the state is in the process of acquiring the subject freshwater wetland by negotiation or condemnation with the following provisions:

(a) The written notice must include an indication that the acquisition process has commenced, such as that an appraisal of the property has been prepared or is in the process of being prepared.

(b) If the landowner receives no offer for the property within one year of the permit denial, this ban to the permit lapses. If its negotiations with the applicant are broken off, the state or any agency or political subdivision must, within six months of the end of negotiation, either issue its findings and determination to acquire the property pursuant to § 204 of the Eminent Domain Procedure Law or issue a determination to acquire the property without public hearing pursuant to § 206 of the General Domain Procedure Law or this ban to permit lapses.

C. Consideration of relationship of activity to wetland site. The approving agency shall give consideration to the necessity for a proposed activity to have a shoreline or wetland location in order to function and that will have as little impact as possible upon the wetland buffer. This consideration does not extend to dredging or ditching solely for the purpose of draining wetlands, controlling mosquitoes, lagooning, constructing residences or commercial buildings, providing spoil and dump sites or building roadways that may be located elsewhere. The regulated activity must, to the extent feasible, be confined to the portion of a lot outside of a wetland and wetland buffer. All reasonable measures must be taken to minimize impact upon the wetland.

D. Determination of unavoidable impacts. When an applicant has demonstrated that either losses or impacts to the wetland or wetland buffer are necessary and unavoidable and have been minimized to the maximum extent practicable, the approval authority shall require preparation of a mitigation plan by the applicant pursuant to § 167-9. For the purposes of this chapter, wetland impacts are necessary and unavoidable only if all of the following criteria are satisfied:

(1) The proposed activity is compatible with the public health and welfare.

(2) There is no feasible on-site alternative to the proposed activity, including reduction in density, change in use, revision of road and lot layout and related site planning considerations.

(3) There is no feasible alternative to the proposed activity on another site available to the applicant that is not a wetland or wetland buffer.

E. Conservation Board report. If the Conservation Board recommends disapproval or modification of an application under this chapter, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of the whole number of the Planning Board. If no recommendation is received by the Planning Board, the Conservation Board shall be deemed to have made no recommendation and the supermajority requirement shall not apply.

§ 167-9. Mitigation policy.

A. Mitigation required.

(1) After it has been determined by the approval authority pursuant to § 167-8D that losses of wetland or wetland buffer are necessary and unavoidable and have been minimized to the maximum extent practicable, the applicant shall develop a mitigation plan which shall specify mitigation measures that

provide for replacement wetlands that recreate as nearly as possible the original wetlands in terms of type, function, geographic location and setting.

(2) All mitigation measures shall balance benefits of regaining new wetland areas with the loss to other natural areas due to wetland creation. On-site mitigation shall be the preferred approach; off-site mitigation shall be permitted only in cases where an on-site alternative is not possible.

B. Mitigation plans. Mitigation plans developed to compensate for the loss of wetlands shall include the following baseline data:

(1) Hydrologic data.

(a) Small projects (losses of less than two acres): land use history, topography, general surficial geology and stream flow measurements, groundwater levels and groundwater quality.

(b) Moderate projects (losses of two to 10 acres): data required for small projects, plus bedrock geology, surficial geology, stream flow velocity measurements, if appropriate, soil pore water storage (organic soils) and direct precipitation measurements.

(c) Large projects (losses of greater than 10 acres): data for small and moderate projects, plus water balance analysis (one-year study), groundwater storage, groundwater flow rates and soil pore water level and flow (organic soils).

(2) Soils.

(a) Small projects (losses of less than two acres): soil profile descriptions, general soil survey data, bulk density, porosity, hydraulic conductivity, pH, cation exchange capacity, redox potential, total phosphorous, total nitrogen, nitrate nitrogen and organic carbon.

(b) Moderate projects (losses of two to 10 acres): data required for small projects plus fiber content (organic soils), phosphorous retention, pore water analysis (seasonally), alkalinity, exchangeable acidity, seed bank capacity and soil organisms.

(c) Large projects (losses of greater than 10 acres): data required for small and moderate projects plus clay mineralogy, microbial assessment (seasonally), heavy metals content, pesticides residues, gas/toxin analysis (seasonally), peat features and soil temperature regime.

(3) Vegetation.

(a) Small projects (losses of less than two acres): areal wetland extent and qualitative measurement of percent plant cover, plant species list, vegetation cover type, relative stem density, animal species list, slope, microtopography, plant vigor, surface water connections, habitat structure, vegetation/open water ratio and surrounding terrestrial cover type.

(b) Moderate projects (losses of two to 10 acres): data for small projects plus comprehensive animal species list, potential phosphorous uptake and potential nitrogen uptake.

(c) Large projects (losses of greater than 10 acres): data for small and moderate projects, plus quantitative measurement of stem density, evapotranspiration data and net primary productivity.

(4) Monitoring schedule. A monitoring schedule for a specified period of time as agreed to by the approval authority.

C. Mitigation plan becomes part of permit. Any mitigation plan prepared pursuant to this section and accepted by the approval authority shall become part of the permit for the application.

§ 167-11. Performance and/or erosion control bonds.

A. The approval authority may require posting of a performance bond as a condition of a permit, the amount, surety and form of such bond to be approved by the Town Board. Such bond is intended to ensure the proper completion of the proposed activity in accordance with the approved plans, the restoration of the area to its natural condition as far as practicable and consistent with the mitigation plan and protection of adjoining property owners from damage resulting therefrom. It shall remain in effect until the approval authority certifies that the work has been completed in compliance with the terms of the permit, whereupon the bond shall be released or reduced by the approval authority after authorization of the Town Board. A substitute form of guaranty may be provided as approved by the Town Board.

B. The approval authority may require posting of an erosion control bond as a condition of a permit, the amount, surety and form of such bond to be approved by the Town Board. The erosion control bond is intended to ensure the proper installation and maintenance of the erosion control measures during the permitted activity period. It shall remain in effect until the approval authority certifies that the work has been completed in compliance with the terms of the permit, whereupon the bond shall be released by the approval authority after authorization of the Town Board.

§ 167-12. Monitoring and inspection.

A. Monitoring required. The approval authority shall monitor or shall cause to have monitored activities granted permits according to the specifications set forth in the permit to determine whether the elements of the permit and mitigation plan have been met and whether the wetland acreage created replaces the wetland acreage lost. To this end, the approval authority may contract with an academic institution and independent research group or other qualified professionals at the expense of the applicant or may use its own staff expertise.

B. Requirements of monitoring. The requirements for monitoring shall be specified in the permit or mitigation plan and shall include but not be limited to:

(1) The time period over which compliance monitoring shall occur.

(2) Field measurements to verify the size and location of the impacted wetland area and the restored/replacement wetland area.

(3) The date of completion of the restoration/replacement.

(4) Field verification of the vegetative, hydrologic and soils criteria as specified in the mitigation plan and permit.

Trees

§ 318-1. Purpose; definitions.

A.The proper planting of new trees and the health and maintenance of existing trees, especially within public rights-of-way, aid in the maintenance of property values, implement the design and environmental goals of the Village Master Plan and promote the general welfare of the inhabitants of the Village of Mamaroneck. This chapter seeks to promote these goals by establishing a Tree Committee to set proper standards of planting, maintenance and removal and to monitor the observance of these standards.

§ 318-4. Duties and responsibilities.

A.It shall be the responsibility of the Tree Committee to study, investigate, develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas, with an estimate of the costs in hours to be worked by village employees and the cost of nursery stock to be used. Such plan shall be presented annually to the Village Board.

B.The Tree Committee shall review any site plans or subdivisions referred to it by the Planning Board and shall advise the Board on proper tree plantings and/or tree preservation techniques. The Tree Committee is also empowered to monitor the implementation of site plans in terms of trees tagged for preservation and to provide advisory reports to the Planning Board and/or Building Inspector.

C.The Tree Commission shall advise the Village Recreation and Parks Commission and the Public Works Foreman, where the Committee is requested, concerning the implementation of § 296-11, Trees, of Chapter 296, Streets and Sidewalks.

D.The Tree Committee shall consider, investigate, make findings and report and recommend upon any special matter or question coming within the scope of its work.

E.Upon request, the Tree Committee shall provide information to private property owners concerning the care and maintenance of trees.

§ 318-6. Suggested street tree species list.

The Tree Committee shall develop and maintain a list of species of trees which it recommends as suitable for planting in the Village of Mamaroneck, which will be on file with the Village Clerk.

§ 318-7. Planting guidelines.

To achieve ideal growing conditions, street or park trees shall be planted according to the guidelines designed or approved by the Committee. When necessary, modification may be made by consultation with the Village Engineer.

§ 318-8. Cash donations for planting of trees.

A.The Tree Committee, under appropriate circumstances and without showing preferential treatment, is authorized to accept cash donations from private persons or corporations in the Committee's discretion for the orderly planting of trees, as determined by the Committee, on public or private property.

B.In authorizing the planting of a tree or trees on private property within a public right-of-way, the Tree Committee must find that placing a tree on private property will be in the best interest of the village and will be with the written consent of the private property owner.

C. The donation shall be tax deductible within the statutory provisions of gifts to a municipality under the General Municipal Law of the State of New York.
D. The tree shall be merged in the real property of the fee owner.
E. An agreement to plant the tree, prepared by the Village Attorney, shall be executed by the owner of the property and the Village of Mamaroneck. This agreement shall release the village of any liability in connection with placing the tree at the agreed upon location.

§ 318-9. Distance from curbs and sidewalks.

The distance trees may be planted from curbs or curblines and sidewalks will be determined by the Committee. If a tree is being planted to replace a tree larger than the prescribed size, the Committee may allow the planting of a tree comparable to the removed tree, provided that it is known to be of a type whose roots will not displace the sidewalk or curb.

§ 318-10. Distance from street corners and fireplugs.

No street tree or park tree shall be planted closer than twenty-five (25) feet from any street corner, measured from the point of nearest intersection curbs or curblines. No street or park trees shall be planted closer than ten (10) feet from any fireplug nor closer than four (4) feet from any gas or water curb boxes. The Committee may adjust these standards upon written findings that modification of such standards is advisable.

§ 318-11. Tree removal.

The Tree Committee may recommend to the Village Engineer removal of any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric powerlines, gaslines, waterlines or other public improvements or is affected with any injurious fungus, insect or other pest. In the event that there is an emergency which threatens the health or safety of the residents of the village, the Village Engineer shall be authorized to take such steps as he deems necessary to alleviate said emergency.

Landscaping Guidelines

§ 342-16. Landscaping guidelines. [Amended 9-9-1985 by L.L. No. 19-1985, effective 9-26-1985]

A. Objective: The objective of this section is to preserve the natural character of off-street parking areas and certain other setback and yard areas of multifamily and nonresidential developments.
B. Specific goals. The specific goals of this section are:
    (1) To provide natural visual screening of parking areas and along property boundaries to preserve the existing visual quality of adjacent lands.
    (2) To reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
    (3) To provide natural buffers that reduce glare and noise.
    (4) To moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural wind breaks.
    (5) To enhance the overall visual quality of new development by providing a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

C.Standards.

(1)Parking lots.

(a)Off-street parking and loading areas shall be curbed and landscaped with appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board, based upon consideration of the adequacy of the proposed landscaping, to assure the establishment of a safe, convenient and attractive parking facility needing a minimum amount of maintenance, including plant care, snowplowing and the removal of leaves and other debris. These standards shall apply to all proposed site development plans, except for:

[1]Parking spaces accessory to a single- or two-family dwelling.

[2]Parking spaces serving a commercial building of less than five thousand (5,000) square feet.

[3]Parking spaces serving an office building of less than ten thousand (10,000) square feet.

(b)At least one (1) tree not less than two and one-half (21/2) inches caliper, measured three (3) feet above ground level at time of planting, shall be provided within such parking area for each ten (10) parking spaces. In all off-street parking areas containing twenty-five (25) or more parking spaces, at least ten percent (10%) of the interior of the parking area shall be curbed and landscaped with trees, shrubs and other material.

(c)Raised planting islands at least eight (8) feet in width shall be provided to guide vehicle movement and to separate opposing rows of parking spaces so as to provide adequate space for plant growth, pedestrian circulation and vehicle overhang. Such raised planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances and exits, to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles and to provide relief from the visual monotony and shadeless expense of a large parking area. Curbs of such islands shall be designed so as to facilitate surface drainage and prevent vehicles from overlapping sidewalks and damaging landscaping materials.

(d)No obstruction to driver vision shall be erected or maintained on any lot within the triangle formed by the street line of such lot, each edge of the access driveway to the parking area and a line drawn between points along both the street line and access drive projected thirty (30) feet distant from their point of intersection.

(e)All self-propelled maintenance equipment, including accessories, shall be stored in enclosed structures only, which structures shall conform to the architectural theme of the development.

(2)Screening and buffer areas.

(a)All portions of multifamily and nonresidential properties which are not used for buildings, structures, off-street parking and loading areas, sidewalks or similar purposes shall be suitably landscaped and permanently maintained with planting of trees and shrubbery, as

approved by the Planning Board as part of the site plan, so as to minimize erosion and stormwater runoff and harmoniously blend such uses with the residential character of the village as a whole.

(b)Buffer.

[1]On all multifamily and nonresidentially developed properties, a landscaped buffer area shall be required to screen and protect neighboring residential properties from the view of uses and parking areas on the site.

[a]It shall be at least ten (10) feet in depth along any lot line abutting or directly across the street from a lot in a residential district.

[b]It shall be of evergreen planting of such type, height and spacing as, in the judgment of the Planning Board, will effectively screen the activities on the lot from view of persons standing on adjoining properties. The plan and specifications for such planting shall be filed with the approved plan for the use of the lot.

[2]A wall or fence, of location, height and design approved by the Planning Board, may be substituted for the required planting.

(c)Modifications. Where the existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.

(d)Maintenance and responsibility. All planting shown on an approved site development plan or special permit plan, including planting within the street right-of-way, shall be maintained by the property owner in a vigorous growing condition throughout the duration of the use, and plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

(3)All new plant materials shall be consistent and compatible with the existing vegetation of the site and the surrounding area. Plant materials judged to be inappropriate by the Planning Board will not be approved.

D.Submission requirements. Landscaping plans shall be included with the preliminary site plan and final site plan submissions and shall consist of the following:

(1)Preliminary landscaping plan.

(a)A general concept of the landscaping, both in written and graphic form.

(b)A list of existing vegetation, with the location, type and size of existing trees.

(c)Proposals to preserve and protect existing vegetation during and after construction.

(d)The location of existing natural features, such as streams, wetlands and rock outcroppings.

(2)Final landscaping plan.

(a)All proposed physical improvements, such as buildings, walls, parking areas, sidewalks, etc.

(b)Proposed landscaping materials, including:

[1]Existing vegetation to remain.

[2]Types of new plant materials, identified by common name and botanical name.

[3]Sizes of all new plant materials by height and/or diameter.

[4]Quantities of each of the planting materials.

[5]Treatment of ground surfaces (paving, seeding and ground cover).

(c)Methods for controlling erosion and protecting landscaped areas.

(d)A grading and drainage plan.

(e)An irrigation plan or location of water outlets.

Town of Mamaroneck

Trees

§ 207-1. Findings; purpose.

The destruction or damage to shade, ornamental and evergreen trees and plants and the indiscriminate and excessive cutting of these trees in subdivisions and on private property causes barren and unsightly conditions, creates increased surface drainage problems, increases municipal costs to control drainage, impairs the stability and value of improved and unimproved real property and causes deterioration to the community which adversely affects the health, safety, environment, ecosystems and general welfare of the inhabitants of the Town of Mamaroneck. This chapter seeks to correct these conditions.

§ 207-2. Cutting or destruction of trees restricted; exceptions.

A. No person, firm or corporation or individual connected with such firm or corporation shall either purposely or negligently cut down, kill or otherwise destroy or commit any act which will lead to the eventual destruction of any tree exceeding six (6) inches in diameter at a height of four (4) feet measured from the ground on any private property unless he is in the possession of a permit to do so issued by the Tree Preservation Commission pursuant to § 207-4. Permits issued for any other purpose by the town shall not be valid for this purpose. A lot of twenty thousand (20,000) square feet or less substantially developed with improvements and a structure or structures situated thereon shall be exempt from this section. EN

B. Notwithstanding any other provision of this chapter, any property owner applying for subdivision or site plan approval whose plans would require the removal of any trees on said property shall make application to the Planning Board of the Town of Mamaroneck, which shall have sole jurisdiction regarding the proposed removal of such trees. The Planning Board may grant or deny such application on such terms and conditions as it may prescribe, it being understood that there must, in any event, be full compliance with Chapter 190, Subdivision of Land, and Chapter 177, Site Plan Review, of the Code of the Town of Mamaroneck. In the event that a property owner, subsequent to the filing of a final plat or site plan, shall require the removal of any trees which deviates from the plans approved by the Planning Board, application must be made to the Tree Preservation Commission and all the requirements of this chapter shall be applicable.

§ 207-3. Tree Preservation Commission. [Amended 11-28-1990 by L.L. No. 6-1990; 9-25-1991 by L.L. No. 8-1991; 5-15-1996 by L.L. No. 12-1996]

A. The Town Board shall create a Tree Preservation Commission which shall consist of the Environmental Coordinator, Building Inspector, Highway Superintendent or his designee and two members of the public with knowledge and expertise in arboriculture. Each shall serve during his or her term of office in the case of public officials who are members and each of the two volunteers shall serve for one-year terms.

B. In addition to its other duties as provided for in this chapter, the Tree Preservation Commission shall advise the Town Board in its selection, purchases, placement, and planting of trees and shrubs on municipal property and shall maintain an inventory and management plan for the continued maintenance and improvement of municipal plantings.

§ 207-4. Criteria for removal of trees.

A. Permits for the removal of trees may be granted under the following circumstances:

(1) If the presence of trees would cause hardship or endanger the public or the person or property of the owner.

(2) On property to be occupied by buildings or structures, within a distance of ten (10) feet around the perimeter of such building or structure, depending upon tree species and conditions to be determined by the Tree Preservation Commission.

(3) If the trees substantially interfere with a permitted use of the property, and the removal of the trees shall be performed in a selective manner.

(4) If the property shall have an approved cut or fill of land deemed by the Tree Preservation Commission to be injurious or dangerous to the trees.

(5) Where the trees to be removed are dead or so substantially diseased that, in the opinion of the Tree Commission, the tree constitutes a potential danger. [Amended 2-6-1991 by L.L. No. 1-1991]

B. The determination of the Tree Preservation Commission shall be final and shall depend upon the species of the tree, the degree of injury and the likelihood of the survival of the tree and consideration of the general welfare and the overall environment of the area, except that it shall be subject to such review as is authorized by § 207-6H.

§ 207-7. Tree removal; restoration.

A. All persons who remove or cause to be removed trees with or without a permit, as required, shall restore the area by backfilling all holes and by creating an acceptable grade and covering, subject to approval by the Tree Preservation Commission. Any tree damaged during construction or development of the property shall be either replaced in kind or, where existing trees are so large and mature that they cannot be replaced, the Tree Preservation Commission may require the planting of multiple trees instead. Minor tree damage shall be repaired in accordance with accepted tree surgery practice.

B. Tree stumps shall be removed, not cut flush. After the planting of trees, removal of all debris in the disturbed area shall be made immediately. The property where such planting is done must be left in a neat and orderly condition with good and acceptable planting and tree surgery practice. On substantially developed lots, the Tree Commission shall have the discretion, when it is not reasonably feasible to maneuver stump removal equipment to the location of a stump or where the stump is in close proximity to existing structures, to modify the provisions of this subsection with regard to stump removal. [Amended 2-6-1991 by L.L. No. 1-1991]

C. All trees which fail to survive for a period of two (2) calendar years following planting shall be replaced by the permit holder at no expense to the town or the owner of the land, if other than the holder of the permit. Said replacement shall be within sixty (60) days following written demand for such replacement from the Tree Preservation Commission or within an extended period of time as may be specified. Should the permit holder fail to replace the trees pursuant to demand within the required period of time, the Tree Preservation Commission shall have the right to declare the maintenance bond in default and apply the escrow cash deposit and the proceeds of the bond to replace the required trees.

D. All tree planting, tree dressing and associated restoration work must be substantially completed within six (6) months from the date of issuance of the permit except that the permit may be extended by the Tree Preservation Commission, which shall have the sole discretion to grant such an extension. Under all circumstances, the performance bond obtained by the permit holder shall continue in full force and effect until there has been full compliance and approval of all restoration work by the Tree Preservation Commission. In the event that planting and restoration work has not been substantially completed within six (6) months and no permit extension has been applied for or granted, the Tree Preservation Commission shall have the right to consider the site abandoned and declare the performance bond in default and may apply the escrow deposit and the proceeds of the bond to perform all required planting and restoration work. By accepting a permit, the holder thereby agrees to this procedure and grants unconditional access to the land for such restoration purposes.

Town of North Castle

Tree Removal

§ 102-8. Tree removal. [Added 10-11-1962; amended 5-29-2002 by L.L. No. 4-2002]

A. It shall be unlawful to cut down or remove or otherwise destroy any live tree larger in size than eight inches in diameter, measured at a height of 41/2 feet above the surface of the ground, except in strict conformity with this article.

B. Before any tree, as defined by this article, shall be removed, the owner or lessee of the property, or the agent of either, shall obtain a written permit there for from the Building Inspector, upon application setting forth the details of the proposed work as outlined in § 102-4 hereof and in compliance with the provisions of Chapter 192, entitled "Tree Preservation."

C. The highway departments of the various political subdivisions of the State of New York and the regularly franchised public utilities are not required to obtain a permit to cut, prune or remove trees in the conduct of their regular work.

D. The Building Inspector, in issuing such permit, shall make a finding that the proposed removal of trees will not cause erosion or interfere with flood control.

Trees

§ 191-2. Tree Board created; membership; term; compensation.

A. Creation and establishment of Tree Board. There is hereby created and established a Town Tree Board for the Town of North Castle, State of New York, which shall consist of five members, citizens and residents of this town who shall be appointed by the Town Board. The Superintendent of Recreation and Parks shall be an ex officio member of such Board and shall act as liaison between the Tree Board and Town Board.

B. Term of office. All members serve at the pleasure of the Town Board.

C. Compensation. Members of the Board shall serve without compensation.

§ 191-3. Duties; responsibilities and operation of Board.

A. Duties and responsibilities. It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Town Board and, upon its acceptance and approval, shall constitute the official comprehensive town tree plan for the Town of North Castle, State of New York. The Board, when requested by the Town Board, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

B. Operation. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

§ 191-4. Tree species to be planted.

The following list constitutes the official street tree species for the Town of North Castle, State of New York. EN No species other than those included in this list may be planted as street trees within the Town of North Castle without written permission of the Town Tree Board.

§ 191-5. Planting requirements.

A. Spacing. The spacing of street trees will be in accordance with the three species size classes listed in § 191-4 of this chapter, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect or the Town Tree Board.

B. Distance.

(1) Distance from curb and sidewalk. The distance trees may be planted from curbs and sidewalks will be in accordance with the tree species size classes listed in § 191-4 of this chapter, and it is recommended that no trees planted closer to any curb or sidewalk than the following:

(a) Small trees: two feet.

(b) Medium trees: three feet.

(c) Large trees: four feet.

(2) Distance from street corners and fire plugs. No street trees shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet from any fire plug. No street tree should be planted in an area restricted for the purpose of maintaining site distances.

C. Utilities. No street trees other than those species listed as small trees in § 191-4 (see Appendix A) of this chapter may be planted under any overhead utility line. Only those trees recommended in § 191-4 (see Appendix A) may be planted within five lateral feet of any overhead utility line. When space is available, a tree should be planted a minimum distance of ½ of the mature crown width (radius) away from any overhead utility wire. No tree should be planted over or within five lateral feet of any underground waterline, sewer line, transmission line or other utility.

§ 191-6. Care of public trees.

A. The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

B. The Town Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electrical powerlines, gas lines, waterlines or other public improvements or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners, provided that the selection and location of said trees is in accordance with § § 191-4 and 191-5 of this chapter.

§ 191-7. Tree topping.

It shall be unlawful as a normal practice for any person, firm or town department to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the Town Tree Board.

Tree Preservation

§ 192-3. Regulated activities; permit required.

Except as provided in § 192-4, it shall be unlawful to conduct, directly or indirectly, any of the following activities in the Town of North Castle unless a permit is obtained pursuant to § 192-5:

A. Removal of a tree within a property's regulated setback zone or landscape buffer zone.
B. Removal of a significant tree.
C. Removal of any tree in wetlands, within clearing lines, or conservation easements.
D. Clearing/Thinning.
E. Removal of any street tree within the right-of-way.
F. Removal in any calendar year of more than 10 trees on any lot.

§ 192-4. Activities permitted by right.

The following activities are permitted by right:

A. Removal of any tree not regulated by this chapter.
B. Removal of any tree under an actual or ongoing emergency condition when such tree removal is necessary for the protection and preservation of life or property.
C. Forest management activities on properties under § 480-a of the Real Property Tax Law.
D. Removal of any tree, other than in the area set forth in § 192-3, by a cemetery association regulated by the New York State Division of Cemeteries. In the event that such cemetery association applies for a permit pursuant to § 192-3B, such application may be in the name of the cemetery association and not in the name of individual plot owners.

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

§ 365-6. Policy standards and conditions.

A. Actions to be undertaken shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which is on file in the City Clerk's office and available for inspection during normal business hours. In the case of direct actions, the responsible board shall also consult with Section III of the LWRP in making its consistency determination. The action shall be consistent with the following policies:

(1) Policy 1: Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.

(2) Policy 1a: Promote a physical, economic and cultural link between the Central Business District (CDB) [Business Improvement District (BID)] and the Hudson River, by encouraging landscaping, facade improvements and the development of attractive pedestrianways and publicly oriented space.

(3) Policy 1b: Promote the continued redevelopment of the Charles Point portion of the southern planning area with commercial and light industrial uses, and where feasible, with water-dependent and water-enhanced uses for parcels abutting the Hudson River.

(4) Policy 1c: Encourage redevelopment of the St. Mary's property and St. Joseph's property for residential and other related uses and support in-fill and conversion of existing buildings in residential neighborhoods.

(5) Policy 2: Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.

(6) Policy 2a: Water-dependent uses and activities of a recreational or commercial nature will be encouraged on water-abutting parcels, especially in the Charles Point Industrial Park and in the Central Planning Area in the vicinity of Riverfront Green, particularly on the following sites, Resource Recovery Plant at Charles Point, Pier at Riverfront Green, Peekskill Yacht Club, and the former Hudson Valley Yacht Club site.

(7) Policy 3: Further develop the state's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of state public authorities of land use and development, which is essential to or in support of waterborne transportation of cargo and people.

(8) Policy 4: Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

(9) Policy 5: Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitates its location in other coastal areas.

(10) Policy 6: Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

(11) Policy 7: Significant coastal fish and wildlife habitats, as identified on the Coastal Area Map, shall be protected, preserved, and, where practical, restored so as to maintain their viability as habitats.

(12) Policy 7a: Fish and wildlife habitats of local importance are of value to the City and its natural resource inventory and shall be protected, preserved and, where practical, restored so as to maintain their viability.

(13) Policy 8: Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which No-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

(14) Policy 9: Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources. Such efforts shall be made in a manner that ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.

(15) Policy 10: Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the state's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

(16) Policy 11: Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

(17) Policy 12: Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.

(18) Policy 13: The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least 30 years as demonstrated in design and construction standards and/or assured maintenance or replacement programs,

(19) Policy 14: Activities and development including the construction or reconstruction of erosion protection structures shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

(20) Policy 15: Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

(21) Policy 16: Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long-term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

(22) Policy 17: Whenever possible, use nonstructural measures to minimize damage to natural resources and property from flooding and erosion. Such nonstructural measures shall include: the set back of buildings and structures outside the flood hazard area; the planting of vegetation and the installation of sand fencing; the reshaping of bluffs; and the flood-proofing of buildings or their elevation above the base flood level.

(23) Policy 18: To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.

(24) Policy 19: Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority shall be given to public beaches, boating facilities, fishing areas and waterfront parks.

(25) Policy 19a: Improve pedestrian and vehicular access to Riverfront Green, Peekskill Landing, the Peekskill Yacht Club area and waterborne and pedestrian access to the Annsville Creek area as appropriate; also, improve Central Avenue as a link between the waterfront and the Central Business District.

(26) Policy 19b: New structures shall not decrease public access to the water. New structures shall not infringe upon existing public access points leading to the water in a manner that will decrease public awareness of said access points.

(27) Policy 19c: Due to its topography, which provides sweeping and unique views of Peekskill Bay and the Hudson Highlands, public access across the St. Joseph's landform would be a desirable extension of the City's Greenway Trail System.

(28) Policy 19d: Efforts to increase public access will be carefully considered during site plan review and special use permit review for all properties in the coastal zone. These efforts shall include, but not be limited to, the provision of trails and easements for future access connecting to existing and future components in the City's trail system.

(29) Policy 20: Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.

(30) Policy 21: Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing transportation services and to those areas where the use of the shore is severely restricted by existing development.

(31) Policy 22: Development, when located adjacent to the shore, will provide for water-related recreation, as a multiple use, whenever such recreational use is

appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.

(32) Policy 23: Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archeology or culture of the state, its communities, or the nation.

(33) Policy 24: Prevent impairment of scenic resources of statewide significance, as identified on the Coastal Area Map. Impairment shall include: the irreversible modification of geologic forms, vegetation, or structures, whenever they are significant to the scenic quality of an identified resource; and the addition of structures that because of siting or scale will reduce identified views or which because of scale, form, or materials, will diminish the scenic quality of an identified resource, such as the Hudson highlands scenic area of statewide significance.

(34) Policy 25: Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

(35) Policy 26: To conserve and protect agricultural lands in the state's coastal area, an action shall not result in a loss, nor impair the productivity, of important agricultural lands, as identified on the Coastal Area Map, if that loss or impairment would adversely affect the viability of agriculture in an agricultural district or if there is no agricultural district, in the area surrounding such lands.

(36) Policy 27: Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.

(37) Policy 27a: Decisions on the siting and construction of major regional water-dependent energy facilities in the Peekskill Coastal Area must evaluate the potential cumulative impacts associated with preexisting facilities such as Indian Point Nuclear Power Plant located in the Village of Buchanan, the Bowline Plant located in the Town of Haverstraw, and the Lovett Plant located in the Town of Stony Point.

(38) Policy 28: Ice management practices shall not damage significant fish and wildlife and their habitats, Increase shoreline erosion or flooding, or interfere with the production of hydroelectric power.

(39) Policy 29: Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.

(40) Policy 30: Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.

(41) Policy 31: State coastal area policies and purposes of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.

(42) Policy 32: Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

(43) Policy 33: Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

(44) Policy 34: Discharge of waste materials into coastal waters from vessels will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

(45) Policy 34a: Pumpout facilities will be required in all new or expanded marina development in order to minimize or eliminate the discharge into the Hudson River, of sewage from the growing boat population at the Peekskill waterfront.

(46) Policy 35: Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing state dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

(47) Policy 36: Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

(48) Policy 37: Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.

(49) Policy 38: The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

(50) Policy 39: The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural lands and scenic resources.

(51) Policy 40: Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

(52) Policy 41: Land use or development in the coastal area will not cause national or state air quality standards to be violated.

(53) Policy 42: Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.

(54) Policy 43: Land use or development in the coastal area must not cause the generation of significant amounts of the acid rain precursors; nitrates and sulfates.

(55) Policy 44: Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

A. General landscaping and environmental requirements.

(1) The Planning Board is authorized to adopt conditions in connection with its approvals of applications, including, but not limited to, requirements to post bonds, pertaining to the incorporation, maintenance and replacement of landscape materials in any project requiring site development plan approval and for the environmental control of such projects.

(2) Proposed developments subject to site plan approval shall be designed to the greatest extent reasonably practicable to preserve the natural features of the site, including, but not necessarily limited to, water bodies, wetlands, steep slopes, hilltops, ridgelines, views to and from the Hudson River, major stands of trees, outstanding natural topography, significant geological features and other areas of scenic, ecological and historic value; to utilize such features in a harmonious fashion; and to enhance the visual appearance of the development. Such developments shall be in compliance with Chapter 248, Trees, and Chapter 227, Stormwater Management and Erosion and Sediment Control, and all other applicable laws and regulations.

(3) As identified in the Comprehensive Plan, energy and water conservation are important to the health, safety and welfare of the residents of the Village of Ossining. Proposed site plans shall be designed to the greatest extent reasonably practicable to incorporate energy and water conservation measures. Examples of such measures include ENERGY STAR-rated products and practices.

B. Steep slopes.

(1) A steep slope is defined as any geographical area having a topographical gradient of 15% or greater (ratio of vertical distance to horizontal distance), whether man-made or natural, and whether created by a retaining structure or not.

(2) In connection with development that is subject to site plan review, the following shall apply: Construction on or regrading of steeply sloped areas greater than 15% but less than 25% should be minimized to the greatest extent reasonably practicable in areas measuring over 500 square feet. There shall be no construction on or regrading of areas measuring over 500 square feet with

steep slopes equal to or greater than 25% unless the Planning Board makes a specific finding that such construction or regrading is warranted by considerations that make alternative approaches impracticable in view of overall planning considerations (including the overall objectives of the Comprehensive Plan and the LWRP, if applicable) and will be carried out in a manner consistent with best management and engineering practices for such construction or regrading.

(3) Where development pursuant to an approved site plan is to take place on steep slopes, the following construction practices shall be followed, in addition to compliance with applicable provisions of the Stormwater Management and Erosion and Sediment Control Law, Chapter 227:

(a) Grading and development shall preserve salient natural features, keep cut fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and rate of velocity of surface water runoff.

(b) Disturbed soils shall be stabilized as soon as practicable.

(c) Temporary vegetation and/or mulching shall be used to protect exposed land areas during development.

(d) The permanent (final) vegetation and mechanical erosion control measures shall both be installed within a specified time.

(e) Provisions shall be made to dispose of the increased runoff caused by changed soil and surface conditions during and after development in a manner which minimizes danger of flooding; where necessary, the rate of surface water runoff shall be mechanically retarded.

(f) Until a disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or similar measures.

(g) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.

(h) Cut and fills shall not endanger adjoining property, nor divert water onto the property of others.

(i) All fills shall be compacted to provide stability of material and to prevent undesirable settlement.

(j) Fills shall not significantly negatively impact natural watercourses, constructed channels or areas prone to flooding.

(k) Fills placed adjacent to or having an impact upon natural watercourses, constructed channels or floodplains shall have suitable protection against erosion during periods of flooding.

(l) During grading operations, appropriate measures for dust control shall be exercised.

(m) Grading equipment shall not be allowed to enter into or cross any watercourse, except in accordance with the Westchester County Best Management Practices Manual.

Landscaping Guidelines

§ 342-16. Landscaping guidelines. [Amended 9-9-1985 by L.L. No. 19-1985, effective 9-26-1985]

A. Objective: The objective of this section is to preserve the natural character of off-street parking areas and certain other setback and yard areas of multifamily and nonresidential developments.

B. Specific goals. The specific goals of this section are:

(1) To provide natural visual screening of parking areas and along property boundaries to preserve the existing visual quality of adjacent lands.

(2) To reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.

(3) To provide natural buffers that reduce glare and noise.

(4) To moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural wind breaks.

(5) To enhance the overall visual quality of new development by providing a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

C. Standards.

(1) Parking lots.

(a) Off-street parking and loading areas shall be curbed and landscaped with appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board, based upon consideration of the adequacy of the proposed landscaping, to assure the establishment of a safe, convenient and attractive parking facility needing a minimum amount of maintenance, including plant care, snowplowing and the removal of leaves and other debris. These standards shall apply to all proposed site development plans, except for:

[1] Parking spaces accessory to a single- or two-family dwelling.

[2] Parking spaces serving a commercial building of less than five thousand (5,000) square feet.

[3] Parking spaces serving an office building of less than ten thousand (10,000) square feet.

(b) At least one (1) tree not less than two and one-half (21/2) inches caliper, measured three (3) feet above ground level at time of planting, shall be provided within such parking area for each ten (10) parking spaces. In all off-street parking areas containing twenty-five (25) or more parking spaces, at least ten percent (10%) of the interior of the parking area shall be curbed and landscaped with trees, shrubs and other material.

(c) Raised planting islands at least eight (8) feet in width shall be provided to guide vehicle movement and to separate opposing rows of parking spaces so as to provide adequate space for plant growth, pedestrian circulation and vehicle overhang. Such raised planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances

and exits, to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles and to provide relief from the visual monotony and shadeless expense of a large parking area. Curbs of such islands shall be designed so as to facilitate surface drainage and prevent vehicles from overlapping sidewalks and damaging landscaping materials.

(d)No obstruction to driver vision shall be erected or maintained on any lot within the triangle formed by the street line of such lot, each edge of the access driveway to the parking area and a line drawn between points along both the street line and access drive projected thirty (30) feet distant from their point of intersection.

(e)All self-propelled maintenance equipment, including accessories, shall be stored in enclosed structures only, which structures shall conform to the architectural theme of the development.

(2)Screening and buffer areas.

(a)All portions of multifamily and nonresidential properties which are not used for buildings, structures, off-street parking and loading areas, sidewalks or similar purposes shall be suitably landscaped and permanently maintained with planting of trees and shrubbery, as approved by the Planning Board as part of the site plan, so as to minimize erosion and stormwater runoff and harmoniously blend such uses with the residential character of the village as a whole.

(b)Buffer.

[1]On all multifamily and nonresidentially developed properties, a landscaped buffer area shall be required to screen and protect neighboring residential properties from the view of uses and parking areas on the site.

[a]It shall be at least ten (10) feet in depth along any lot line abutting or directly across the street from a lot in a residential district.

[b]It shall be of evergreen planting of such type, height and spacing as, in the judgment of the Planning Board, will effectively screen the activities on the lot from view of persons standing on adjoining properties. The plan and specifications for such planting shall be filed with the approved plan for the use of the lot.

[2]A wall or fence, of location, height and design approved by the Planning Board, may be substituted for the required planting.

(c)Modifications. Where the existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.

(d)Maintenance and responsibility. All planting shown on an approved site development plan or special permit plan, including planting within the street right-of-way, shall be maintained by the property owner in a vigorous growing condition throughout the duration of the use, and

plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

(3) All new plant materials shall be consistent and compatible with the existing vegetation of the site and the surrounding area. Plant materials judged to be inappropriate by the Planning Board will not be approved.

D. Submission requirements. Landscaping plans shall be included with the preliminary site plan and final site plan submissions and shall consist of the following:

(1) Preliminary landscaping plan.

(a) A general concept of the landscaping, both in written and graphic form.

(b) A list of existing vegetation, with the location, type and size of existing trees.

(c) Proposals to preserve and protect existing vegetation during and after construction.

(d) The location of existing natural features, such as streams, wetlands and rock outcroppings.

(2) Final landscaping plan.

(a) All proposed physical improvements, such as buildings, walls, parking areas, sidewalks, etc.

(b) Proposed landscaping materials, including:

[1] Existing vegetation to remain.

[2] Types of new plant materials, identified by common name and botanical name.

[3] Sizes of all new plant materials by height and/or diameter.

[4] Quantities of each of the planting materials.

[5] Treatment of ground surfaces (paving, seeding and ground cover).

(c) Methods for controlling erosion and protecting landscaped areas.

(d) A grading and drainage plan.

(e) An irrigation plan or location of water outlets.

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§ 331-20. Floodplains.

No structure shall be erected in a designated floodplain without compliance with flood hazard protection requirements.

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§ 213-62. Building permits.

A. No building or structure shall be erected, constructed, enlarged, altered or moved, or excavation made therefor, or work begun thereon, nor shall any land shown in Zone A on the Flood Hazard Boundary Map of the Town of North Castle be mined, dredged, filled, cleared, graded, paved or excavated, nor shall any drilling operations, except as required for individual water supply, be commenced thereon, until a permit therefor has been issued by the Building Inspector. A building permit shall be required for additions, structural alterations; structural repairs; structures; swimming pools; fences; fireplaces, including wood-burning stoves; fuel tanks; interior and exterior commercial alterations; signs; and all other buildings and structures as required by the Building Inspector. In accordance with Article VII of the Westchester County Sanitary Code, written approval for any separate disposal system shall be obtained before any building permit may be issued. Except upon a written authorization of the Board of Appeals, under circumstances set forth in § 213-65B(3), no building permit shall be issued for any land, building or structure where said action would be in violation of any of the provisions of this chapter.

B. Before any permit shall be issued, written application therefor shall be made in duplicate on official Town forms. All applications shall be accompanied by a fee, in accordance with the fee schedule set by the Town Board, and two copies of a layout or plot plan drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of all buildings proposed to be built on the lot, and of any existing buildings or structures that shall remain, the existing and intended use of each building or part of the building, the estimated cost, the official base flood elevation data provided by the Federal Insurance Administration or, in the event such data is not yet available, any base flood elevation data which is approved by the Town Engineer and is available from federal, state, county or Town agencies, or other sources, and such other information with regard to the lot and neighboring lots that may be necessary to determine and provide for the enforcement of this chapter. Except for a permit exclusively for a sign, a plot plan shall also show all public service lines, septic tanks and other sanitary facilities, the number of families that the building is designed to accommodate, the nature of the improvement and the intended use or purpose to be made of the improvement and premises. One copy of such plan, properly endorsed, shall be returned to the owner, either in person or by mail, when such plans shall have been approved by the Building Inspector. In riverine

situations, the Building Inspector shall notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Insurance Administration.

C. The Building Inspector may require a topographic survey showing at two-foot intervals the contours of the lot or, in the case of large lots, of that area between the street and the proposed structure and extending to each side and to the rear thereof as far as the Building Inspector may deem necessary for the enforcement of this chapter.

D. The Building Inspector, upon consulting with the Town Engineer, shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If the proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement must be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure; be constructed with materials and utility equipment resistant to flood damage; be constructed by methods and practices that minimize flood damage; and assure that the flood-carrying capacity within any altered or relocated portion of any watercourse is maintained. It is specifically required for mobile homes that:

(1) Over-the top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side.

(2) Frame ties shall be provided at each corner of the home, with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side.

(3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(4) Any additions to the mobile home shall be similarly anchored.

E. Based upon the base flood elevation data, the Building Inspector shall require that:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basements, elevated to or above the base flood level; and

(2) All new construction and substantial improvements of nonresidential structures shall have the lowest floor, including basements, elevated or floodproofed to or above the base flood level.

F. The Flood Hazard Boundary Map for the Town of North Castle, as such may be issued by the Federal Insurance Administration, and any officially published revisions thereto, shall be the official map for the enforcement of this chapter. Zone A on said map delineates the area within which the floodplain requirements of this chapter shall be enforced.

G. A building permit shall, among other things, briefly describe the premises, the nature of the improvement, the estimated value and the intended use or purpose to be made of the improvement and premises. It shall bear data of issuance and be signed by the official issuing the same. Such official shall review the proposed action to assure that all necessary permits have been received from governmental agencies as required by federal and state law, including Section 404 of the Federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. § 1334, and shall require as a condition to the issuance of the permit, any additional measures which he determines are necessary to comply with the requirements of this chapter. The Building Inspector may revoke a building permit for any structure or building that does not comply with any such additional measures that were required at the time of the issue of the permit. The original application and a duplicate copy of the plans, specifications and permit issued, shall be filed immediately in the office of the Building Inspector. No building, land or premises shall be used for any purpose other than that stated in the permit. A duplicate copy of the building permit shall be prominently posted on the premises prior to the initiation of any work for which said permit has been granted.

H. Where in the opinion of the Town Board, any permit hereinafter issued by the Building Inspector was improperly or unlawfully issued or was procured through fraud or deception, the Town Board may direct the Building Inspector to revoke the same.

I. No building permit shall be issued for a use requiring special permit approval, except in conformity with the procedure set forth in §§ 213-26 through 213-32. No building permit shall be issued for any use requiring site plan approval, except in conformity with the provisions of §§ 213-34 through 213-41. No building permit shall be issued for a use requiring approval under the Town Flood Hazard Ordinance, Editor's Note: See Ch. 109, Flood Damage Prevention. except in conformity with the provisions of that chapter.

J. A building permit shall be void if construction is not started within a period of 12 months, or is not completed within a period of two years of the date of said permit,

except where a special permit is required, in which case the more restrictive provisions of § 213-32 of this chapter shall be complied with.

K. Any building, extension, or alterations for which a permit has been duly granted, the construction of which has been started before the effective date of this chapter, or of an amendment thereto, and the ground-story framework of which, including the second tier of beams, has been completed within one year after the adoption of this chapter or an amendment thereto, may be completed in accordance with plans on file with the Building Inspector, provided that such construction is diligently prosecuted and the building is completed within one year of the adoption of this chapter or an amendment thereto. If any of the requirements shall not have been fulfilled within the prescribed period, or if the building operations are discontinued for a period of six months, any other construction shall be in conformity with the provisions of this chapter.

L. Wherever the Town Board, by resolution, authorizes a public hearing on a proposed amendment to this chapter, for a period of 60 days following the date of such resolution, no building or structure shall be erected, enlarged or altered, and no permit shall be issued for the erection, enlargement or alteration of any building or structure or for the occupancy of any land or building in any manner that would be contrary to the provisions of the proposed amendment.

M. Upon completion of the foundation wall of a building, the owner or his authorized agent shall submit to the Building Inspector a certified plot plan prepared by an engineer or land surveyor licensed to practice in the state showing the location of such foundation walls on the lot. If the building is located within Zone A of the North Castle Flood Hazard Boundary Map, the plot plan shall also show the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new or substantially improved structures, whether or not such structures contain a basement and, if the structure is to be floodproofed, the elevation, in relation to mean sea level, to which the structure will be floodproofed. The Building Inspector shall maintain a record of all such information. No building shall thereafter be constructed above the foundation walls until said plot plan survey has been approved by the Building Inspector as complying with the pertinent provisions of this chapter. No certificate of occupancy shall be issued until a certified survey showing the completed building and all appurtenances upon the property has been submitted to and approved by the Building Inspector.

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§ 227-123. Variances in special flood hazard area.

Editor's Note: See also Article X, Flood Damage Prevention. In addition to the criteria set forth above, the following conditions for variances shall be considered for a proposed development or use in a special flood hazard area:

A. Variances may be issued for new construction and substantial improvements to be created on a lot of 1/2 acre or less contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the factors in § 227-122 have been considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

B. A variance may be issued for the reconstruction, rehabilitation or restoration of a structure listed on the National Register of Historic Places without regard to the procedures set forth in the remainder of this section.

C. A variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge will result.

D. Variances shall be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship to the applicant; and 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 as identified in § 227-122 or conflict with existing local laws or ordinances.

E. An applicant to whom a variance is granted to construct a structure below the base flood level shall be notified, in writing, of the consequent increase in premium rates for flood insurance and that such construction below the base flood level increases risk to life and property.

F. The Building Inspector shall maintain the records of all appeal and variance actions, including justification for their issuance, and report any variance to the Federal Insurance Administration, upon request, or with the annual report to the Federal Insurance Administration.

[Amended 8-16-1994]

A. For office, manufacturing, warehousing, multifamily and other uses with similar long-term parking characteristics and in those cases where at least 25 off-street parking spaces are required, the Planning Board, as part of its site plan review, may approve the designation of not more than one-third (1/3) of the spaces as compact car parking spaces, subject to the following conditions:

(1) Compact car parking spaces shall be conveniently located for both vehicular and pedestrian access. Such spaces shall be located in groups of not fewer than five contiguous spaces and shall be identified by appropriate signage.

(2) Prior to Planning Board approval, the applicant shall submit a plan for full-size parking spaces in compliance with the requirements of the Town Code. This plan must receive Planning Board approval.

(3) If the compact car spaces create a serious problem, the Building Inspector may require the construction of all or part of the original full-size spaces on the land reserved for this purpose.

B. This authorization shall not be construed as allowing additional parking on a property; rather, it is for the purpose of making more environmentally sensitive use of the land.

A3. Contacts

Federal Emergency Management Agency
P.O. Box 10055
Hyattsville, MD 20782-7055
Phone: (800) 621-FEMA (3362) — Fax: (800) 827-8112
Website: www.fema.gov

US Army Corps of Engineers Headquarters
441 G. Street, NW
Washington, DC 20314-1000
Phone: (202)-761-0011
Website: www.usace.army.mil
Email: hq-publicaffairs@usace.army.mil

US Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Phone: (202) 272-0167
Website: www.epa.gov

Region 2 Office (NJ, NY, PR, VI)
290 Broadway
New York, NY 10007-1866
Phone: (212) 637-3000 — Fax: (212) 637-3526

New York State Emergency Management Office (SEMO)
1220 Washington Avenue
Suite 101, Building 22
Albany, NY 12226-2251
Phone: (518) 292-2301
Website: www.semo.state.ny.us/about/contact.cfm

Region II
Phone: (845) 454-0430 — Fax: (845) 454-4620
Email: SEMORegion2@semo.state.ny.us

New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-0001
Website: www.dec.ny.gov/

Chief of Floodplain Management
Bureau of Flood Protection and Dam Safety
625 Broadway, 4th Floor
Albany, NY 12233-3504
Phone: (518) 402-8146
Email: floodpln@gw.dec.state.ny.us

Regional Floodplain Management Coordinator
NYSDEC Region 3
21 South Putt Corners Road
New Paltz, NY 12561
Phone: (845) 256-3822

New York State Department of State
One Commerce Plaza
99 Washington Ave,
Albany, NY 12231-0001
Phone: (518) 474-4752 — Fax: (518) 474-4597

Division of Coastal Resources
Albany Office
99 Washington Avenue, Suite 1010
Albany, NY 12231-0001
Telephone: (518)-474-6000 — Fax: (518)-473-2464

Westchester County Office of Emergency Management
200 Bradhurst Avenue
Hawthorne, New York
Phone: (914) 864-5450
Website: emergencyservices.westchestergov.com/

Westchester County Department of Planning
Room 432, Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601
Phone: (914) 995-4400
Website: planning.westchestergov.com

Appendix 4: Funding Resources and Technical Assistance

1. New York State Emergency Management Office

- Administers FEMA's Flood Hazard Mitigation Program.
- Staff provides technical support for communities who are developing hazard mitigation plans.
- **Hazard Mitigation Grant Program**: www.semo.state.ny.us/programs/mitigation

2. New York State Department of Environmental Conservation

- **National Flood Insurance Program (NFIP):** Provides community assistance to municipalities in the NFIP program and to municipalities interested in joining the NFIP program.
- **Bureau of Flood Protection and Dam Safety:** Regulates and issue permits for dams in order to protect people against loss of life and property from flood and dam failure. The Department also provides technical support to local governments and owners of dams.
- **Hudson River Estuary Program:** Grant information is available at: www.dec.ny.gov/lands/5091.html

3. New York State Department of State

- **Local Waterfront Revitalization Program:** These policies guide local governments when they develop their Local Waterfront Revitalization Plans (LWRP). Grant information is available at: www.nyswaterfronts.com/grantopps_EPF.asp

- **Hudson River Valley Greenway Program:** The Hudson River Valley Greenway Act of 1991 created a process for voluntary regional cooperation among the 264 municipalities within the 13 counties in th Hudson Valley. The program provides planning assistance and grants. Grant information is available at: www.hudsongreenway.state.ny.us/GrantFunding/GrantsOverview.aspx

- **Environmental Protection Fund:** On an annual basis, the Department of State solicits grant applications from local governments for 50/50 matching grants from the New York State Environmental Protection Fund's Local Waterfront Revitalization Program. www.nyswaterfronts.com/grantopps_EPF.asp

- **Shared Services Program:** Established by the 2005-2006 New York State Budget, to provide technical assistance and competitive grants to two or more units of local government for the development of projects that will achieve savings and improve municipal efficiency through shared services, cooperative agreements, mergers, consolidations and dissolutions. With the creation of the Shared Services program, New York State is committed to working with local governments to control costs while maintaining the quality service delivery provided by New York's local governments. www.dos.state.ny.us/lgss/sharedservices/index.html

4. Environmental Protection Agency

- **Wetlands Program Development Grants**: www.epa.gov/wetlands/grantguidelines/

5. National Fish & Wildlife Foundation

- Grant information is available at: www.nfwf.org/AM/Template.cfm?Section=GrantPrograms

A5. Web Resources

Federal Emergency Management Agency
www.fema.gov

US Army Corps of Engineers Headquarters
www.usace.army.mil

US Environmental Protection Agency
www.epa.gov

National Flood Risk Management Program
www.nfrmp.us/

National Flood Insurance Program
www.fema.gov/business/nfip/

National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management
coastalmanagement.noaa.gov/

New York State Emergency Management Office (SEMO)
www.semo.state.ny.us/about/contact.cfm

New York State Department of Environmental Conservation
www.dec.ny.gov/

New York State Department of State
www.dos.state.ny.us/

Westchester County Office of Emergency Management
emergencyservices.westchestergov.com/

Westchester County Department of Planning
planning.westchestergov.com

Appendix 6. Stormwater Management Plans

Based on information provided by HDR, Inc. from the April 26, 2010 Flood Workshop, White Plains, NY

To understand what goes into a stormwater management plan, it's important to know what is done, why it's done and how it's done. Stormwater planning compares an existing conditions against a proposed condition under the same theoretical storm event. There are four main questions that are answered about that comparison: Where, How, What and Why. Each answer is as critical as the next and builds upon one another. Understanding each of them will in turn help you understand the process as a whole.

To better evaluate a site plan for potential flood impacts, a reviewer needs to have an understanding of the stormwater management design process. Data is collected and an existing conditions map is prepared that includes information such as topography, soils, vegetation, wetlands, watercourses, and existing structures. Information from the Flood Insurance Rate Maps should also be depicted. Topography is used to divide the site into sub drainage basins and design points, which are evaluated using computer models. Following is a discussion of the most commonly used stormwater model, TR-55, including key components of the model and other elements of stormwater management design. For the plan reviewer, it is not as important to develop technical proficiency at using the model as it is an understanding of how the model can be manipulated. Knowing how to evaluate the variables chosen and decisions made as part of the stormwater design process will frame what questions need to be asked during the overall plan review. In addition, it is always important to keep in mind that models like these are typically simplifications of real world conditions.

Site Stormwater Planning

Existing vs. Proposed

Where? – Design Points and Subdrainage Basins
How? – Stormwater Modeling
What? – Peak Rates & Overall Volumes
Why? – To Determine Impacts

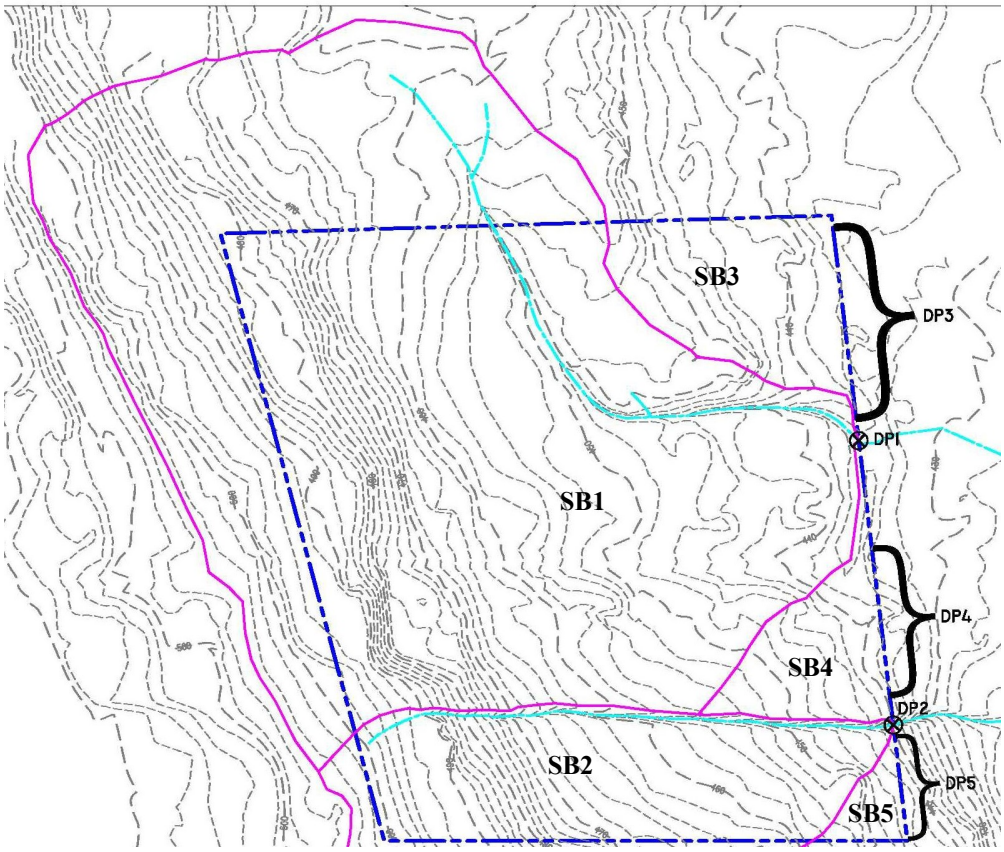
Photo credit: The Baltimore Sun

6.1 Referencing Watershed Plans and Flood Studies

Effective stormwater management begins with an understanding that every piece of land is part of a watershed. Watershed plans for flood mitigation will identify appropriate strategies for stormwater management throughout the watershed. Strategies may vary by subdrainage basin or even by site, depending on the location within the watershed and other conditions. To better understand the watershed and the context of the site within the watershed, it is important to refer to watershed plans or larger flood studies before beginning a stormwater management design at the site level.

Remember that the watershed doesn't end at the property line!

Figure 6-1: Sites are Divided into Sub Basins and Design Points



6.2 Design Points and Subdrainage Basins

Design points are the first items to be identified in the stormwater management process. Sometimes referred to as points of interest or points of analysis, these are where we perform our comparisons of existing to proposed conditions.

Imagine a single drop of rainfall on the site plan. Now trace that single drop as it flows downhill until it exits the site. Now repeat this over and over again placing the raindrop at a different starting point each time. Those raindrops individually flow to conveyance systems (ditches, streams, pipes, etc.) and then collectively make their way off site. Where those raindrops merge and eventually leave the site are typically the design points used in analysis. However, it is possible to have other design points as well. Suppose that a culvert exists on-site and you'd like to know what is happening at that point. You can address this by creating a design point at that location.

There are two main types of design points – Single Points and Linear Areas. A single point is exactly as it sounds, a single place where existing and proposed could be measured (a point in a stream, a pipe outfall, etc.). A linear area design point is one where the stormwater has not yet collected into a concentrated flow yet, but still needs to be measured. An example of this type of design point would be stormwater running across a lawn.

Starting at the design point, drainage divides are examined, using topographic maps of the site. A drainage divide is simply the line between two drainage areas: a rain-

drop falling on one side of the line will flow to one design point while a raindrop falling on the other side of the line will flow to a different design point. In this way, the site is split into subdrainage basins, smaller drainage areas within the larger watershed. It is important to remember that these subdrainage basins will often cross over the property line. The total subdrainage basin area must be included in the analyisis.

With an understanding of the points where comparison takes place, it's important to understand how the existing condition is compared to the proposed condition. Because storm events do not typically occur with the same amount of rainfall or over the same duration, we rely on modeling to establish common criteria for both the existing and proposed conditions, so we can model how the systems will perform during rainfall events.

Stormwater Models

As a plan reviewer, you must at least be able to identify that the decisions concerning the input data are conservative and in line with the municipality's flood reduction goals!

Always remember that models only consider specific scenarios which may or may not represent real world conditions. Input variables used in the model may distort results. With changing weather conditions, model results may not be accurate.

6.3 Stormwater Modelling

The subdrainage basins and design points are studied individually and collectively to evaluate on and off-site impacts with respect to stormwater quantity and quality. Computer modeling is used to perform this analysis.

The majority of stormwater modeling is based on the Technical Release 55 (TR-55) model. The TR-55 model was developed by the USDA Soil Conservation Service, now the Natural Resources Conservation Service (NRCS), in 1975. Originally it was developed as a series of worksheets but has since been converted to a Windows based computer program available for download from the NRCS website. There are three basic inputs into any stormwater model: rainfall, time of concentration and curve number.

Each of these model inputs is based on one or more factors (parameters) that the designer needs to select. The key point is that the model user must make choices regarding these inputs. Some of the choices are predetermined while others are more subjective. The TR-55 user manual states that model results can be sensitive to input data and warns that the user must ensure that all input data, whether entered directly or implied through default values for blank data fields, are appropriate for the watershed and conditions being analyzed. Municipalities should ensure that the decisions concerning the input data are conservative and in line with the municipality's flood reduction goals. This should include a discussion with the municipal engineer or consultant to evaluate the values used in the model.

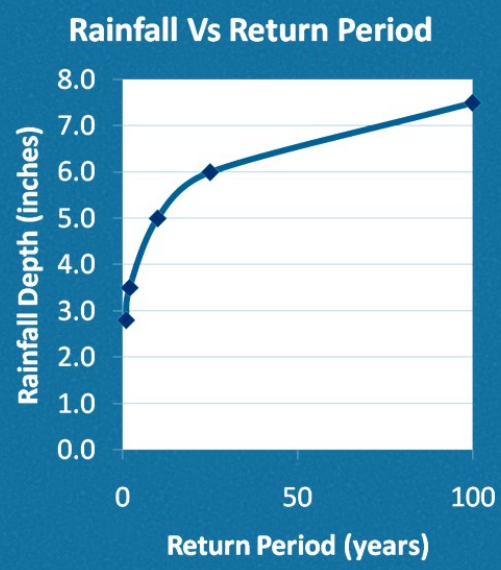
6.4 Rainfall and Storm Events

The total amount of rain, the intensity of rainfall and the duration of the storm play a role in how a watershed responds to a storm. The spatial distribution of the storm also plays a role as storms that track from the lower areas of a watershed to the higher areas of the watershed will have lower runoff rates. The variability of storms and limited predictability of storms makes it difficult to plan for each storm type. The NRCS has developed four synthetic rainfall distribution types representing typical storm events throughout the United States. (The rainfall distribution for Westchester County is Type III.)

Rainfall

Westchester County - Summary of SCS 24-hr Rainfall Data

Return Period (years)	Rainfall (inches/ 24-hr)
1	2.8
2	3.5
10	5.0
25	6.0
100	7.5



SOURCE :USDA SCS RAINFALL DATA

Flooding and Land Use Planning , April 26, 2010, Westchester County Center, White Plains, NY

In addition to rainfall distribution types, there are different design storms that are used in the modeling comparisons. Typically, the 1, 10, and 100 year storm events are those most commonly used in analysis. While the TR-55 model includes a database of standard rainfall amounts and distribution patterns for a region, the Windows version of TR-55 does allow the user to input data representing a different rainfall event. Municipalities may require the analysis of a specific rainfall event, such as a particular storm that resulted in significant flooding, but should do so only after careful evaluation and consideration with the municipal engineer as with any technical standard.

6.5 Land Cover: Time of Concentration and Curve Numbers

Land cover equally uses established criteria and some qualitative assessment. Land cover describes what is on the surface of the earth, including both natural and man-made features. This is typically the single largest factor differentiating existing and proposed conditions. Land cover can be broken down into two main categories – impervious and pervious.

Land cover is the only real qualitative variable in stormwater design. Land cover choices greatly influence design results.

Impervious – Impervious surfaces do not permit penetration or passage of stormwater into the ground. Examples of impervious surfaces are asphalt, concrete and even waterbodies and gravel roads. These surfaces are treated the same regardless of the underlying soil type since the rainfall never reaches the soil.

Pervious – Pervious surfaces allow the penetration of stormwater into the underlying soil, although some

pervious surfaces absorb more water than others. The degree and quantity of rainfall that penetrates the surface is dependent upon land cover. There are a large array of pervious land covers to choose from, some examples from TR-55 and other stormwater computation guidance documents include grassland, brush, meadow, woods and lawn. It is also possible to choose some composite land cover designations such as Residential – ¼ acre or Residential – ½ acre. Figure 6-1 is excerpted from the USDA TR-55 user manual and provides an example of how various factors including soil type, land slope, and ground cover affect the run-off curve numbers.

Knowing that land cover is the only real qualitative variable in stormwater design and that it is also here where choices can greatly influence the design results, it is

Figure 6-1: Runoff Curve Numbers

Cover description		Curve numbers for hydrologic soil group			
Cover type and hydrologic condition	Average percent impervious area [2]	A	B	C	D
Fully developed urban areas (vegetation established)					
Open space (lawns, parks, golf courses, cemeteries, etc.) [3]:					
Poor condition (grass cover < 50%)		68	79	86	89
Fair condition (grass cover 50% to 75%)		49	69	79	84
Good condition (grass cover > 75%)		39	61	74	80
Impervious areas:					
Paved parking lots, roofs, driveways, etc. (excluding right-of-way)		98	98	98	98
Streets and roads:					
Paved; curbs and storm sewers (excluding right-of-way)		98	98	98	98
Paved; open ditches (including right-of-way)		83	89	92	93
Gravel (including right-of-way)		76	85	89	91
Dirt (including right-of-way)		72	82	87	89
Urban districts:					
Commercial and business	85	89	92	94	95
Industrial	72	81	88	91	93
Residential districts by average lot size:					
1/8 acre or less (town houses)	65	77	85	90	92
1/4 acre	38	61	75	83	87
1/3 acre	30	57	72	81	86
1/2 acre	25	54	70	80	85
1 acre	20	51	68	79	84
2 acres	12	46	65	77	82
Developing urban areas					
Newly graded areas (pervious areas only, no vegetation) [5]		77	86	91	94
Idle lands (CN's are determined using cover types similar to those in table 2-2c).					

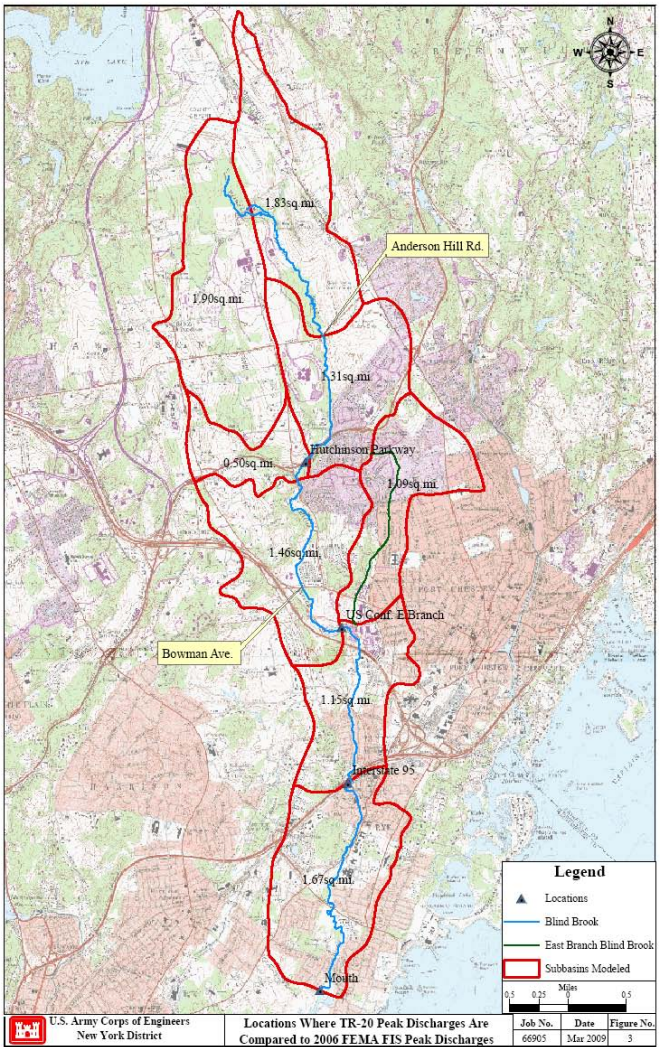
1 Average runoff condition, and $I_a = 0.2S$.
2 The average percent impervious area shown was used to develop the composite CN's. Other assumptions are as follows: impervious areas are directly connected to the drainage system, impervious areas have a CN of 98, and pervious areas are considered equivalent to open space in good hydrologic condition. CN's for other combinations of conditions may be computed using figure 2-3 or 2-4.
3 CN's shown are equivalent to those of pasture. Composite CN's may be computed for other combinations of open space cover type.
4 Composite CN's for natural desert landscaping should be computed using figures 2-3 or 2-4 based on the impervious area percentage (CN = 98) and the pervious area CN. The pervious area CN's are assumed equivalent to desert shrub in poor hydrologic condition.
5 Composite CN's to use for the design of temporary measures during grading and construction should be computed using figure 2-3 or 2-4 based on the degree of development (impervious area percentage) and the CN's for the newly graded pervious areas.

Source: Appendix B, TR-55 User Manual, Natural Resources Conservation Service (NRCS)

here where municipalities must pay closest attention. A designer has to consider if the selected cover choice is appropriate based on the site walk. Is it in good, fair or poor condition? The municipality should review these decisions and may even dictate a narrower range of variables or specific curve numbers based on their knowledge of the conditions for a site or the community as a whole. Again, the municipality should work closely with its engineer in such an effort.

Why are these choices important? Let's look back at how the parameters relate to the model inputs. Land Cover affects two of the three model inputs in a stormwater model. It affects the Time of Concentration and the Curve Number.

Time of Concentration is the theoretical time it takes for a single drop of rainfall to travel from the point where it fell to the design point. There are two main factors in how fast that happens: land slope (i.e. topography) and land cover. Land slope is easy to understand, steeper slope means faster time of concentration. The type of land cover is equally important. Rainfall on a lawn and on a parking lot at the same slope will take different times to traverse the same distance. With few exceptions, the smoother the land use cover, the faster the time of concentration.



Topography determines watershed boundaries and natural drainage patterns

The time of concentration is important. We already know that the rainfall total for any storm event is an established number. This means that for modeling purposes the overall quantity of the water is constant. However, the time of concentration determines how fast that water travels. For example, consider two equal buckets of water representing the total rainfall for a storm event. The time of concentration is how long it takes to empty the bucket. One bucket gets poured out very slowly over a long period of time and the other is turned upside down immediately. The longer time of concentration results in a much lower rate of discharge.

The other factor that land cover affects is the curve number. Curve numbers are taken from a published table using both land cover and soils information and are roughly the expected percentage of stormwater runoff from a surface. It is important to determine how these curve numbers can affect the model's output. As with rainfall amount and distribution, the Windows version of TR-55 allows the user to input individual curve numbers. Municipalities can also specify the curve numbers to be used in the model.

6.6 Topography

Topography is the mapping of the surface relief features for an area. Since water always flows downhill, topography dictates both watershed boundaries and natural drainage patterns for a site. It is important to

Hydrologic Soil Groups

Soils play an important role in stormwater management in both overall site planning and also in Best Management Practice (BMP) selection.

Group A: High Infiltration Rate
High infiltration rate (low runoff potential) when thoroughly wet. Consists mainly of deep, well drained to excessively drained sands or gravelly sands. Has a high rate of water transmission.

Group B: Moderate Infiltration Rate
Moderate infiltration rate when thoroughly wet. Consists chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. Has moderate rate of water transmission.

Group C: Slow Infiltration Rate
Soils having a slow infiltration rate when thoroughly wet. Consist mainly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture.

Group D: Very Slow Infiltration Rate
Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. Consist mainly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. Has a very slow rate of water transmission.

remember that stormwater does not follow property or political boundaries. Only topography should be used to define the watershed boundary, and the entire watershed boundary should be included in the analysis. Topographic data is available from the Westchester County GIS website, though many municipalities require site surveys be performed.

6.7 Soils

Soils information is typically obtained from published reference sources such as the National Resource Conservation Service (NRCS) soil surveys. Paper copies of the Soil Survey are available from the County Soil and Water Conservation District, and GIS files of soils county-wide can be downloaded from the Westchester County website. In addition, the NRCS has an excellent website websoilsurvey.nrcs.usda.gov from which soil maps and a variety of reports can be generated quickly for a site. Soils information should be a required component of a site plan or subdivision review, and many communities require on-site soils investigations to provide more accurate soils information. Soil types for stormwater modeling purposes fall into four Hydrologic Soil Groups based on

The NRCS has an excellent website from which soil maps and a variety of reports can be generated quickly for a site: websoilsurvey.nrcs.usda.gov

soil absorbency. Group A is the most absorbent and Group D is the least absorbent. An example of a Group A soil might be sand, and conversely a Group D soil might be clay. The more rainfall that a soil can absorb, the less stormwater runoff there is. Understanding that there are different types of soils helps one understand that soils play an important role in stormwater management. This is true for both overall site planning as well as for Best Management Practice (BMP) selection. Like rainfall, soil type is another parameter that cannot be altered by the design engineer. The soil survey provides information for each type of soil found in the county. However, a municipality should require site specific soil data, based on site investigations conducted by a qualified professional, particularly to determine soil properties such as permeability.

6.8 Rate vs. Volume

In modeling stormwater systems for an existing and proposed conditions, there are two different items to measure. Referring back to our example of two buckets of water used to explain time of concentration, two different ways to measure stormwater can be examined – peak rate and overall volume. Peak rate is how fast the water is being poured out of the bucket. Overall volume is how much water is in the bucket. It is important to have an understanding of both of these key factors. The rate and volume are tied back to the model primarily through the curve number, which is the approximate percentage of runoff from a land cover/soil type combination for a storm event.

It is critical to understand both the rate and volume in stormwater management. The key component of a floodplain is the volume available for stormwater storage. More runoff volume means more stormwater volume, resulting in a greater need for storage volume, regardless of the peak flow. Neither peak rate nor overall volume can be analyzed in the absence of the other to complete the stormwater planning picture. The primary objective of stormwater management has traditionally been to ensure that the peak rate of runoff from the development does not coincide with the peak rate of runoff of the storm at the design point where the site discharges to the stream. More recently, standards and regulations have been addressing volume in addition to rate, by requiring infiltration, limiting impervious surfaces, or incorporating low impact development techniques.

One final caveat in evaluating potential impacts is in the final analysis of design points. The rate and volume from design points *cannot* be totaled. This is a common mistake among engineers, so this point cannot be stressed enough. Each design point must meet rate and volume requirements individually.

6.9 Alteration of Drainage Patterns

The simplest way to alter a drainage pattern is through grading. By changing the natural topography, the rainfall runoff route is changed. A common example of this alteration is a diversion swale around a home on a hillside. The path for the stormwater that would have traveled directly down the hillside is now altered and re-directed around the house. Displacing flood storage with fill and altering the natural drainage patterns on a site should not be done without thoroughly analyzing all of the potential impacts both on and off-site.

Another very common method of altering the drainage pattern is through piping. This approach can take the form of a system of catch basins and pipes (very simi-

lar to the diversion swale example) or it can take the form of a culvert. To understand this concept better, here is an example using traffic. A sporting event at a major stadium ends, releasing thousands of fans all trying to travel home. In this example, the vehicles trying to leave is the stormwater. The culvert is the exit gate. The roadway beyond the gate is the watercourse. If the gate is too small, the "stormwater" backs up behind the gate, filling up the parking lot – this would be an upstream flood. If the gate is too large, then the roadway beyond the gate is overwhelmed and the flood still occurs, just now it occurs downstream of the "culvert". Care must be exercised in the placement and sizing of new culverts and in the replacement of existing culverts so as not to pass the problem downstream.

6.10 Design Points, Revisited

One final caveat in evaluating potential impacts is in the final analysis of design points. The rate and volume from a series of design points cannot be totaled. This is a common mistake among engineers, so this point cannot be stressed enough. Each design point must meet rate and volume requirements individually. Imagine the situation where three design points are examined on a site. The first and second design points are below their respective criteria through the use of good site planning and stormwater management. This does not mean that the third design point can then utilize the excess "savings"! If the home where you lived was directly adjacent to design point 3, I am sure you would have issues with this summation analysis.

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