

Chapter 82:

FLOOD DAMAGE PREVENTION

Article I:

Statutory Authorization; Purpose

§ 82-1 Findings.

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

§ 82-2 Statement of purpose.

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

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 82-3 Objectives.

The objectives of this chapter are:

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

Article II:

Definitions

§ 82-4 Definitions and word usage.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL

A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING

A designated AO or AH 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 foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH or AO. It is also commonly referred to as the base floodplain or one-hundred-year floodplain. For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE)

The computed water surface elevation at a given location resulting from a flood having a one-percent chance of being equaled or exceeded in any given year (i.e., an average frequency and magnitude of a one-hundred-year recurrence interval).

BASEMENT

That portion of a building having its floor subgrade (below ground level) on all sides.

BUILDING

See "structure."

CELLAR

Has the same meaning as "basement."

CRAWL SPACE

An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow

for the equalization of hydrostatic forces which would be experienced during periods of flooding.

CRITICAL FACILITIES

Public and private facilities particularly susceptible to the effects of flooding, which include the following:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (2) Hospitals, nursing homes, and types of assisted living housing similar to group homes and age-restricted housing which may have occupants who may not be sufficiently mobile to avoid death or injury during the flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities, such as electrical power generation facilities and substations, telephone equipment buildings and the like that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

CUMULATIVE SUBSTANTIAL IMPROVEMENT

~~Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.~~

DEVELOPMENT

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

ELEVATED BUILDING

A nonbasement building built, in the case of a building in Zone AE, A, AO, AH, or X, to have the top of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water, and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zone AE, A, AO, AH, or X, "elevated building" also includes a building

elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

FEDERAL EMERGENCY MANAGEMENT AGENCY

The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY

See "flood elevation study."

FLOOD or FLOODING

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

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

FLOODPLAIN or FLOOD-PRONE AREA

Any land area susceptible to being inundated by water from any source. (See definition of "flooding.")

FLOODPROOFING

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY

Has the same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE

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

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE

Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or such other duly authorized representative of the Town.

LOWEST FLOOR

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

MANUFACTURED HOME

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

MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL

For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME

Has the same meaning as "manufactured home."

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community, including any subsequent improvements to such structures.

ONE-HUNDRED-YEAR FLOOD

Has the same meaning as "base flood."

PRINCIPALLY ABOVE GROUND

At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE

A vehicle which is:

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

REGULATORY FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 82-13B of this chapter.

START OF CONSTRUCTION

The date of permit issuance for new construction and substantial improvements to existing structures, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE

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

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

~~Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.~~

SUBSTANTIAL IMPROVEMENT

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

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

VARIANCE

A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 82-5 Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of New Paltz, Ulster County.

§ 82-6 Basis for establishing areas of special flood hazard.

A. The areas of special flood hazard for the Town of New Paltz, Community No. 360859, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Nos. 36111C0595E, 36111C0615E, 36111C0620E, 36111C0735E, 36111C0755E, and 36111C0760E, the effective date of which is September 25, 2009, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Ulster County, New York, All Jurisdictions" (FIS No. 36111CV001A) dated September 25, 2009.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: Town Clerk, Town of New Paltz, 1 Veteran's Drive, New Paltz, NY 12561.

§ 82-7 Interpretation; conflict with other laws.

This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and

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

§ 82-8 Penalties for offenses.

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

§ 82-9 Warning; disclaimer of liability.

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

§ 82-10 Designation of local administrator.

The Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions. The Building Inspector may consult with the Town Engineer, qualified consultants or such other duly authorized representatives of the Town in carrying out the duties and responsibilities as described herein.

§ 82-11 Floodplain development permit purpose; fees.

A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and 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 § 82-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing.

B. Fees. Each application for a floodplain development permit shall be accompanied by an application fee as fixed from time to time by resolution of the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of New Paltz for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of funds in addition to the application fee to reimburse the Town for the additional costs of the Town Engineer or other qualified consultants that the Building Inspector deems necessary to provide technical assistance in the processing the application.

§ 82-12 Application for permit.

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

A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones AE, AH, AO or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 82-15C, Utilities.

D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 82-17, Nonresidential structures.

E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will not be detrimental to the environment, or cause stream bank or other erosion, or cause increased floodwater velocities, or may cause any substantial adverse impact to flora and fauna species or their habitat. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 82-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property. Procedures consistent with 44 CFR Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective local administrator prior to commencing the analysis. The designated engineer or expert shall:

- (1) Estimate peak discharge of the base flood.
- (2) Calculate the water surface profile of the base flood based upon a hydraulic analysis of the stream channel and over bank areas.
- (3) Compute the floodway necessary to convey or store the base flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either five dwellings or any commercial or light industrial development that proposes to disturb more than one acre of land and is subject to site plan review in accordance with § 140-52 of the Code of the Town of New Paltz.

§ 82-13 Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to, the following:

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of § 82-12, Application for permit, and for compliance with the provisions and standards of this chapter.

(2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 82-14A, Subdivision proposals, and § 82-14B, Encroachments.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

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

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (this area is designated Zone A 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 sources, including data developed pursuant to § 82-12F and § 82-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation and floodway data are not available and the development does not exceed the scale of development described in § 82-12G, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations and floodway limits within the areas of special flood hazard, for the purposes of this chapter if it:

- (a) Reasonably reflects flooding conditions expected during the base flood;
- (b) Is not known to be technically incorrect; and
- (c) Represents the best available data.

C. Alterations of watercourses.

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

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

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

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

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

F. Stop-work orders.

(1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 82-8 of this chapter.

(2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 82-8 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 82-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use

or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 82-13E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:

(1) Floodplain development permits and certificates of compliance;

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 82-13D(1) and (2), and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to § 82-13D(1), and whether or not the structures contain a basement;

(4) Variances issued pursuant to Article VI, Variance Procedure; and

(5) Notices required under § 82-13C, Alteration of watercourses.

Article V:

Construction Standards

§ 82-14 General standards.

The following standards apply to new development, including new and substantially improved structures ~~and substantially improved structures~~, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 82-6:

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

(1) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

(1) Within Zone A on streams without a regulatory floodway, no new construction and substantial improvements to structures, ~~substantial improvements~~ or other development (including fill) shall be permitted within the floodway area of the watercourse (as may be determined by the Town Building Inspector or other duly authorized representative of the Town after review of the flood data information provided as described in §§ 82-12F, 82-12G and 82-13B), unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1/2 foot at any location; and

(b) The Town of New Paltz 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 New Paltz 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 New Paltz 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 § 82-6, no new construction, ~~substantial improvements~~ or other development in the floodway (including fill) shall be permitted unless:

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

(b) The Town of New Paltz 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 New Paltz 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 New Paltz for all costs related to the final map revisions.

(c) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by any authorized fill or structure that will be located below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavation shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water or below the normal elevation at which groundwater is found can be credited as compensating excavation.

§ 82-15 Standards for all structures.

A. Anchoring. New structures and substantial improvements, ~~substantial improvement~~ to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

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

(2) New construction ~~and substantial improvements and substantial improvements~~ to structures shall be constructed using methods and practices that minimize flood damage.

(3) Enclosed areas below the lowest floor ~~(applies to nonresidential buildings)~~.

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

[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

[2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

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

C. Utilities.

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or shall be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the New York State Uniform Fire Prevention and Building Code[1] or the Residential Code of New York State for location of such items in wet locations;

[1]:Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

(2) New and replacement individual well water supplies shall be designed and constructed to prevent any contamination from inundation by floodwaters and eliminate infiltration of floodwaters into the system;

(3) New and replacement sanitary sewage systems should be located outside floodplain areas whenever possible, and those systems that must be located within floodplain areas shall be elevated such that the minimum ground surface elevation of the sanitary sewage system shall be a minimum of three feet

above the base flood elevation (BFE) to eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall;

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

(5) On-site waste disposal system shall not be located closer than 100 feet to the natural bank of a perennial or intermittent stream.

§ 82-16 Residential structures.

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 82-14A, Subdivision proposals, § 82-14B, Encroachments, and § 82-15, Standards for all structures:

A. Elevation.

(1) Within Zones AE, ~~AO~~, and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

(2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

B. Within Zones AH and ~~AO~~, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

~~C. Access shall be readily available and useable and shall be provided to a principal residential structure within Zones AE, AH, or AO, and also Zone A if base flood elevation data is provided, by a state, county or town highway or private road shown on the Official Map of the Town of New Paltz; no portion of said highway or road shall be located at an elevation more than 1.5 feet below the base flood elevation. No portion of the private driveway used for access to the residence shall similarly be located at an elevation more than 1.5 feet below the base flood elevation.~~

~~D. Access shall be readily available and useable and shall be provided to a principal residential structure that is located within the Zone A, when no base flood elevation information is provided, by a state, county or town highway or private road shown on the Official Map of the Town of New Paltz and no portion of said highway or road shall have any historical record of inundation by floodwaters. No portion of the private driveway used for access to the residence shall similarly be located at an elevation below the elevation of any historical record of inundation by floodwaters.~~

§ 82-17 Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 82-14A, Subdivision proposals, § 82-14B, Encroachments, and § 82-15, Standards for all structures:

A. Within Zones AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

(1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

(2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

~~B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:~~

~~(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the base flood elevation; or~~

~~(2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 82-17A(2).~~

BC. 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 § 82-17A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D. Within Zones AH ~~and AO~~, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

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

~~F. Access shall be readily available and useable and shall be provided to a commercial structure within Zones AE, AH, or AO, and also Zone A if base flood elevation data is provided, by a state, county or town highway or private road shown on the Official Map of the Town of New Paltz, no portion of said highway or road or private access drive thereto shall be located at an elevation not more than 0.5 foot below the base flood elevation.~~

~~G. Access shall be readily available and useable and shall be provided to a commercial structure within the Zone A when no base flood elevation information is provided by a state, county or town highway or~~

~~private road shown on the Official Map of the Town of New Paltz; no portion of said highway or road or private access drive thereto shall be located at an elevation below the elevation of any historical record of inundation by floodwaters.~~

§ 82-18 Critical Facilities.

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facilities shall be located within any area of special flood hazard and shaded X Zone on the Town of New Paltz Flood Insurance Rate Maps.

§ 82-19 Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 82-14, General Standards, and § 82-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

A. Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones, AE and AH shall either:

- (a) Be on site fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use; or
- (c) Meet the requirements for manufactured homes in § 82-19B, C and D.

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

B. A manufactured home that is placed or substantially improved in Zones AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

C. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

~~D. Within Zone AO, the floor shall be elevated above the highest adjacent grade and at least as high as two feet above the base flood elevation.~~

Article VI: Variance Procedure

§ 82-20 Appeals Board.

A. The Zoning Board of Appeals as established by the Town of New Paltz shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

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

E. Upon consideration of the factors of § 82-20D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The local administrator shall maintain the records of all appeal actions, including technical information, and shall report any variances to the Federal Emergency Management Agency upon request.

§ 82-21 Conditions for variances.

A. Generally, variances may be issued for new construction and ~~substantial~~ substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 82-20D(1) through (12) have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and

(2) The variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria of Subsections A, D, E, and F of this section are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

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

F. Variances shall only be issued upon receiving written justification of:

(1) A showing of good and sufficient cause;

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

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

G. Written notice.

(1) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(b) Such construction below the base flood level increases risks to life and property.

(2) Such notification shall be maintained with the record of all variance actions as required in § 82-13H of this chapter.

§ 140-19

Floodplain District.

[Amended 2-23-1983 by L.L. No. 1-1983; 12-30-1987 by L.L. No. 9-1987; 5-20-2010 by L.L. No. 3-2010[1]]

A. Legislative intent.

(1) Development of land within the special flood hazard areas in the Town of New Paltz could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since the development of these areas is not essential to the orderly growth of the community, and since these lands are suitable for open space uses that do not require structures, fill, obstructions, or any other form of development, the Town of New Paltz finds that it is in the best interests of the Town residents to establish standards, regulations and restrictions for development within a Floodplain District.

(2) The Floodplain District shall include all lands located within areas of special flood hazard [which are hereinafter described as Floodway (FW), Flood Fringe (FF) and General Floodplain (GF)], which have been identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report ("report") entitled the "Flood Insurance Study – Ulster County, New York," (FIS No.

36111CV001A) with accompanying Floodway Hazard Boundary Maps (FHBM), the Flood Boundary - Floodway Maps (FBFM) and the Flood Insurance Rate Map (FIRM), as such report may be updated and revised from time to time. The current report is filed in the office of the Town Clerk.

(3) The construction of residential and nonresidential structures therein shall be subject to, and regulated by, the New York State Uniform Fire Prevention and Building Code[2] and by all federal, state and/or local governmental and/or agency statutes, ordinances, laws, rules and regulations made and provided for the prevention of flood damage in the Town of New Paltz and as further set forth in Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz, and additionally shall be subject to and regulated by the standards and the requirements of the National Flood Insurance Program (NFIP).

[2]:Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

B. Purpose. The Floodplain District is established to permit only that development within the special flood hazard areas which is appropriate in light of the probability of flood damage and the need to reduce flood losses, and allow for acceptable social and economic use of the land in relation to the hazards involved. Additionally, regulation of development within the Floodplain District is required:

(1) To promote the careful consideration of long-term economic consequences of floodplain development, to prevent environmentally incompatible floodplain use, and to guide less intensive use and development of floodplains;

(2) To minimize the adverse effects of floodplain development on existing development;

(3) To preserve natural areas and foster habitat protection to enable the naturally beneficial functions of floodplains and watersheds to be better realized by reserving hazardous areas for agricultural use, parks, greenways, hiking trails, golf courses, wildlife refuges, natural areas or similar open space compatible uses;

(4) To promote a balance of public and private concerns and to ensure that one person's activities do not adversely affect others or the general public; and

(5) To further provide for the safety of Town residents and the safety of emergency response personnel during periods of flooding by requiring readily available and useable access to areas of new development located in or adjacent to flood-prone areas.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, or AO. It is also commonly referred to as the base floodplain or one-hundred-year floodplain. For purposes of this section, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD ELEVATION

The computed water surface elevation at a given location resulting from a flood having a one-percent chance of being equaled or exceeded in any given year (i.e., an average frequency and magnitude of a one-hundred-year recurrence interval).

~~CUMULATIVE SUBSTANTIAL IMPROVEMENT~~

~~Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.~~

DEVELOPMENT

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

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. ~~Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.~~

~~SUBSTANTIAL IMPROVEMENT~~

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

~~(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~

~~(2) Any alteration of an historic structure (as defined in § 82-4 of the Code of the Town of New Paltz) provided that the alteration will not preclude the structure's continued designation as an historic structure.~~

D. Establishment of floodplain zoning subdistricts. The Floodplain District, as depicted on the Town of New Paltz Zoning Map,[3] shall consist of three separate subdistricts, that includes land with distinct flood-prone characteristics and development restrictions, as regulated in the National Flood Insurance Program (NFIP) and as described hereafter:

(1) Floodway (FW). The Floodway Subdistrict shall include those areas designated as floodway on the most recent Flood Insurance Rate Map on file with the Town of New Paltz, as determined by the Federal Emergency Management Agency and a Flood Insurance Study or by other agencies, and can generally be described as lands located within 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 and obstruct flood flows. No encroachment by new construction of buildings, structures, fill or substantial improvements is allowed, but development of stormwater management, parkland, greenways, forest lands, farms and community gardens is encouraged.

(2) Flood Fringe (FF). The Flood Fringe Subdistrict shall include those areas designated as that portion of the floodplain outside of the floodway and land areas designated as Zone X lying within the Floodplain District and mapped to be above the base flood elevation (BFE), as determined by the Federal Emergency Management Agency and the Flood Insurance Study or by other agencies, and includes those areas shown on the Flood Insurance Rate Map as being within Zones AE, AH or AO. The following specific development criteria apply to lands located in the Flood Fringe Subdistrict:

(a) All building sites are required to be improved in such a manner that a building with habitable space's floor elevation is constructed to be a minimum of two feet above the base flood elevation (BFE).

(b) Proposed principal buildings shall not be sited on land with an existing ground surface elevation more than one foot below the base flood elevation (BFE), said minimum principal building site's existing ground surface elevation being approximately equal and to the maximum floodwater elevation of the fifty-year frequency flood (i.e., two-percent annual chance of flooding).

(c) The cumulative effect of proposed development cannot result in an increase in flood height in areas of the floodplain with no floodway designated. When it appears that the cumulative effect of proposed development in such an area may increase the flood height, the Town Building Inspector or other duly authorized representative of the Town shall require the submission of a detailed hydrologic and hydraulic engineering study evaluating such effects, and review the conclusions of that study in consultation with the Town Engineer in determining whether the applicant for a permit has demonstrated compliance with the requirements of this section.

(3) General Floodplain (GF). The General Floodplain Subdistrict shall include those areas as determined by the Federal Emergency Management Agency and Flood Insurance Study or by other agencies, and include those areas designated as Zone A as shown on the Flood Insurance Rate Map (FIRM). The following specific development criteria apply to lands located in the General Floodplain Subdistrict:

(a) All building sites are required to be improved in such a manner that a structure's floor elevation is constructed a minimum of two feet above the base flood elevation (BFE) as determined by historical flood height information, or as determined by a detailed hydrologic and hydraulic engineering study as specified in § 82-12F of the Code of the Town of New Paltz, if required.

(b) When no floodway or base flood elevation (BFE) is available or specifically required in accordance with the conditions specified in § 82-12G of the Code of the Town of New Paltz, or when no historical flood height information is available, and when submission of site elevation survey data to demonstrate the likelihood the site is within or outside of the floodplain is not deemed necessary by the Building Inspector, the lowest floor (including basement) of a dwelling shall be elevated at least three feet above the highest adjacent grade.

[3]:Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

E. Permitted uses: All uses so designated for the Floodplain District as shown on the Schedule of Permitted Uses of § 140-8B of Article II of Chapter 140 of the Code of the Town of New Paltz, subject to the following prohibitions and restrictions:

(1) Any use of lands is permitted which does not involve a structure, a fence, an addition to the outside dimensions of an existing structure (including a fence) or an obstruction to flood flows such as fill, excavation or fixed storage of materials or equipment.

(2) Any use of land involving the construction of new structures, a fence, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure (including a fence) or obstructions such as fill or fixed storage of materials or equipment, provided these activities are located on land within the Flood Fringe (FF) or areas of the General Floodplain (GF) portion of the floodplain, in compliance with the location and elevation restrictions as specified herein. These uses shall be subject to the development standards and criteria of Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz and Subsection G of these Floodplain District regulations.

F. Prohibited uses.

(1) In all subdistricts, the following critical facilities shall be strictly prohibited:

(a) Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

(b) Solid waste landfills and solid waste transfer station facilities.

(c) Hospitals, nursing homes, and types of assisted living housing similar to group homes and age-restricted housing which may have occupants who may not be sufficiently mobile to avoid injury or death during a flood.

(d) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operation centers that are needed for flood response activities before, during and after a flood.

(e) Public and private utility facilities such as electrical power generating facilities and substations, telephone equipment buildings and the like that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood. This prohibition is not intended to apply to stormwater management facilities, fuel storage tanks, water supplies and wastewater treatment and disposal systems that specifically comply with the NFIP, the New York State Uniform Fire Prevention and Building Code[4] and all federal, state and/or local governmental and/or agency statutes, ordinances, laws and rules provided for the prevention of flood damage and flood hazards.

[4]:Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

(2) No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or of any other drainage facility or drainage system.

(3) No use shall be permitted which will alter the flow pattern of a watercourse area, result in the deterioration of water quality or impairment of best usage of waters, or reduce the flood-carrying capacities of watercourses.

(4) No use shall be permitted that would decrease stormwater retention capabilities, increase the rate of discharge of surface water runoff, or result in an increase in siltation of surface water bodies and adjacent areas.

G. Standards and requirements.

(1) All new residential buildings located within the Flood Fringe (FF) Subdistrict ~~shall that~~ meet the standards and criteria of Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz. ~~shall be elevated on compacted fill material.~~

~~(2) All new residential principal structures that are located in the Flood Fringe (FF) Subdistrict must provide for readily available and useable vehicular access at or above an elevation not more than 1.5 feet below the base flood elevation (BFE) at all points between the structure and a public or private roadway which provides access to the structure and at all points along the surface of the public or private roadway that provides access to the residential lot.~~

~~(23)~~ All new nonresidential commercial or light industrial buildings located within the Flood Fringe (FF) Subdistrict ~~that shall~~ meet the standards and criteria of Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz ~~shall be elevated on compacted fill material or shall be floodproofed~~. An architect's or engineer's certification that the nonresidential building or structure has been designed and constructed in compliance with FEMA and the New York State Uniform Fire Prevention and Building Code[5] standards and requirements must be provided, as applicable. No storage of materials shall be allowed below the base flood elevation (BFE).

[5]:Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

~~(4) All new nonresidential commercial or light industrial land uses that are located in the Flood Fringe (FF) Subdistrict must provide for readily available and useable vehicular access at or above an elevation not more than 0.5 foot below the base flood elevation (BFE) at all points between the nonresidential structure and a public or private roadway which provides access to the structure and at all points along the surface of the public or private roadway that provides access to the property on which the nonresidential commercial or light industrial land use is located.~~

(53) Compensatory storage. Whenever any portion of a floodplain is authorized for development, the volume of space occupied by any authorized fill or structure that will be located below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavation shall be constructed to drain freely to the watercourse. No area below the water line of a pond or other body of water or below the normal elevation at which groundwater is found can be credited as compensating excavation.

(64) Incidental fill placement. The volume of fill materials to be placed in the floodplain shall be minimized to the extent practicable. With the exception of the fill placed above the existing natural ground elevation that is required to construct the immediate building site for the principal structure, wastewater treatment system and the required access to the residence, and excepting fill materials used for operations and activities of agriculture as defined in § 44-3 of the Code of the Town of New Paltz, additional fill materials placed above the existing natural ground elevation in the floodplain shall not exceed ~~20~~ 40 cubic yards per building site, unless otherwise specifically allowed by the Town Building Inspector.

(57) Individual well water supplies shall be designed and constructed to prevent any contamination from inundation by floodwaters and a licensed engineer shall certify that the system was constructed in accordance with a design approved by the Health Department, or if such approval is not required, acceptable to the Town Engineer.

(68) New or replacement on-site subsurface wastewater disposal systems should be located outside floodplain areas whenever possible, and those systems that must be located within floodplain areas shall be elevated such that the minimum ground surface elevation of the on-site subsurface wastewater disposal system shall be a minimum of three feet above the base flood elevation (BFE) and a licensed engineer shall certify that the system was constructed in accordance with a design approved by the Health Department, or if such approval is not required, acceptable to the Town Engineer.

(79) Subsurface wastewater disposal systems shall not be located closer than 100 feet to the natural bank of a perennial or intermittent stream.

(810) Residential buildings placed on fill within Zones AE, ~~A0~~, or AH of the floodplain shall be provided with well compacted fill materials necessary to establish a minimum ground elevation at the building's foundation that is a minimum of 1.0 foot above the base flood elevation (BFE), and that a minimum slope of 1.5% shall be required for drainage away from the building foundation for a minimum distance of 25 feet. Minimum requirements for soil fill compaction shall be 90% maximum dry density as

determined by the Standard Proctor (ASTM D 698) test method. Laboratory soil density compaction test results shall be submitted to and accepted by the Building Inspector to demonstrate the required compliance for fill materials placement.

~~(911)~~ Residential buildings placed on fill within Zone A of the floodplain shall be provided with well-compacted fill materials necessary to establish a minimum ground elevation at the building's foundation that is 1.0 foot below the building's floor elevation, said building floor elevation being established at the height specified in the standards and criteria of Chapter 82, Flood Damage Prevention, §§ 82-16 and 82-19 of the Code of the Town of New Paltz. A slope of 1.5% shall be required for drainage away from the building foundation for a minimum distance of 25 feet.

~~(1012)~~ For the construction of new buildings and/or a substantial improvement to structures on fill within the floodplain, the volume of fill materials shall be minimized to the extent practicable, well compacted, and stabilized in an acceptable manner that will resist wave action.

~~(1113)~~ The lowest floor of building extensions and additions outside the footprint of the original building shall be required to be elevated above the base flood elevation (BFE), as specified herein, or alternatively floodproofed in the case of nonresidential building extensions and/or additions.

~~(1214)~~ Electrical services, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

~~(1315)~~ Stormwater management facilities shall be required to ensure that the rate of runoff discharge from the site does not increase above predevelopment conditions.

~~(1416)~~ All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to the applicable state or local anchoring requirements for resisting wind forces.

H. Nonconforming uses and structures.

(1) Except as provided hereinafter with respect to certain uses, any lawful use of a building, structure, lot or lands located within the Floodplain District which existed on the effective date of this section, or which existed at the time of any subsequent amendment thereto which applied to such use, may be continued indefinitely, regardless of the change of title, possession or occupancy or right thereof, notwithstanding that such use of the building, structure, lot or lands does not thereafter conform to the provisions of this section.

~~(2) Any lawfully existing parcel of land located within the Floodplain District which is unimproved and which existed on the effective date of this section may be developed with one single family principal residence and accessory structures which comply with the Code of the Town of New Paltz; provided, however, that the criteria regarding minimum access provisions in §§ 140-19G(2), 82-16C and 82-16D shall not apply.~~

(~~3~~2) Lawfully existing parcels of land located within the Floodplain District which are unimproved and which existed on the effective date of this section that are subsequently subdivided for the purpose of creating additional lots must comply with the standards and criteria of this section, Chapter 121 and Chapter 82 of the Code of the Town of New Paltz, ~~including compliance with requirements for readily available and useable access.~~

~~(4) No substantial improvement, as defined in Subsection C of this section, extension and/or relocation shall be permitted for existing dwellings and/or accessory structures which are located within the Floodplain District that do not conform to the provisions of this section.~~

(~~5~~3) If any existing use or existing structure located within the Floodplain District is substantially damaged, as defined in Subsection C of this section, it shall not be reconstructed except in conformity with the provisions of this section.

(~~6~~4) No existing nonconforming dwelling which is located within the Floodplain District shall be enlarged such that the living area of such dwelling, excluding basement, shall ~~increase be increased, unless the enlarged facilities are constructed in compliance with the provisions of this section, Chapter 82 of the Code of the Town of New Paltz and the Uniform fire Prevention and Building Code. by more than 20%, unless the enlarged facilities are constructed in compliance with the provisions of this section.~~

(~~7~~5) All structural alterations and/or additions to existing dwellings and/or accessory structures located within the Floodplain District shall be designed in all respects in compliance with the FEMA National Flood Insurance Program for new construction and the New York State Uniform Fire Prevention and Building Code[6] standards and requirements at the time of issuance of a building permit.

[6]:Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

[1]:Editor's Note: Section 3 of this local law provided that it was the legislative intent of this local law to supersede Article 16 of the Town Law, §§ 261 through 285, inclusive, and any other provision of law that the Town may supercede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York.

Chapter 121

Subdivision of Land

§ 121-21

Streets.

A. General objectives. No streets shall be built without prior approval of the Planning Board. Streets shall be of sufficient width, suitably graded and located and adequately constructed to accommodate the

prospective traffic and to afford adequate light and air, to facilitate fire protection and to provide access for fire-fighting, snow removal and other road maintenance equipment and shall be coordinated so as to compose a convenient system properly related to the proposals shown on the Master Plan. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties, and no property shall be rendered inaccessible from an existing public street or from a proposed street in a subdivision for which a completion bond has been posted.

B. Arrangement. The arrangement of streets in the subdivision shall provide for the entrance and continuation of principal streets from adjoining subdivisions and for the extension of principal streets into adjoining land which has not yet been subdivided. Such arrangement shall be required in order to facilitate fire protection, movement of traffic and the construction or extension, currently or as needed in the future, of necessary utilities and public services, such as sewers, water and drainage facilities.

C. Street widths.

(1) Streets shall have the following minimum right-of-way and minimum paving widths:

Shoulders

Right-of-Way

(feet)

Paving Width

(feet)

Right

(feet)

Left

(feet)

Collector streets

60

24

10

10

Minor streets

50

24

6

6

(2) The amount of street width apportioned to planting strips and sidewalks may vary with the character of the proposed subdivision and shall be subject to the approval of the Planning Board but, in general, should follow the requirements of § 121-22.

D. Drains, culverts and ditches. All drains, culverts, ditches and other necessary street drainage improvements required by the Planning Board shall provide adequate drainage of all roads and other public lands, shall conform to the Town's specifications and shall be acceptable to the Superintendent of Highways. The installation of these improvements shall be at the expense of the subdivider.

E. Arterial streets. Where the proposed subdivision contains or is adjacent to an existing or proposed arterial street, the Planning Board may require service streets, dead-end streets, reverse-frontage lots, screen planting and other treatment to protect adjacent properties, to separate arterial and local traffic and to create lots suitable for the appropriate use of the land between the streets and the right-of-way of the arterial street. Arterial streets within a floodplain area shall be constructed to a minimum elevation that is not more than 0.5 foot below the base flood elevation.

[Amended 5-20-2010 by L.L. No. 2-2010]

F. Minor streets. Minor streets shall be laid out in a manner to discourage their use by through traffic. Minor and collector street openings onto an arterial road shall normally be at least 500 feet apart. Minor streets within a floodplain area shall be constructed to a minimum elevation that is not more than 1.5 feet below the base flood elevation.

[Amended 5-20-2010 by L.L. No. 2-2010]

G. Street connections. Subdivisions containing 50 lots or more shall have at least two connections with existing streets.

H. Driveway access.

[Added 5-20-2010 by L.L. No. 2-2010[1]]

(1) Wherever possible, lots shall be laid out so that driveways have access to a street which is intended to carry the least traffic.

(2) Within floodplain areas, all driveways must comply with Chapter 140-19 and Chapter 82 of the Code of the Town of New Paltz ~~the minimum elevation of a driveway which provides access to a principal structure shall be constructed no more than 1.5 feet below the base flood elevation.~~

[1]:Editor's Note: This local law also provided for the redesignation of former Subsections H through T and Subsections I through U, respectively.

I. Grades and curves.

(1)

Grades of all streets shall conform to the general terrain and shall be no less than 1/2 of 1% nor more than 8%, except that minor streets with grades up to 10% may be approved by the Planning Board. A combination of steep grades and curved streets shall be avoided.

(2) All changes in grade shall be connected by vertical curves of such length and radius as will meet with the approval of the Superintendent of Highways, but in no case shall the following minimum standards be violated:

Type of Street

Minimum Length of Vertical Curves

(feet)

Minimum Sight Distance

(feet)

Collector streets

200, but not less than 30 for each 1% algebraic difference of grade

250

Minor streets

100, but not less than 20 for each 1% algebraic difference of grade

100

(3) All corners of pavement at street intersections shall be rounded by curves of at least 25 feet of radius. The corner property lines also shall be rounded so as to maintain a margin between the street curb and the property line equal to that along the minor intersecting street.

(4) In general, street lines deflecting from each other at any one point more than 10° shall be connected with a curve, the radius of which, for the inner pavement lines, shall be no less than as follows:

(a) Collector streets: 250 feet.

(b) Minor streets: 100 feet.

(5) The outer street line in each case shall be concentric with the inner street line.

(6) Wherever possible, reverse curves shall be separated with tangents at least 100 feet long.

J. Street intersections.

(1) Intersection of streets shall be at angles of approximately 90° but in no case shall two streets intersect at any angle smaller than 60°. To achieve this, an oblique street should be curved when approaching an intersection.

(2) On a corner lot in any residence district, no fence, wall, hedge, structure or planting more than 2 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting pavement lines or their projections where corners are rounded and a straight line joining the pavement lines at points 50 feet distance from their point of intersection. Land at the corners of intersecting streets shall be graded so as not to exceed in elevation, at any point, the surface of an imaginary triangular plane established as follows: the apex shall be at a point 2 1/2 feet above the intersection of the street center lines; the other two corners shall be a vertical distance of 2 1/2 feet above points 100 feet from the apex along the center line of the intersecting streets.

K. Street jogs. Street jogs with center-line offsets of less than 150 feet shall not be permitted.

L. Dead-end streets. No dead-end streets without proper turnarounds are permitted.

M. Culs-de-sac. Culs-de-sac shall not exceed 750 feet in length, measured from the center-line of the continuous street providing the only access to the cul-de-sac, along the center-line of the cul-de-sac, to the center of the turnaround or, if the cul-de-sac has several branches, to the center of the farthest turnaround. The cul-de-sac shall terminate in a circular turnaround having a minimum radius of 50 feet for the outside curb at the closed end.

N. Easements in culs-de-sac. Where needed or desirable, the Planning Board may require the reservation of a twenty-foot-wide easement at the end of culs-de-sac to provide for continuation of pedestrian traffic and utilities into the next streets.

O. Street names. All streets shown on the preliminary layout or the subdivision plat shall be named, and all street names shall be substantially different in order not to be confused in sound or spelling with present street names in the Town of New Paltz, except that streets which join or align with streets of an abutting subdivision or area shall bear the same name.

P. Street signs. Street signs shall be installed at the expense of the developer at such times as the grading and paving of the highway or street is completed and with the approval of the Planning Board and Town Highway Superintendent.

Q. Clearing and grading. The right-of-way shall be completely cleared of all brush and scrub trees and completely graded for its entire width so that additional work by the Town of this nature will not be necessary.

R. Subbase and paving. Any unsatisfactory material within the limits of the proposed pavement shall be removed, and the proposed road alignment shall be filled and compacted with not less than 12 inches of hard shale, well-graded gravel or quarry rubbish, as may be approved for the particular project by the

Superintendent of Highways. The subbase shall be covered with not less than six inches of approved hard shale or graded gravel. The wearing course shall consist of not less than two inches of No. 2 compacted stone. This stone shall be penetrated with one gallon per square yard of P434 oil and chipped with No. 1 stone, dragged and rolled and penetrated with 3/10 gallon per square yard of RC-2 oil, chipped with No. 1A stone and rolled lightly.

S. Street trees. Trees may be planted on both sides of a street, in locations approved by the Planning Board, except where unnecessary because of existing tree growth or undesirable because of special circumstances. They shall generally:

(1) Be located near the property line and be spaced approximately 50 feet apart, subject to variations made necessary by driveways and street corners as well as by the species of trees planted.

(2) Have a caliper of two inches or larger measured at a height of at least six inches above ground level and shall have a minimum height of 12 feet from the ground level. The species of trees shall be approved by the Planning Board.

T. Utility poles. Utility poles shall be set in such a location that they will normally be in back of the curblin and between the curblin and the theoretical sidewalk line. Where overhead utility wires are to exist, trees of a type that will grow to a limited height and not interfere with the wiring shall be used.

U. Release from requirements. Any deviation from any of the above specific engineering and construction requirements can only be made by a written release from the Town Superintendent of Highways, such release to accompany the owner's petition for the acceptance of the proposed Town highway.