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ORDINANCE AMENDMENT TO TITLE IV OF THE CITY OF NEW HAVEN'S CODE OF ORDINANCES (THE FLOOD DAMAGE PREVENTION ORDINANCE) TO CORRECT AN ERROR IN THE DEFINITION OF SUBSTANTIAL IMPROVEMENT AND UPDATE PROVISIONS FOR ABOVE-GROUND TANKS, FILL, AND DRY FLOOD PROOFING FOR NON-RESIDENTIAL STRUCTURES TO ALIGN WITH THE UNIFORM BUILDING CODE FOR THE STATE OF CONNECTICUT

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WHEREAS, the State of Connecticut (the "State") requires that local municipalities adopt regulations to prevent flood damage and promote public safety and the general welfare of its citizenry; and,

WHEREAS, the Board of Aldermen, on May 28, 1980 amended the Building Code of the City of New Haven (the "City") to add Title IV, which consisted of the establishment of Regulations relating to Flood Damage Prevention, and subsequently amended said Regulations on May 16, 1983 to comply with the requirements of the Federal Emergency Management Agency ("FEMA"); and,

WHEREAS, subsequently, the State enacted a Uniform Building Code which superseded the City's Building Code, and the Board of Aldermen on March 4, 1991 deleted Title IV of Volume III of the Code of Ordinances (the "City's Building Code") and substituted in its place the Flood Damage Prevention Ordinance (the "Ordinance"); and,

WHEREAS, The Board of Alders on June 4, 1998; October 4, 2010; July 5, 2013; April 4, 2016; September 5, 2023 and December 4, 2023 approved amendments to the Ordinance; and,

WHEREAS, the State adopted amendments to the Uniform Building Code in 2018 and 2022, which amendments require updates to the Ordinance; and,

WHEREAS, additional revisions align the Ordinance with both the Building Code and the City's goals to redevelop existing structures in the special flood hazard area for non-residential use.

NOW, THEREFORE, BE IT ORDAINED by the New Haven Board of Alders that the Ordinance be amended in the manner shown by the marked Ordinance attached hereto.

# **FLOOD DAMAGE PREVENTION ORDINANCE CITY OF NEW HAVEN, CONNECTICUT**

## **SECTION 1 - STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE, AND OBJECTIVES**

### **1.1 Statutory Authorization**

In Section 7-148(c)(7) of the General Statutes, the Legislature of the State of Connecticut delegates to local governmental units the responsibility of adopting regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Aldermen of the City of New Haven, Connecticut does ordain as follows:

### **1.2 Findings of Fact**

1.2.1 The flood hazard areas of New Haven are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

1.2.2 These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damages.

### **1.3 Statement of Purpose**

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

1.3.1 Restrict or prohibit 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;

1.3.2 Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

1.3.3 Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

1.3.4 Control filling, grading, dredging and other development which may increase erosion or flood damage; and

1.3.5 Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### 1.4 Objectives

The objectives of this ordinance are:

1.4.1 To protect human life and health;

1.4.2 To minimize expenditure of public money for costly flood control projects;

1.4.3 To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

1.4.4 To minimize prolonged business interruptions;

1.4.5 To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

1.4.6 To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blighted areas; and

1.4.7 To insure that potential home buyers are notified that property is in a flood hazard area.

## **SECTION 2 - DEFINITIONS**

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

2.1.1 Addition (to an existing building) - any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls in new construction.

2.1.2 Appeal - a request for a review of the Building Inspector's interpretation of any provision of this ordinance or a request for a Flood Damage Prevention (FDP) Variance.

2.1.3 Area of special flood hazard - the area within a community subject to one percent or greater chance of flooding in any given year.

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

2.1.5 Base flood elevation (BFE) - the elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

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

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

2.1.8 Building - any structure built for support, shelter, or enclosure for any occupancy or storage.

2.1.9 Coastal AE Zone - The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet during the base flood and seaward of the line labeled the "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

2.1.10 Coastal High Hazard Area - the area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or hurricane wave wash, designated on a FIRM as zone VE, V or Coastal AE.

2.1.11 Cost - as related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

2.1.12 Critical Facilities - Structures and institutions that are deemed by the local community and other jurisdictions as critical to the continuity of the community before, during, and after an event. Structures include, but are not limited to, schools, hospitals and healthcare facilities, police and fire stations, permanent emergency shelters and permanent emergency operations centers, jails and prisons, stormwater and wastewater management devices and facilities, and critical records storage.

2.1.13 Development - any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition,

or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

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

2.1.15 Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 19, 1980, the effective date of the floodplain management regulations adopted by the community.

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

2.1.17 Federal Emergency Management Agency (FEMA) - the federal agency that administers the National Flood Insurance Program (NFIP).

2.1.18 Finished living space - as related to fully enclosed areas, a space that is, but is not limited to, heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair, or replace. A fully enclosed area below the BFE plus two feet of freeboard shall not have finished living space and needs to be designed for exposure to flood forces and shall only be used for parking, building access or limited storage.

2.1.19 Flood or flooding - a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

2.1.20 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 applicable risk premium zones.

2.1.21 Flood Insurance Study - the official report of the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

2.1.22 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 one foot.

2.1.23 Functionally dependent use or facility - a use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to the water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

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

2.1.25 Historic structure - any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

2.1.26 Limit of Moderate Wave Action (LiMWA) - The landward limit of the 1.5-foot breaking wave within a Coastal AE Zone. These areas are seaward of the line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

2.1.27 Lowest floor - the lowest floor of the lowest enclosed area (including basement). 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. These areas must be designed in accordance with the definition of "elevated building" and Section 5.3.2.

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

2.1.29 Manufactured home park or subdivision - a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

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

2.1.31 National Geodetic Vertical Datum (NGVD) as corrected in 1988 - a vertical control used as a reference for establishing varying elevations within the floodplain.

2.1.32 New construction - structures for which the "start of construction" commenced on or after June 19, 1980, the effective date of the floodplain management regulations, and includes any subsequent improvements to such structures.

2.1.33 New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 19, 1980, the effective date of the floodplain management regulations adopted by the community.

2.1.34 Recreational vehicle - a vehicle which is a building on a chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and which is not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

2.1.35 Sand dunes - naturally occurring accumulations of sand in ridges or mounds landward of the beach.

2.1.36 Start of construction, [for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)], includes substantial improvement - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. 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.

2.1.37 Structure - a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

2.1.38 Substantial damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the value of the structure immediately before the damage occurred as appraised by the City of New Haven Assessor's Office. "Substantial damage" also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the value of the structure immediately before the damaged occurred as appraised by the City of New Haven's Assessors Office.

2.1.39 Substantial improvement - any combination of repairs, reconstruction, alteration, or improvements to a structure taking place over a ten-year period in which the cumulative cost equals or exceeds fifty percent (50%) of the value of the structure before the "start of construction" of the improvement as appraised by the City of New Haven's Assessors Office. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. 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 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.

2.1.40 Variance - a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship. Such hardship shall be based on the unusual physical characteristics of the property in question which are not shared by adjacent parcels; hardship shall not be based on the structure, or on economic or personal hardships.

2.1.41 Violation - failure of a structure or other development to be fully compliant with the City's Flood Damage Prevention Ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

2.1.42 Water Surface Elevation - the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## **SECTION 3 - GENERAL PROVISIONS**

### **3.1 Lands to Which this Ordinance Applies**

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of New Haven.



### 3.2 Basis for Establishing the Areas of special flood hazards

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for New Haven County, Connecticut, dated July 8, 2013, and accompanying Flood Insurance Rate Maps (FIRM), dated July 8, 2013 (Panels 09009C0429J, 09009C0433J, 09009C0434J, 09009C0437J, 09009C0439J, 09009C0441J, 09009C0442J, 09009C0443J, 09009C0444J, 09009C0453J, 09009C0557J), and December 17, 2010 (Panels 09009C0426H, 09009C0427H, 09009C0428H, 09009C0436H, 09009C0461H, 09009C0556H), and other supporting data applicable to the City of New Haven, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this ordinance. Since mapping is legally adopted by reference into this ordinance it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as zones A, AE, and VE, including areas designated as a floodway on a FIRM. Zone VE is also identified as a coastal high hazard area. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the FIS. BFEs provided on a FIRM are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. The FIS and FIRM are on file with the city/town clerk.

### 3.3 Establishment of the Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities to be undertaken in a Special Flood Hazard Area.

### 3.4 Compliance

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### 3.5 Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Any use in existence at the time of the adoption of this ordinance may continue in its current form and footprint; however, any expansion, extension, structural alteration or location change shall trigger full compliance with this ordinance. Where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### 3.6 Interpretation

In the interpretation and application of this ordinance all provisions shall be: 1) considered as minimum requirements; 2) liberally construed in favor of the governing body, and; 3) deemed neither to limit nor repeal any other powers granted under state statutes.

### 3.7 Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increase by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of New Haven or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **SECTION 4 - ADMINISTRATION**

### **4.1 Designation of the Ordinance Administrator**

The Building Inspector is hereby appointed to administer and implement the provisions of this ordinance.

### **4.2 Certification**

Where required under this ordinance, a registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance. Such certification must be provided to the Building Inspector.

### **4.3 Permit Procedures**

Prior to any development activities in the Flood Damage Prevention District, application for a Floodplain Development Permit shall be made on forms furnished by the City of New Haven. Such application shall be accompanied by two sets of plans drawn to scale showing, at a minimum, the property lines and location of the parcel, existing and proposed contours; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. The following information shall also be submitted to the Building Inspector.

#### **4.3.1 Application Stage**

4.3.1.1 Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures (Sections 5.1.1 and 5.3.2);

4.3.1.3 Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

4.3.1.4 A statement as to whether or not the proposed alterations to an existing structure meet the criteria of the substantial improvement definition (Section 2.1.39);

4.3.1.5 A statement as to whether there will be dry access to the structure during the 100-year storm event;

4.3.1.7 Certification as to the provisions of Section 5.3.2 governing fully-enclosed areas below base flood elevation, if the minimum design criteria in Section 5.3.2.1 - 5.3.2.3 is not used;

4.3.1.8 Certification as to floodway heights, as required by Section 5.2.1 and 5.3.3;

4.3.1.9 Certification as to breakaway walls. If the design criteria stated in subsection 5.3.5.7 is not utilized then the design and construction methods must be certified as explained in subsection 5.3.5.7.1 and 5.3.5.7.2;

4.3.1.10 Certification as to the structural anchoring provisions of subsection 5.3.5.3 and 5.3.5.6

4.3.2 Construction Stage. Upon completion of the applicable portion of construction the applicant shall provide the Building Inspector with an elevation certificate prepared by a Connecticut licensed land surveyor, engineer or architect verifying the as-built lowest floor elevation, defined as the top of the lowest floor (including basement) in A zones (Sections 5.3.1.1 and 5.3.1.2.1); defined as the lowest point of the lowest structural horizontal member (excluding pilings or columns) in Coastal V zones and Coastal A zones. (Section 5.3.4.2)

4.3.3 Compliance. Deficiencies in the lowest floor elevations shall be corrected by the permit holder immediately and prior to further progressive work being performed to proceed. Failure to submit an acceptable survey or failure to make corrections required hereby shall be cause for issuance of a stop-work order.

#### 4.4 Duties and Responsibilities of the Building Inspector

In the administration of this ordinance, the Building Inspector shall perform the following duties, among others:

4.4.1 Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

4.4.2 Review all development permits to assure that the requirements of this ordinance have been satisfied.

4.4.3 Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with the Flood Development Permit. Such additional permit requirements may include, but not be limited to: Stream Channel Encroachment Line Permit, Coastal Area Management Permit, Water Diversion Permit, Dam Safety Permit, and Corps of Engineers 404 Permit.

4.4.4 Notify the regional planning agency and the affected municipality at least 35 days prior to the public hearing if any change of regulation or use of a flood zone will affect an area within 500 feet of another municipality.

4.4.5 Notify adjacent communities and the Department of Energy and Environmental Protection, Inland Water Resources Management Division prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

4.4.6 Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

4.4.7 Record the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 5.1.1.

4.4.9 Obtain and maintain all certifications required under this ordinance and assure that they meet the standards of Section 4.2 hereof.

4.4.10 Make the necessary interpretation, where needed, as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

4.4.11 Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer the provisions of Section 5.1 and 5.3, when base flood elevation data or floodway data have not be provided in accordance with Article 3, Section B.

4.4.12 Maintain all records pertaining to the provisions of this ordinance.

4.4.13 Review plans for adequacy of breakaway walls in accordance with subsection 5.3.5.7 – 5.3.5.10.

## **SECTION 5 - PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **5.1 General Standards**

5.1.1 In all areas of special flood hazard the following provisions shall apply: New construction or substantial improvement of any structure shall have the lowest Finished Living Space elevated at least two feet above the base flood elevation. Fully enclosed areas built below the BFE shall only be used for parking, building access or egress, or limited storage in accordance with provisions in 5.3.2.

5.1.2 New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

5.1.3 New construction and substantial improvements shall be constructed with materials resistant to flood damage;

5.1.4 New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

5.1.5 Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within components during flooding conditions;

5.1.6 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

5.1.7 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters;

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

5.1.9 In any portion of a watercourse which is altered or relocated the flood carrying capacity shall be maintained;

5.1.10 Manufactured homes. New manufactured homes (including "mobile" homes and recreational vehicles placed on a site for one hundred eighty (180) consecutive days or longer), (including, but not limited to, manufactured homes located outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood) to be placed or substantially improved shall be:

5.1.10.1 Elevated so that the lowest floor is two feet above the base flood elevation;

5.1.10.2 Placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement, and hydrostatic and hydrodynamic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors;

5.1.10.3 Installed using methods and practices which minimize flood damage. Elevation construction standards include piling foundations placed no more than

10 feet apart, and the provision of reinforcement for piers more than six feet above ground level.

5.1.10.4 Adequate access and drainage should be provided.

5.1.11 Recreational vehicles. Recreational vehicles must be on site for fewer than one hundred eighty (180) consecutive days and be fully licensed and ready for highway use. or meet the elevation and anchoring requirements of a manufactured home. 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.

5.1.12 Compensatory storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100- year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

5.1.13 Equal conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

5.1.14 Underground storage tanks and above-ground storage tanks. New and expanded underground storage tanks are not permitted in the area of special flood hazard. Above-ground tanks shall be installed at or above base flood elevation plus two feet and shall be anchored to prevent flotation, collapse, and lateral movement. Anchored tanks must have the top of the fill pipe located at least two feet above the BFE and have a screw fill cap that does not allow for the infiltration of flood water.

5.1.15 Hazardous materials. All new development or substantial improvements with hazardous materials must follow the requirements and limits outlined in the current Connecticut State Building Code. The development or expansion of the following uses are prohibited in the Special Flood Hazard Area.

5.1.15.1 Motor vehicle maintenance, recycling, storage, sales or fueling

5.1.15.2

All uses outlined in the Zoning Ordinance of the City of New Haven, Article V. Section 42 Use Regulations for businesses and industrial districts in Table 3 under “T. Industrial,” except Manufacturing, subject to other provisions of this and not analogous to any use specifically mentioned in this ordinance and in particular § 46, outdoor activities & storage, waste, dumping, quarries and § 48, performance standards; Artisan Manufacturing; and antenna or wireless sites and transmitting towers for radio or television stations.

5.1.15.3 Oil, fuel, or gas refining or storage

5.1.15.4 Laundry or dry cleaning

5.1.16 Critical facilities. New critical facilities, with the exception of wastewater and stormwater management devices and facilities and any other publicly-regulated utility, are not permitted in the area of special flood hazard (SFHA).

5.1.17 Portion of structure in flood zone. If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

5.1.18 Structures in two flood zones. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

5.1.19 No structures entirely or partially over water. New construction, substantial improvements, and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.

5.1.20 Prohibited Uses: The following uses are prohibited under all conditions in the Special Flood Hazard Area:

5.1.20.1 Uses that store, produce, or utilize hazardous materials as outlined in 5.1.15.

\_\_\_\_\_ 5.1.20.2 Critical facilities

\_\_\_\_\_ 5.1.20.3 Salt storage piles

\_\_\_\_\_ 5.1.20.4 Underground storage tanks and aboveground storage tanks

5.1.20.5 All solid waste uses as defined in Section 46 of the New Haven Zoning Ordinance, as amended from time to time.

5.2 Standards for Stream Without Established Base Flood Elevations and/or Flooding.

The Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source for requiring that new construction, substantial improvements, or other development in Zone A on the Community's FIRM meet the standards of Section 5.1 and 5.3.

5.2.1 In A zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.

5.2.2 Should data be required and/or provided, the City shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1) foot at any point along the watercourse.

5.3 Specific Standards The following provisions shall apply to all areas of special flood hazard addition to all general standards contained in Section 5.1:

5.3.1 Lowest Floor Renovations. Regardless of whether a project meets the “substantial improvement” threshold, under no circumstances should a non-residential use below the BFE plus two feet requirement be converted into a residential use.

5.3.2 Fully Enclosed Areas Below Base Flood Elevation. New construction or substantial improvements of buildings that include fully-enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the automatic entry and exit of flood waters to equalize hydrostatic flood forces on exterior walls. An enclosed area below the base flood elevation that meets the design criteria specified below is not considered the lowest floor of the structure.

5.3.2..1 Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

5.3.2.1.1 Provide 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;



5.3.2.1.2 The bottom of all openings shall be no higher than one foot above the slab elevation and set at or above the exterior ground elevation so as to permit free drainage away from the structure; and

5.3.2.1.3 Openings shall be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

5.3.2.3.2 Electrical, plumbing, and other utility connections are prohibited below two feet above the base flood elevation; and

5.3.2.3.3 Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

5.3.3 Floodways. Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and have erosion potential, no encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practices that proposed encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge.

5.3.4 Dry Flood Proofing In lieu of being elevated, non-residential structures may be dry flood-proofed to two (2.0) feet above the BFE provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this section. Such certification shall be provided to the Building Inspector on the FEMA Floodproofing Certificate, Form 81-65.

5.3.5 Other.

5.3.5.1 All new construction or substantial improvement shall be located 25 feet landward of the reach of the Connecticut Coastal Jurisdiction Line as defined in Connecticut General Statutes 22a-359 as amended by Public Act 12-101;

5.3.5.2 All new construction or substantial improvement shall be elevated so that the bottom of the lowest structural horizontal member (excluding pilings or columns) is located no lower than two feet above the base flood level, with all space below the lowest supporting member open so as not to impede the flow of water or dry flood proofed;

5.3.5.3 All new construction or substantial improvement shall be securely anchored on pilings or columns;

5.3.5.4 All pilings or columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. The anchoring and support system shall be designed with wind and water loading values which equal or exceed the 100 year mean recurrence interval (one percent annual chance floods and winds);

5.3.5.5 A registered professional engineer or architect shall review and/or develop structural design specifications and plans for construction and shall certify that the design, specifications and methods of construction are in accord with acceptable standards of practice for meeting the provisions contained in Sections 5.3 of this ordinance;

5.3.5.6 There shall be no alteration of sand dunes which would increase potential flood damage;

5.3.5.7 Non-supporting breakaway walls, lattice work or mesh screening may be allowed below the base flood elevation provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which it is to be used and provided the following specific design specifications are met:

5.3.5.7.1 Design safe loading resistance of each wall shall not be less than 10 nor more than 20 pounds per square foot; or 5.3.5.7.2 If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall

not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Maximum wind and water loading values to be used in this determination shall each have one percent (1%) chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

5.3.5.8 If breakaway walls, lattice work or screening are utilized, the resulting enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

5.3.5.9 Prior to construction, plans for any structures that will have breakaway walls, lattice work or screening must be submitted to the Building Inspector for approval.

5.3.5.10 Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with breakaway walls, lattice work or screening as provided for in Sections 5.3.5.7 - 5.3.5.8.

#### 5.4 Specific Standards in Coastal High Hazard Areas, Zones VE and Coastal AE

Located within the Special Flood Hazard Areas (SFHA) are areas designated as Coastal High Hazard Areas. These areas have additional flood hazards associated with wave wash, erosion scour, and high wind. Therefore the following provisions shall apply:

5.4.1 Fill. There shall be no fill used as structural support. Minor grading and the placement of minor quantities of non-compacted fill shall be permitted for landscaping and drainage purposes under and around buildings, and for support of parking slabs, pool decks, patios and walkways installed at current grade. The fill must wash out from storm surge, thereby rendering the building free of obstruction, prior to generating excessive loading forces, ramping effects, or wave deflection.

5.4.1.1 The Building Inspector shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

5.4.1.2 Particle composition of fill material does not have a tendency for excessive natural compaction; and

5.4.1.3 Volume and distribution of fill will not cause wave deflection to adjacent properties; and

5.4.1.4 Slope of fill will not cause wave run-up or ramping.

## **SECTION 6 - VARIANCE PROCEDURES**

6.1 The New Haven City Plan Commission (hereafter Commission) as established by the City of New Haven shall hear and decide appeals and requests for Flood Damage Prevention (FDP) Variances from the requirements of this ordinance.

6.1.1 Applications for Appeals shall be secured from and filed at the Office of the

Commission, or its designee, with the required fee.

6.1.2 Application Fee for Appeals. A filing for an appeal shall be accompanied by a fee as specified in Section 17-22 of the New Haven Code of Ordinances.

6.1.3 Referral to Building Inspector. Following receipt of an Application for Appeal the Commission may request an advisory report from the Building Inspector, who may return comments on the appeal to the Commission with fifteen (15) days of the receipt of the Application for Appeal. Such comments shall be advisory only.

6.1.4 Building Code Modification by State Building Inspector May be Required. The grant of an FDP Variance by the Commission may not be a final action. If a modification of the provisions of the State Building Code is necessary, a separate application to the State for a Code Modification will be required.

6.2 The Commission shall hear and decide appeals when it is alleged there is an error in any requirement decision, or determination made by the Building Inspector in the enforcement or administration of this ordinance.

6.3 Any person aggrieved by the decision of the Commission or any person owning land which abuts or is within a radius of one hundred (100) feet of the land in question may appeal to the State Superior Court of the County of New Haven, as provided in Section 8-8 of the General Statutes within fifteen days after notice of the decision is published in a newspaper having a substantial circulation in City of New Haven

#### 6.4 Specific Situation Variances

6.4.1 Buildings on the Historic Register. FDP Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, or a local inventory of historic places without regard to the procedures set forth in the remainder of this section, except for Section 6.5.3.1 - 6.5.3.4 and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical character.

6.4.2 Pre-Existing, Small Lot Location. FDP Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of one-half acre or less in size which is contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with Section 6.5.3.1 - 6.5.3.4.

6.4.3 Functionally-Dependent Uses. FDP Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety and meets the requirements of Section 6.5.3.1 - 6.5.3.4.

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

#### 6.5 Considerations for Granting of FDP Variances

6.5.1 In passing upon applications, the Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

6.5.1.1 The danger that materials may be swept onto other lands to the injury of others;

6.5.1.2 The danger to life and property due to flooding or erosion damage;

6.5.1.3 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

6.5.1.4 The importance of the services provided by the proposed facility to the community;

6.5.1.5 The necessity of the facility of a waterfront location, in the case of a functionally dependent facility;

6.5.1.6 The availability of alternative locations which are not subject to flooding or erosion damage for the proposed use;

6.5.1.7 The compatibility of the proposed use with existing and anticipated development;

6.5.1.8 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

6.5.1.9 The safety of access to the property in times of flood for ordinary and emergency vehicles;

6.5.1.10 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

6.5.1.11 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.

6.5.2 Upon consideration of the factors listed above, and the purposes of the ordinance, the Commission may attach such conditions to the granting of FDP Variances as it deems necessary to further the purposes of this ordinance.

### 6.5.3 Conditions for Variances

6.5.3.1 FDP Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and in the instance of a historical building, a determination that the FDP Variance is the minimum necessary as not to destroy the historic character and design of the building;

6.5.3.2 FDP Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6.5.3.3 Any applicant to whom a FDP Variance is granted shall be given a written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood

insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation

6.5.3.4 Records of all appeal actions shall be maintained and any FDP Variances shall be reported to the Federal Emergency Management Agency upon request.

## **SECTION 7 - PENALTIES FOR VIOLATION**

Any person who violates this ordinance or fails to comply with any of its requirements shall be fined a penalty of \$250 per day. Nothing herein contained shall prevent the City of New Haven from taking such lawful action as is necessary to prevent or remedy any violation.