

**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 – If you are enacting this Local Law to comply with FEMA requirements associated with new community or county Flood Insurance Rate Maps, the Department of Environmental Conservation will include in this package a replacement Page 7 with the mapping information filled out. Simply insert the name of the community in Section 3.1 and **insert the location where the Flood Insurance Study and/or maps are on file**. Otherwise, follow the instructions for Page 7, below.

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 or the DEC Central Office (listed on page iv).

Page 7, Sect. 3.2 – Insert the local location where the Flood Insurance Study and maps are on file. (e.g. Town/Village Offices, Clerk’s office). Include the full mailing address.

Page 8, Sect. 3.5 – Insert the name of the community.

Page 8, Sect. 3.6 - Insert the name of the community.

Page 8, Sect. 4.1 - Insert the **title or office** of the individual or group responsible for administering the local law, such as the Building Inspector, Code Enforcement Officer or community engineer. May not be the same as Sect. 6.1(1).

Page 9, Sect. 4.2-2 - Insert fee amount (if so desired) and community name.

Page 13-14, Sect. 5.1-2 - 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 body as named in Sect. 4.1.**

Page 17, Sect. 6.1(2) - Insert the name of the appeals board.

Page 17, Sect. 6.1(3) - Same as 6.1(2).

Page 17, Sect. 6.1(4) - Same as 6.1(2).

Page 18, Sect. 6.1(5) - Same as 6.1(2).

Page 20 - 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 10278-0002

2. **COUNTY PLANNING** (1 copy)

The planning department for your county.

3. **SECRETARY OF STATE** (1 copy)

State Records and Law Bureau
Department of State
One Commerce Plaza
Albany, New York 12231

4. **DEC CENTRAL OFFICE** (1 copy)*

NYS Department of Environmental Conservation
Floodplain Management Section
Attn: David Sherman
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 to the DEC Regional Office upon receipt from the Department of State.** However, to expedite approval of your Local Law, please send a copy of the Local Law to the DEC Central Office immediately upon passage, prior to receipt of the "Local Law Acknowledgement." If your community is applying for participation in the NFIP, also include the Enabling Resolution and the NFIP Application.

**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-Roche:	518-408-0340	Environmental Engineer	kahiggin@gw.dec.state.ny.us
David Sherman:	518-402-8215	Environmental Program Spec.	drsherma@gw.dec.state.ny.us
Jennifer Horton:	518-402-8148	Environmental Engineer	jehorton@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	Jean Occidental (718) 482-4935 jxoccide@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	Chris Lassell (518) 897-1241 cmlassel@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	Dan Fuller or John Kane (607) 775-2545 djfuller@gw.dec.state.ny.us jckane@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	Karis Manning (585) 226-5445 kimannin@gw.dec.state.ny.us
8 South	Chemung, Schuyler, Southern Seneca, Steuben & Yates	NYS DEC, Region 8 276 Sing Sing Rd. Horseheads, NY 14845	Joy Brewer (607) 739-0809 jpbrewer@gw.dec.state.ny.us
9	Allegany, Cattaraugus, Chautauqua, Erie, Niagara & Wyoming	NYS DEC, Region 9 270 Michigan Ave. Buffalo, NY 14203-2999	James Vegl or Thomas Wantuck (716) 851-7070 jpvega@gw.dec.state.ny.us tewantuc@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 Town Board of the Town of Dix finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Dix and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

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

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

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard;
and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

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

“Accessory structure” means a structure that is (1) located on the same parcel of property as the principal structure, (2) detached from and incidental to the use of the principal structure, (3) is not designed or used for human habitation, (4) represents a minimal investment of less than 10% of the property value, (5) is 500 square feet or less in size, and (6) has a low damage potential with respect to both the structure and contents. Examples include: a one- or two-car detached garage, a small shed, or a playhouse.

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

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

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term “special flood hazard area (SFHA)” is synonymous in meaning with the phrase “area of special flood hazard.”

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

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

"Building" see "Structure"

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

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

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

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

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

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

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

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

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

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

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

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

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

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

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

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

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

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

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

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

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

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

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

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3.0

GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

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

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

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

- (1) Flood Insurance Rate Map (multiple panels) Index No. 360746 0001-0010, whose effective date is October 29, 1982.

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 15 days or both.

Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Dix from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Dix, 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 Planning Board 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; and the boundaries of the area of special flood hazard and regulatory floodway in relation to the above features.

The requirements for floodplain development permits apply to projects undertaken by any private entity, county, city, town, village, school district, or public improvement district. Development activities by the Town of Dix do not require a permit, but shall comply with the standards specified in this local law. Federal actions and New York State actions are not subject to regulation under this local law.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$ ____25_____. In addition, the applicant shall be responsible for reimbursing the Town of Dix 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 top of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data developed using detailed methodologies 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 ei-

ther 50 lots or 5 acres if any development sites are located within an area of special flood hazard.

- (8) Documentation by a licensed land surveyor or professional engineer of Flood Insurance Rate Map features (flood zone, floodway, and base flood elevation) at the location of the proposed development, if required by the Local Administrator.

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) Determine whether any portion of the proposed development is located within an area of special flood hazard or a regulatory floodway.
- (2) If the site for any new or substantially improved structure is partially or completely within Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available, determine the base flood elevation applicable to that structure.
- (3) Review all applications for completeness, particularly with the requirements of sub-section 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (4) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION AND DEVELOPMENT PROPOSALS.
- (5) 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.

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

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, 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 top 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) For new and substantially improved structures in Zone A without base flood elevation data and Zone AO, the Local Administrator may require documentation of natural grade at the building site prior to any grading or placement of fill. Upon placement of the lowest floor, the Local Administrator shall either (i) document the height of the top of the lowest floor relative to the highest adjacent grade prior to placement of any fill or (ii) require certification of this height by a licensed land surveyor or professional engineer.
- (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

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

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

- (1) Floodplain development permits and certificates of compliance;

- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.
- (6) Base flood elevations developed pursuant to sub-section 4.3(7) and supporting technical analysis.

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. When the proposed development is located in multiple flood zones or in an area with multiple base flood elevations, the flood protection requirements shall be based on the flood zone or base flood elevation that results in the most stringent requirements.

5.1-1 SUBDIVISION AND DEVELOPMENT 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.
- (4) Proposed development shall not result in physical damage to any other property (e.g., stream bank erosion or increased flood velocities). If requested by the Local Administrator, the applicant shall provide a technical analysis, by a licensed professional engineer, demonstrating that this condition has been met.
- (5) Proposed development shall be designed, located, and constructed so as to offer the minimum resistance to the flow of water and shall be designed to have a minimum effect upon the height of flood water.
- (6) Any equipment or materials located in a special flood hazard area shall be elevated, anchored, and floodproofed as necessary to prevent flotation, flood damage, and the release of hazardous substances.
- (7) No alteration or relocation of a watercourse shall be permitted unless:
 - i. a technical evaluation by a licensed professional engineer demonstrates that the altered or relocated segment will provide conveyance equal to or greater than that of the original stream segment and will not result in physical damage to any other property;
 - ii. if warranted, a conditional revision of the Flood Insurance Rate Map is obtained from the Federal Emergency Management Agency, with the applicant providing the necessary data, analyses, and mapping and reimbursing the Town of Dix for all fees and other costs in relation to the application; and
 - iii. the applicant provides assurance that maintenance will be provided so that the flood carrying capacity of the altered or relocated portion of the watercourse will not be diminished.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Dix 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 Dix 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 Dix for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the Town of Dix 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 Dix 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 Dix for all costs related to the final map revisions.
- (3) Within Zone A in riverine areas, all permit applications for new construction, substantial improvements or other development (including fill) shall be reviewed as set forth in Section 4.4-1(5), Permit Application Review, to determine the effects of the encroachment on the flood carrying capacity of the stream. The Local Administrator may require submission of additional technical analysis and data necessary to complete the determination.

5.2 STANDARDS FOR ALL STRUCTURES

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. Any alteration, repair, reconstruction, addition, or improvements to a structure that was built or substantially improved after the adoption of floodplain management regulations shall meet the requirements for new construction.

Any alteration, repair, reconstruction, addition, or improvements to an existing structure that constitutes substantial improvement shall require that the entire structure comply with the requirements for substantially improved structures. Any alteration, repair, reconstruction, or improvements to an existing structure that does not constitute new construction or a substantial improvement, shall be elevated and/or floodproofed to the greatest extent practical.

5.2-1 ANCHORING

New structures and substantial improvement to structures, including gas or liquid storage tanks, in areas of special flood hazard, together with equipment servicing those structures, shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, or Zone A, 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 grade.

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

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be (i) located at least two feet above the base flood elevation or at least three feet above grade when no base flood elevation data are available or (ii) 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 or designed to prevent water from entering and accumulating within the components 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) Gas and liquid fuel tanks must be (i) elevated at least two feet above the base flood elevation or at least three feet above grade when no base flood elevation data are available or (ii) properly anchored to resist floatation and the effects of scour. Fill caps and fittings below the base flood elevation must be tested to be liquid tight. Tank vent openings must be two or more feet above the base flood elevation or three or more feet above grade when no base flood elevation data are available.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION AND DEVELOPMENT PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the top of 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 construction and substantial improvements shall have the top of the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the top of the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's

Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

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

5.4 NON-RESIDENTIAL STRUCTURES

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

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (i) have the top of 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, including attendant utility and sanitary facilities, 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 top of the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the top of the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

(1) Recreational vehicles placed on sites within Zones A, A1-A30, AE, AH, and AO shall either:

- (i) be on site fewer than 180 consecutive days,
- (ii) be fully licensed and ready for highway use, or
- (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

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

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the top of the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the highest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the top of the lowest floor shall be elevated above the highest adjacent grade at least as high as two feet above 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).

5.6 ACCESSORY STRUCTURES

An accessory structure that is on the same parcel of property as the principle structure, the use of which is incidental to the use of the principle structure, and that is not used for human habitation may be exempt from the elevation or dry floodproofing requirements of sub-section 5.4, NON-RESIDENTIAL STRUCTURES, provided:

- (1) It is used only for parking or storage of tools, material, and equipment related to the principle use or activity;
- (2) It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
- (3) It is anchored to prevent flotation, which may result in damage to other structures, as specified in sub-section 5.2-1, ANCHORING;
- (4) All portions of the structure below the base flood elevation plus 2 feet or within 3 feet of the highest adjacent grade if there is no base flood elevation must be constructed of flood-resistant materials, as specified in sub-section 5.2-2(1);

- (5) Service utilities such as electrical and heating equipment meet the standards of sub-section 5.2-3, UTILITIES;
- (6) It has openings to allow free flowage of water that meet the criteria in sub-section 5.2-2(3);
- (7) Enclosed areas that are sub-grade on all sides are considered basements and are not permitted; and
- (8) The project meets all the other requirements of this ordinance, including sub-section 5.1-2, ENCROACHMENTS.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

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

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

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

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

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

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

Be it enacted this _____ 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. This includes grading.
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

- | | |
|--|--|
| <input type="checkbox"/> New Structure | <input type="checkbox"/> Residential (1-4 Family) |
| <input type="checkbox"/> Addition | <input type="checkbox"/> Residential (More than 4 Family) |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Non-residential (Floodproofing? <input type="checkbox"/> Yes) |
| <input type="checkbox"/> Relocation | <input type="checkbox"/> Combined Use (Residential & Commercial) |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Manufactured Home (In Manufactured Home Park? <input type="checkbox"/> Yes <input type="checkbox"/> No) |
| <input type="checkbox"/> Replacement | <input type="checkbox"/> Accessory Structure |

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 partly or completely in or adjacent to a flood prone area.
100-Year flood elevation at the site is:
_____Ft. NGVD 1929/ NAVD 1988 (MSL)
 Unavailable
- The proposed development is located in a regulatory floodway.
FBFM or FIRM Panel No. _____ Dated _____.
- 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, flood zone boundaries, 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 lowest floor, details of floodproofing of utilities located below the lowest floor, details of enclosures below the lowest floor including permanent 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.
- Certification by a Professional Engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the base flood. A copy of all data and calculations supporting this finding must also be submitted.
- Technical analysis by a Professional Engineer showing that the proposed development will not result in physical damage to any other property.
- Other: _____

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. Is
B. Is not

in conformance with provisions of Local Law # _____, (yr) _____. This permit is hereby issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.

If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

Expiration Date: _____

APPEALS: Appealed to Board of Appeals? Yes No
Hearing date: _____
Appeals Board Decision --- Approved? Yes No

Conditions: _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

- Actual (As-Built) Elevation of the top of the lowest floor, including basement is: _____ FT. NGVD 1929/ NAVD 1988 (MSL).
Attach FEMA Elevation Certificate
- Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD 1929/ NAVD 1988 (MSL).
Attach FEMA Floodproofing Certificate

SECTION 7: COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO

SECTION 8: CERTIFICATE OF COMPLIANCE (To be completed by LOCAL ADMINISTRATOR)

Certificate of Compliance issued: DATE: _____ BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

**CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA**

(Owner Must Retain This Certificate)

Premises located at: _____

Owner: _____

Owner's Address: _____

Permit No. _____ Permit Date: _____

Check One:

- New Building
- Existing Building
- Fill
- Other:

The Local Floodplain Administrator is to complete a. or b. below:

a. Compliance is hereby certified with the requirements of Local Law No. ____, (yr) ____.

Signed: _____ Dated: _____

b. Compliance is hereby certified with the requirements of Local Law No. ____, (yr) ____, as modified by variance no. ____, dated _____.

Signed: _____ Dated: _____