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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of WAYLAND (Steuben County)
Town
~~Village~~

Local Law No. One of the year 1991

A local law for FLOOD DAMAGE PREVENTION

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation law, Article 36.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Wayland, Steuben County,
Town
~~Village~~ N.Y. as follows:

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

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

1.2 FINDINGS

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

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

1.3 OBJECTIVES

The objectives of this local law are:

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

SECTION 2.0 DEFINITIONS

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

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

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

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-30, A99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

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

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

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

"Building" see "Structure"

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

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

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

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

"Existing manufactured home park or subdivision" means 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 complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured 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).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Historic structure" means any structure that is:

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

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

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

"Manufactured home" means a structure, transportable in one or more sections,

which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

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

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 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".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

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

"New manufactured home park or subdivision" means 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 the effective date of floodplain management regulations adopted by a community.

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

"100-year flood" has the same meaning as "Base Flood".

"Recreational vehicle" means a vehicle which is:

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

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, including a gas or liquid

storage tank, that is principally above ground, as well as a manufactured home.

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

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

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

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

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

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

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified by the Federal Emergency Management Agency as follows: (COMPLETE ONLY ONE OF THE FOLLOWING THREE)

- (1) Flood Insurance Rate Map (~~single expense~~) No. 360784B,
Dated June 8, 1984.
- (2) Flood Insurance Rate Maps (multiple panels) enumerated on Map Index
No. _____, dated _____, 19____.
- (3) A scientific and engineering report entitled "Flood Insurance
Study, _____ of _____, New York,
_____ County" dated _____, 19____, with
Flood Insurance Rate Map/Maps enumerated on Map Index No. _____
dated _____, 19____ and where applicable Flood boundary-
Floodway Map/Maps enumerated on Map Index No. _____ dated
_____, 19____.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at _____
Wayland Town Clerk- #17 Main St., Village of Wayland, N.Y.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion

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

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Wayland from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

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

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

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

4.2 ESTABLISHMENT OF THE DEVELOPMENT PERMIT

A Floodplain Development Permit shall be obtained before the start of construction or any other development, including the placement or replacement of manufactured homes or recreational vehicles, within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 FEES

All applications for a floodplain development permit shall be

for Flood Inspection
accompanied by an application fee of \$10.00/_. In addition the
Town of Wayland reserves the right to
recover from the permittee all reasonable costs necessary for
review, approval, and inspection of this project.

4.2-2 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
- (c) when required, a certificate from a licensed professional engineer or architect that the utility flood proofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential floodproofed structure will meet the flood proofing criteria in Section 5.2-3; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-3 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review of all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review of all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review of all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent and other properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit

shall be granted consistent with the provisions of this local law.

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

- (4) Review of all development permits for compliance with the provisions of Section 5.1-5, ENCROACHMENTS.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

- (1) The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the areas of special flood hazard.
- (3) The Local Administrator shall use flood information from any other authoritative source, including historical

data, to establish flood elevations within the areas of special flood hazard when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without a development permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) All floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.3-7 INSPECTIONS

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

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) All other development occurring within the designated areas of special flood hazard will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

**SECTION 5.0
PROVISIONS FOR FLOOD HAZARD REDUCTION**

5.1 GENERAL STANDARDS

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

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated in accordance with Section 5.2-2.

Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

- (3) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated and anchored to resist flotation, collapse or lateral movement. Recreational vehicles shall be elevated in accordance with Section 5.2-2.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) greater than either 50 lots or 5 acres.

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine areas where no flood elevation data are available (unnumbered A Zones) shall be reviewed as set forth in Section 4.3-1(3), Permit Review, to determine the effects of the encroachment on the flood carrying capacity of the stream. The Local

Administrator may require submission of additional technical analyses and data necessary to complete the determination.

- (2) In all areas of special flood hazard in which base flood elevation data are available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data are provided or available pursuant to Section 4.3-2, the requirements of Section 5.3, FLOODWAYS, shall apply except as provided in Section 5.1-5 (4).
- (4) Notwithstanding any other provisions of this local law, certain development in zones A1-30, AE and AH may be permitted to increase the water surface elevation of the base flood (e.g. dams, levees, etc.) provided that the Town of Wayland endorses application to the Federal Emergency Management Agency (FEMA), the permit applicant provides all necessary data and analyses and pays all fees, and FEMA approval is received.
- (5) The Local Administrator shall require within zones AH and AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of residential structures shall:

- (1) in zones A1-30, AE and AH, have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) in all areas of special flood hazard, have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of 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:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- (3) within any AO zone, have the lowest floor (including

basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- (4) within any A zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.

5.2-2 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

- (1) A manufactured home that is placed or substantially improved on a site in an A1-30, AE or AH zone that is either:

- (i) outside of a manufactured home park or subdivision;
- (ii) in a new manufactured home park or subdivision as herein defined;
- (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
- (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (2) A manufactured home to be placed or substantially improved on a site located in a A1-30, AE, or AH zone, in a manufactured home park or subdivision, as herein defined, that is not subject to the provisions of Section 5.2-2(1) shall be elevated so that either:

- (i) the lowest floor of the manufactured home is at or above the base flood elevation, or
- (ii) 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.

- (3) New construction or substantial improvements of manufactured homes in zone A, where no base flood elevation data are available, shall be elevated at least three feet above the highest adjacent grade.

- (4) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated in accordance with Sections 5.2-2(1), 5.2-2(2) or 5.2-2(3).

- (5) Manufactured homes and recreational vehicles, on-site for longer than 180 consecutive days, with fully enclosed areas below the lowest floor, must meet the requirements of Section 5.2-1(2)

5.2-3 NON-RESIDENTIAL CONSTRUCTION

- (1) In zones A1-30, AE and AH, new construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either:

- (i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydro- static and hydrodynamic loads and the effects of buoyancy.
- (2) In an AO zone, all new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
 - (3) In an A zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.
 - (4) If the structure is to be elevated, fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically (without human intervention) equalize hydrostatic 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 a licensed architect or meet the following criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (5) If the structure is to be floodproofed:
 - (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.2-3(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

- (6) The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 or when applicable, Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any

increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0
VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Town Planning Board as established by the Town Board shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Town Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Town Planning Board, may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Town Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems

and streets and bridges.

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

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 11th day of March, 1991 by the
Town Board of the Town of
Wayland Steuben County,
New York, to be effective March 25, 1991.

John V. Malter - Supervisor

Martin J. Kimmel, Jr.

Lynn H. Shaver

James Wager

Victor Pirrung

SEAL

Ethelyn R. Shetter

ATTEST Wayland Town CLERK

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

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

I hereby certify that the local law annexed hereto, designated as local law No. One of 19 91.....
~~County~~
~~City~~ of Wayland..... was duly passed by the Town Board.....
~~Town~~ (Name of Legislative Body)
~~Village~~
on March 11..... 19 91..... in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
~~County~~
~~City~~ of was duly passed by the (Name of Legislative Body)
~~Town~~
~~Village~~
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
~~County~~
~~City~~ of was duly passed by the (Name of Legislative Body)
~~Town~~
~~Village~~
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive
general
thereon at the special election held on 19, in accordance with the applicable
annual provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
~~County~~
~~City~~ of was duly passed by the (Name of Legislative Body)
~~Town~~
~~Village~~
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of 19
in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
of the City of having been submitted to referendum pursuant to the
provisions of ~~§36~~^{§37} of the Municipal Home Rule Law, and having received the affirmative vote of a
majority of the qualified electors of such city voting thereon at the ~~special~~^{general} election held on
..... 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19
of the County of, State of New York, having been submitted to the Electors at the
General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the
Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors
of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county
considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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


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

Date: March 11, 1991

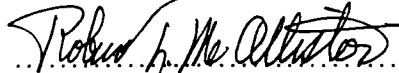
(Seal)

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

STATE OF NEW YORK

COUNTY OFSTEUBEN.....

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


.....
Signature
.....
Town Attorney
.....
Title

Date: March 13, 1991

County
City ofWayland.....
Town
Village

Attachment A

**MODEL FLOODPLAIN DEVELOPMENT
APPLICATION FORM**

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign): _____

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE _____

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

NAME	ADDRESS	TELEPHONE
APPLICANT	_____	_____
BUILDER	_____	_____
ENGINEER	_____	_____

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A sketch attached to this application showing the project location would be helpful.

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

- | ACTIVITY | STRUCTURE TYPE |
|--|--|
| ☐ New Structure | ☐ Residential (1-4 Family) |
| ☐ Addition | ☐ Residential (More than 4 Family) |
| ☐ Alteration | ☐ Non-residential (Floodproofing? ☐ Yes) |
| ☐ Relocation | ☐ Combined Use (Residential & Commercial) |
| ☐ Demolition | ☐ Manufactured (Mobile) Home (In Manu- |
| ☐ Replacement | factured Home Park? ☐ Yes) |

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- ☐ Fill ☐ Mining ☐ Drilling ☐ Grading
☐ Excavation (Except for Structural Development Checked Above)
☐ Watercourse Alteration (Including Dredging and Channel Modifications)
☐ Drainage Improvements (Including Culvert Work)
☐ Road, Street or Bridge Construction
☐ Subdivision (New or Expansion)
☐ Individual Water or Sewer System
☐ Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- ☐ Is NOT located in a Special Flood Hazard Area (Notify the applicant that the application review is complete and NO FLOODPLAIN DEVELOPMENT PERMIT IS REQUIRED).
- ☐ Is located in a Special Flood Hazard Area.
FIRM zone designation is _____
100-Year flood elevation at the site is: _____ Ft. NGVD (MSL)
☐ Unavailable
- ☐ The proposed development is located in a floodway.
FBFM Panel No. _____ Dated _____
- ☐ See Section 4 for additional instructions.

SIGNED _____ DATE _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

The applicant must submit the documents checked below before the application can be processed:

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- ☐ Development plans, drawn to scale, and specifications, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor and details of enclosures below the first floor.
Also, _____
- ☐ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- ☐ Plans showing the extent of watercourse relocation and/or landform alterations.
- ☐ Top of new fill elevation _____ Ft. NGVD (MSL).
- ☐ Floodproofing protection level (non-residential only) _____ Ft. NGVD (MSL). For floodproofed structures, applicant must attach certification from registered engineer or architect.
- ☐ Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood. A copy of all data and calculations supporting this finding must also be submitted.
- ☐ Other: _____

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

I have determined that the proposed activity: A. ☐ Is
B. ☐ Is not
in conformance with provisions of Local Law # _____, 19____. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.
If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

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

Conditions _____

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

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

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT. NGVD (MSL).
2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD (MSL).

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

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

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

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

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

Certificate of Compliance issued: DATE: _____ BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

CERTIFICATE OF COMPLIANCE
(Owner Must Retain This Certificate)

Premises located at: _____

Permit No. _____
Permit Date _____

Owner: _____
Address: _____

Check One:
___ New Building
___ Existing Building
___ Vacant Land

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

- a. Compliance is hereby certified with the requirements of Local Law # ____, 19 ____.
Signed: _____ Dated: _____
- b. Compliance is hereby certified with the requirements of Local Law # ____, 19 ____,
as modified by variance # _____, dated _____.
Signed: _____ Dated: _____



Thomas C. Jorling
Commissioner

March 19, 1991

Mr. John V. Malter
Supervisor, Town of Wayland
Box 118
Perkinsville, New York 14529

Dear Mr. Malter:

This office is in receipt of Local Law #1 of 1991 for the Town of Wayland entitled "Flood Damage Prevention" and find it acceptable for continued participation in the National Flood Insurance Program (NFIP).

Please forward to this office one copy of the Department of State "Local Law Acknowledgement" for Local Law #1 when received.

Sincerely,

Alton Knapp
Water Program Specialist II
Floodplain Management

AEK:jb
cc: Jerry Dobinson
Bob Ryczek

NYS DEPARTMENT OF STATE
BUREAU OF STATE RECORDS
162 Washington Avenue
Albany, NY 12231-0001

DATE: 3/22/91

MUNICIPALITY		
Town of Wayland		
LOCAL LAW(S) NO.	YEAR	FILING DATE
1	1991	3/19/91

Local Law Acknowledgment

☒ McAllister Law Offices
31 Main Street
Wayland, NY 14572

☐ The above-referenced material was received and filed by this office as indicated.

☐
DOS-236 (Rev. 6/90)

☐ Additional local law filing forms will be forwarded upon request.

