

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

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 NEWPORT
Town
Village

Local Law No. 1 of the year 19 85

A local law For Flood Damage Prevention
(Insert title)

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

County
City of Newport as follows:
Town
Village

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1985
County
of the City of Newport was duly passed by the Town Board of Supervisors
Town (Name of Legislative Body)
Village
on January 14 1985 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. 1 of 1985
County
of the City of Newport was duly passed by the The Rev. Christians
Town (Name of Legislative Body)
Village
on January 14 1985 ~~not disapproved~~ and was approved by the Town Supervisor
~~repassed after disapproval~~ Elective Chief Executive Officer *
and was deemed duly adopted on January 14 1985, 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
of the City of was duly passed by the
Town (Name of Legislative Body)
Village
on 19..... 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 appli-
annual
cable 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
of the City of was duly passed by the on
Town (Name of Legislative Body)

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 1 + 2 above.

Patricia A. McKerron

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

Date: *January 14, 1985*

(Seal)

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

STATE OF NEW YORK

COUNTY OF HERKIMER

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.

REVISED 5/8/84

(FOLLOWING COMPLIANT WITH NATIONAL FLOOD INSURANCE
PROGRAM REGULATIONS SECTION 60.3b)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0

Statutory Authorization and Purpose

1.1 STATUTORY AUTHORIZATION

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

1.2 STATEMENT OF PURPOSE

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

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

SECTION 2.0

Definitions

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they most reasonable

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

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

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

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

"Flood Insurance Rate Map" (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

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

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

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

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

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

- (1) any project for improvement of a structure to comply with existing state Uniform Fire Prevention and Building Code or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) any alteration of a structure listed on the National

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD
 The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 361111 dated November 15, 1974 and any revisions thereto, are adopted by reference and declared to be a part of this local law. The FHBM or FIRM is on file at the office of
the town clerk @

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS
 In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

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

3.5 PENALTIES FOR NON-COMPLIANCE
 No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this local law and other applicable regulations. Violation of the provisions of this local law by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$ _____ or imprisoned for not more than _____ days or both for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the
Town of Newport from taking such other lawful action as necessary to prevent or remedy a violation.

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 Newport any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

4.2 DESIGNATION OF THE Town Zoning Board
The Town Zoning Board is hereby appointed to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE Town Zoning Board
Duties of the Town Zoning Board shall include, but not be limited to:

4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements of this local law have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this local law, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (i) If it is determined that there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

4.3-2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Town of Zoning Board shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer Section 5.2, SPECIFIC STANDARDS.

4.3-3 Information to be Obtained and Maintained

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement 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.

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

4.3-5 Interpretation of FHBM or FIRM Boundaries

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

Section 5.0

Provisions for Flood Hazard Reduction

5.1 GENERAL STANDARDS

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

5.1-1 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All mobile homes and any additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing an anchoring system designed to withstand a wind force of 90 miles per hour.

5.1-2 Construction Materials and Methods

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

5.1-3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

5.2 SPECIFIC STANDARDS

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

5.2-1 Residential Construction

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

5.2-2 Nonresidential Construction

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

- (1) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of bouyancy; and
- (3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).

SECTION 6.0
Variance Procedure

6.1 APPEAL BOARD

- (1) The Town Board of Supervisors as established by the Town of Newport shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Town Board of Supervisors shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Town Zoning Board in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Town Board of Supervisors or any taxpayer, may appeal such decision to the supreme court as provided in The New York State Constitution, Article VI, Section 2.
- (4) In passing upon such applications, the Town Board of Supervisors shall consider all technical evaluations, all relevant factors, standards specified in other section of this local law and:

- (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Town Board of Supervisors may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Town Zoning Board shall maintain the records of all appeal actions including technical information and report any variances to the Federal Insurance Administration upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) 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 item (i-xi) 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 reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base

- (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 as identified in Section 6.1(4) or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 14th day of January, 1985 by the
 Town Board of Supervisors Newport of Herkimer
 County, New York, to be effective _____.

Thomas Christiano
Victor A. Mahanly TC
Robert B. Lush TC
Frank E. Schwegler TC
Joseph Murphy TC

SEAL

Patricia P. McKerron
 ATTEST. CLERK
Town of Newport