

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

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

Town of Lumberland

Local Law No. 1 of the year 1983

A local law - Flood Damage Prevention

Be it enacted by the Town Board of the Town of Lumberland as follows:

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TOWN OF LUMBERLAND LOCAL LAW NO. 1

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0

Statutory Authorization and Purpose

1.1 STATUTORY AUTHORIZATION

The People of the State of New York have in The New York State Constitution, Article IX, Section 2, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, be it enacted by the Town of Lumberland, New York as follows:

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:

- (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, and sewer lines, and 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 insure that potential buyers 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.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

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

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

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

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

"Flood Hazard Boundary Map" (FHBM) means the official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

"Lowest Floor" means lowest level including basement, crawlspace, or garage of lowest enclosed area.

"Mobile home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

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

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

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

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code

specifications which are solely necessary to assure safe living conditions, or

(2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 3.0 General Provisions

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

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

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), No. 360825A dated 12-31-76 and any revisions thereto, are adopted by reference and declared to be a part of this local law. The FHBM is on file at the Town Clerk's Office, Glen Spey, New York.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAW

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, morals, safety, or the general 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 VALIDITY

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 or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this local law and other applicable regulations. Violation of the provisions of this local law by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than one (1) month or both for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town of Lumberland from taking such other lawful action as necessary to prevent or remedy a violation.

Section 4.0
Administration

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

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

4.2 DESIGNATION OF THE CODE ENFORCEMENT OFFICER

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

4.3 DUTIES AND RESPONSIBILITIES OF THE CODE ENFORCEMENT OFFICER.

Duties of the Code Enforcement Officer shall include, but not be limited to:

4.3-1 Permit Review

(1) Review all development permits to determine that the permit requirements of this local law have been satisfied.

(2) Review all development permits 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 permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this local law, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

(i) If it is determined that there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.

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

4.3-2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation

data available from a Federal, State or other source, in order to administer Section 5.2, SPECIFIC STANDARDS.

4.3-3 Information to be Obtained and Maintained

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

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

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

(ii) maintain the floodproofing certifications required in Section 5.2-2(3).

(3) Maintain for public inspection all records pertaining to the provisions of this local law.

4.3-4 Alteration of Watercourses

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

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

4.3-5 Interpretation of FHBM Boundaries

Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

Section 5.0

Provisions for Flood Hazard Reduction

5.1 GENERAL STANDARDS

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

5.1-1 Anchoring

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

(2) All mobile homes and any additions thereto shall be anchored to resist flotation, collapse, or lateral

movement by providing an anchoring system designed to withstand a wind force of 90 miles per hour.

5.1-2 Construction Materials and Methods

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 Utilities

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 Subdivision Proposals

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5.1-5 ENCROACHMENTS

Any proposed development shall be analyzed to determine effects on the flood carrying capacity of the area of special flood hazard as set forth in Section 4.3-1(3), Permit Review.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 Residential Construction

New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

5.2-2 Non-residential Construction

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

(1) be floodproofed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water;

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

(3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).

SECTION 6.0

Variance Procedure

6.1 APPEAL BOARD

(1) The Town Board as established by the Town of Lumberland 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 Code Enforcement Officer in the enforcement or administration of this local law.

(3) Those aggrieved by the decision of the Town Board or any taxpayer may appeal such decision to the supreme court as provided in The New York State Constitution, Article VI, Section 2.

(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 of life and property due to flooding or erosion damage

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

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

(x) the 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

(xi) the costs of providing governmental services during and after flood conditions, including 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 Code Enforcement Officer shall maintain the records of all appeal actions including technical information and report any variances to the Federal Insurance Administration upon request.

6.2 CONDITIONS FOR VARIANCES

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:
(i) a showing of good and sufficient cause; and

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that a 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 as identified in Section 6.1(4), or conflict with existing local laws or ordinances.

Be it enacted this 6th day of May, 1983, by the Town Board of the Town of Lumberland, Sullivan County, New York, to be effective immediately.

Supervisor Donald H. Scheetz
Councilman Peter Salak
Councilman John A. O'Neill
Councilman Apollinare Osadca
Councilwoman Joan Drapak

SEAL

ATTEST: Town Clerk

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

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

Date: May 6, 1983

(Seal)

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

STATE OF NEW YORK

COUNTY OF SULLIVAN

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

Town Attorney
Town of Lumberland

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1983 of the Town of Lumberland was duly passed by the Town Board on May 6, 1983 in accordance with the applicable provisions of law.