

Chapter 98
FLOODPLAINS

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**[HISTORY: Adopted by the Board of Trustees of the Village of Windsor 2-2-82 as L.L. No. 1-1982.
Amendments noted where applicable.]**

GENERAL REFERENCES

Floodplain management coordination - See Ch. 21.
Building construction - See Ch. 67.
Environmental quality review - See Ch. 85.
Trailers and trailer parks - See Ch. 182.
Zoning - See Ch. 200.

§ 98-1. Purpose and intent.

A. By this chapter, the Village of Windsor intends to comply with the provisions of the New York State Environmental Conservation Law and the Rules and Regulations of the National Flood Insurance Program for the regulation of floodplain management districts. This chapter supersedes and repeals Village of Windsor Local Law No. 1 of the year of 1975 which provided for such regulation on an interim basis.

B. The purpose and intent of the Floodplain Management District is to minimize the potential loss of life and property during periods of flooding by regulating the alteration and/or the development of those areas within the Floodplain Management District delineated on the Village of Windsor Zoning Map, as defined on the Flood Insurance Rate Map and in the Flood Insurance Study for the Village of Windsor. In promoting the general purpose and intent of these regulations, the specific intent of this chapter is to:

- (1) Control floodplain uses, such as clean fill (including rubble), storage of materials, structures, mining, dredging, filling, grading, paving, excavation or drilling and any other works which, acting alone or in combination with other existing or future uses, will cause damaging flood heights and velocities by obstruction flows and reducing floodwater storage.
- (2) Protect human life and health.
- (3) Minimize public and private property damages.
- (4) Minimize surface and ground water pollution which may affect human, animal or plant life.

§ 98-2. Definitions.

The following words shall have the meanings set forth after them only when used in this chapter. These meanings should not be applied to any other laws, ordinances, codes, regulations or resolutions of the Village of Windsor.

BASE FLOOD (ONE-HUNDRED-YEAR FLOOD) - The flood having a one-percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATIONS - Elevations above mean sea level of the flood levels which have a one-percent chance of being equaled or exceeded in any given year, as defined for the Village of Windsor on the Flood Insurance Rate Map.

DEVELOPMENT (WITHIN THE FLOODPLAIN) - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations within the Floodplain Management District.

EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION (WITHIN THE FLOODPLAIN) - A parcel (or contiguous parcels) of land, divided into two (2) or more mobile home lots for rent or sale, for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of floodplain management regulations adopted by a community.

FLOOD:

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

- (1) The overflow of streams or other water bodies above their normal banks.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

B. The collapse or subsidence of land along the shore of a water body as a result of erosion or undermining caused by waves or currents exceeding normal levels or suddenly caused by unusually high water levels in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or some similarly unusual and unforeseeable event which results in a flood as defined in Subsection A(1) of this definition.

FLOOD BOUNDARY AND FLOODWAY MAP - The official map of the Village of Windsor, prepared as part of the Flood Insurance Study for the Town, on which the boundaries of the five-hundred-year flood, the one-hundred-year or base flood and the floodway in the Village of Windsor have been delineated as of August 19, 1981, and as may be thereafter amended.

FLOOD FRINGE - That portion of the Floodplain Management District within the one-hundred-year flood (base flood) boundary and outside the regulatory floodway.

FLOOD HAZARD AREA - That portion of the Floodplain Management District within the one-hundred-year flood (base flood) boundary, but where base flood elevations and other hazard factors, including the floodway, have not yet been delineated; and unnumbered A Zones on the Flood Insurance Rate Map.

FLOOD INSURANCE RATE MAP - The official map of the Village of Windsor on which the Federal Emergency Management Agency has caused to have delineated the special flood hazard areas, base flood elevations and the flood risk premium zones in the Village of Windsor, effective as of August 19, 1981, and as may be thereafter amended.

FLOOD INSURANCE STUDY - The official report provided to the Village of Windsor by the Federal Emergency Management Agency, containing flood profiles, the Flood Boundary and Floodway Map and the water surface elevations of the base flood.

FLOODPLAIN MANAGEMENT DISTRICT (FMD) - All that land adjacent to a body of water, which has been or may be hereafter covered by a flood having a one-percent chance of being equaled or exceeded in any given year. The “Floodplain Management District” includes both a floodway and a flood fringe. The outer boundaries of the area are coterminous with those of the one-hundred-year flood, also called the base flood, as delineated by the Federal Emergency Management Agency on the Flood Insurance Rate Map (as proposed by the study of August 19, 1981). The “Floodplain Management District” includes all A Zones delineated on the Flood Insurance Rate Map for the Village of Windsor. In areas where a regulatory floodway has been designated as a result of a Flood Insurance Study, the “Floodplain Management District” includes both the floodway and flood fringe as well as unnumbered A Zones.

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

FLOODWAY ENCROACHMENT LINES - The lines marking the limits of floodways on federal, state and local floodplain maps.

HABITABLE FLOOR - Any floor of a structure which is usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a “habitable floor.”

MOBILE HOME WITHIN THE FLOODPLAIN) - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. It does not include recreational vehicles or travel trailers. The term includes, but it is not limited to, the definition of “mobile home” as set forth in regulations governing the Mobile Home Safety and Construction Standards Program [24 CFR 3282.7(a)].

MOBILE HOME PARK AND MOBILE HOME SUBDIVISION - See “Existing Mobile Home park and Mobile Home Subdivision” or “New Mobile Home Park or Mobile Home Subdivision.”

NEW CONSTRUCTION (WITHIN THE FLOODPLAIN) - For the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later. For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community.

NEW MOBILE HOME OR MOBILE HOME SUBDIVISION (WITHIN THE FLOODPLAIN) - A parcel (or contiguous parcels) of land, divided into two (2) or more mobile home lots for rent or sale, for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of floodplain management regulations adopted by a community.

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ONE-HUNDRED-YEAR FLOOD - See “Base Flood.”

REGULATORY FLOODWAY - That portion of the Floodplain Management District which is the channel of a river or watercourse and the land areas adjacent to that channel, which must be reserved in order to discharge the waters from the base flood (one-hundred-year flood) without cumulatively increasing the water elevation more than one (1) foot. The boundaries of the “regulatory floodway” for the Village of Windsor are designated in the Flood Insurance Study.

STRUCTURE (WITHIN THE FLOODPLAIN) - A walled and roofed building that is principally above ground, including gas or liquid storage tanks and mobile homes.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair or, if the structure has been damaged is being restored before the damage occurred. “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 include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely

necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

VARIANCE - A grant of relief by a community from the terms of floodplain management regulation.

WATER SURFACE ELEVATION - The projected heights, in relation to mean sea level, reached by flood of various magnitudes and frequencies of coastal or riverine areas.

§ 98-3. Permitted uses.

A. The following uses which have low flood damage potential and which do not obstruct flood flows may be permitted within a Floodplain Management District to the extent that these uses do not constitute development within the floodplain or substantial improvement to a structure within the floodplain and are not otherwise prohibited by any other ordinances:

(1) Agricultural uses, such as pasture or grazing, as long as they do not require development within the floodplain.

(2) Private and public recreational areas, such as swimming areas, open space, wildlife or natural preserves, hunting and fishing areas and hiking and horseback trails, as long as they do not require development within the floodplain.

B. No uses shall diminish or prohibit in any way the capacity of the channels or floodways of any watercourse or any tributary to the mainstream or any other watercourse, drainage ditch or any other drainage facility or system to discharge the waters from the base flood.

§ 98-4. Special permit uses.

A. All uses within the Floodplain Management District, other than those specified in § 98-3, are permitted only after issuance of a special permit by the Zoning Board of Appeals and after the local Planning Board has reviewed and

commented on said application. Special permit uses which are allowed shall be determined by the nature and location of the applicant's proposal. Therefore:

- (1) The applicant shall submit a development plan as specified in § 98-8.
 - (2) In portions of the Floodplain Management District where base flood elevations have been delineated, the applicant shall determine whether the proposed special permit use is located within a flood fringe or a regulatory floodway. Such determination shall be made from the Flood Boundary and Floodway Map. In portions of the Floodplain Management District which are delineated as flood hazard areas (unnumbered A Zones), determination of location shall be made from the Flood Insurance Rate Map. This location shall be verified by the Local Planning Board.
 - (3) If it is determined that the proposed use is within a flood fringe, the provisions of § 98-5, Uses within the flood fringe, of this chapter shall apply.
 - (4) If it is determined that the proposed use is located within a regulatory floodway, the provisions of § 98-6, Uses within the regulatory floodway, of this chapter shall apply.
 - (5) If it is determined that the proposed use is located within a flood hazard area, the provisions of § 98-7, Uses within flood hazard areas, of this chapter shall apply.
 - (6) All special permit uses shall be subject to specifications and standards contained within this chapter.
- B. All information submitted pursuant to application for the special permit, including the development plan and floodproofing certification, shall be kept on file with the Village Clerk of the Village of Windsor and shall be available for public inspection.

§ 98-5. Uses within the flood fringe.

All uses within the flood-fringe, other than those specified in § 98-3 are allowed only as special permit uses in compliance with the following standards:

- A. The elevation of the lowest floor, including basements, of all new residential construction or substantial improvements to existing residential structures within the flood fringe area shall be equal to or higher than the base flood elevation.

B. The elevation of the lowest floor, including basements, of all new nonresidential structures or substantial improvements to existing nonresidential structures within the flood fringe area shall be equal to or higher than the base flood elevation or, together with attendant utility and sanitary facilities, shall be floodproofed up to the baseflood elevation. Such measures are described under Subsection F, Flood protection measures, below.

C. All uses located in the flood fringe area shall be floodproofed in the manner outlined under Subsection F, Flood protection measures, below.

D. Fill deposited for the purpose of elevating the first floor or basement floor above the base flood elevation shall extend at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Such fill shall be protected against erosion by riprap, vegetation, bulkheading or other forms of cover.

E. Any storage facility for chemicals or explosive or flammable liquids shall be located at an elevation equal to or higher than the elevation of the high water level of the base flood.

F. Flood protection measures.

(1) Flood protection measures, such as the following, shall be designed to protect all uses allowed, together with attendant utility and sanitary facilities:

(a) Structures shall be anchored to resist flotation and lateral movement.

(b) Structures shall be constructed to resist rupture or collapse caused by water pressure or floating debris.

(c) Structures shall be constructed with materials and utility equipment resistant to flood damage.

(d) Construction methods and practices that minimize flood damage shall be utilized.

(e) All new and replacement water systems shall be constructed to minimize or eliminate infiltration of floodwaters

into the system in compliance with State and County Health Codes.

(f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, in compliance with State and County Health Codes.

(g) New and replacement sanitary and storm sewer systems shall be constructed so as to prevent the backup of water from these systems into structures, in compliance with State and County Health Codes.

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(h) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding, in compliance with State and County Health Codes.

(i) Watertight doors, bulkheads and shutters or similar methods of construction shall be installed.

(j) Paints, membranes or mortars to reduce seepage of water through walls shall be used.

(k) All new fill shall be protected against erosion by riprap, vegetation, bulkheading or other forms of cover.

(2) All such measures shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. In addition, the adequacy of such measures to withstand flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood shall be certified by a professional engineer or architect certified by the State of New York.

G. Placement of new mobile home sites or parks or substantial improvement of existing mobile homes or expansion of existing mobile home parks shall meet the following standards:

(1) Over-the-top ties shall be installed at each of the four (4) corners of the mobile home. Mobile homes which are fifty (50) feet or longer shall

have two (2) additional ties per side at intermediate locations; mobile homes which are less than fifty (50) feet long shall have one (1) additional tie per side.

(2) Frame ties shall be provided at each corner of the home. Mobile homes which are fifty (50) feet or longer shall have five (5) additional ties per side at intermediate points; mobile homes which are less than fifty (50) feet long shall have four (4) additional ties per side.

(3) All components of the anchoring system shall be capable of carrying a force of four thousand eighty hundred (4,800) pounds.

(4) Any additions to the mobile home shall be similarly anchored in the manner described in Subsection F(1)(a), (b) and (c) of this section.

(5) Stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.

(6) Adequate surface drainage and access for a hauler shall be provided.

(7) When mobile homes are elevated on pilings, the lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten (10) feet apart and reinforcement shall be provided for pilings which are more than six (6) feet above the ground level.

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H. In zones designate AO on the Flood Insurance Rate Map, the following standards shall apply:

(1) The lowest floor, including basements, of all new residential construction or substantial improvement to existing residential structures shall be elevated above the crown of the nearest street to or above the depth number specified on the Flood Insurance Rate Map and in the Flood Insurance Study.

(2) In all new construction or substantial improvements of nonresidential structures, the lowest floor, including basements, shall be elevated above the crown of the nearest street to or above the depth number specified on the Flood Insurance Rate Map or, together with attendant utility and sanitary facilities, shall be floodproofed, in a manner specified in Subsection F, Flood protection measures; of this section, to or above the depth number specified on the Flood Insurance Rate Map and in the Flood Insurance Study.

§ 98-6. Uses within the regulatory floodway.

All uses within the regulatory floodway as designated on the Flood Boundary and Floodway Map, other than those specified in § 98-3, are allowed only as special permit uses in compliance with the following standards:

- A. No residential structure shall be allowed.
- B. No mobile homes shall be allowed.
- C. No structure, fill, deposit, obstruction, storage of materials or equipment or other use or encroachment of the floodway may be allowed, which, acting alone or in combination with existing or future uses, shall result in any increase in flood levels during the occurrence of the base flood discharge.
- D. Any uses or structures allowed in the floodway shall be floodproofed in the manner specified in § 98-5F and G of this chapter.

§ 98-7. Uses within the flood hazard areas.

All uses within the flood hazard area, other than those specified in § 98-3, are allowed only as special permit uses in compliance with the following standards:

- A. The applicant shall determine the base flood elevation for the proposed use by either:
 - (1) Utilizing available base flood elevation data from federal or state agencies, such as but not limited to:
 - (a) The United States Army Corps of Engineers.

(b) The United States Department of Agriculture Soil and Conservation Service.

(c) The New York State Department of Environmental Conservation.

(2) A certified determination done by a professional engineer certified by the State of New York shown on a typical cross section depicting the channel of the stream, elevation of land areas adjoining each side of the channel and base flood elevation information.

B. All uses located in the flood hazard area shall be floodproofed in the manner outlined under § 98-5A, B, C and D of this chapter.

C. Elevations to which structures in the flood hazard area have been floodproofed shall be certified by a professional engineer or architect certified by the State of New York.

D. Placement of new mobile home sites or parks or substantial improvement of existing mobile homes or expansion of existing mobile home parks within the flood hazard area shall meet the following standards:

(1) Over-the-top ties shall be installed at each of the four (4) corners of the mobile home. Mobile homes which are fifty (50) feet or longer shall have two (2) additional ties per side at intermediate locations; mobile homes which are less than fifty (50) feet long shall have one (1) additional tie per side.

(2) Frame ties shall be provided at each corner of the home. Mobile homes which are fifty (50) feet or longer shall have five (5) additional ties per side at intermediate points; mobile homes which are less than fifty (50) feet long shall have four (4) additional ties per side.

(3) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.

(4) Any additions to the mobile home shall be similarly anchored in the manner specified in Subsection D(1), (2) and (3) of this section.

§ 98-8. Development plan.

A. The applicant shall be required to furnish the following information to the Zoning Board of Appeals in determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate, drawn to scale, showing the nature, location, dimensions and elevation above mean sea level of the lot; existing or proposed structures; fill; storage of materials; floodproofing measures; and the relationship of the above to the location of the channel, floodway and the flood protection elevation.

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(2) The elevation above mean sea level of the lowest floor, including basements, of all structures certified by a professional engineer or architect certified by the State of New York.

(3) The elevation above mean sea level to which any nonresidential structure and its water supply and sanitary facilities have been flood proofed, certified by a professional engineer or architect certified by the State of New York.

(4) A certificate from a professional engineer or architect certified by the State of New York that the nonresidential floodproofed structure meets the floodproofing criteria in § 98-5F.

(5) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed use.

(6) Subdivision proposals.

(a) In all subdivision proposals and other proposed new development:

[1] The proposal shall be consistent with the need to minimize flood damage.

[2] The applicant shall provide certification from a professional engineer certified by the State of New York that all utilities and facilities, such as sewer, gas, electrical

and water systems, are located and constructed to minimize flood damage.

[3] The applicant shall provide certification from a professional engineer certified by the State of New York that adequate drainage to reduce exposure to flood hazards has been provided.

(b) In addition, in subdivision or other development proposals greater than fifty (50) lots or five (5) acres, whichever is the smaller, the applicant shall provide base flood elevation data as specified in the Flood Insurance Rate Map, Flood Elevation Study or in the manner specified in § 98-7A above.

B. These requirements do not limit the Zoning Board of Appeal's discretion to require any additional information it deems necessary.