

**PROPOSED AMENDMENTS TO
CHAPTER 128 OF THE OLD SAYBROOK TOWN CODE
FLOOD PLAIN MANAGEMENT**

Revised to: April 26, 2019

Scheduled for Town Meeting: March 24, 2020

The purpose of this amendment is to add Standards for Shallow Flooding (AO & AH Zones). AO and AH Zones were not designated on the Old Saybrook maps until the 2013 map amendments. These standards were inadvertently left out of the Ordinance text because we did not realize that a few small areas in Old Saybrook took this designation. The amendment also increases the free-board requirement in Old Saybrook to 2 feet, and adds further clarifications throughout to assist applicants in better understanding requirements.

Proposed new text is double underlined

~~Text to be removed is strikethrough~~

SEC. 1 STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND OBJECTIVES

1.1 Statutory Authorization

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

1.2 Findings of Fact

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

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

1.3 Statement of Purpose

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

- 1.3.1 Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 1.3.2 Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 1.3.3 Control the alteration of natural floodplains, stream channels and natural protective

barriers which are involved in the accommodation of flood waters;

- 1.3.4 Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- 1.3.5 Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

1.4 Objectives

The objectives of this Ordinance are:

- 1.4.1 To protect human life and health;
- 1.4.2 To minimize expenditure of public money for costly flood control projects;
- 1.4.3 To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 1.4.4 To minimize prolonged business interruptions;
- 1.4.5 To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- 1.4.6 To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- 1.4.7 To insure that potential home buyers are notified that property is in a flood hazard area; and
- 1.4.8 To ensure continued eligibility of owners of property in the Town of Old Saybrook for participation in the National Flood Insurance Program.

1.5 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect; and to this end the provisions of this ordinance are hereby declared to be severable.

SEC. 2 DEFINITIONS

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

- 2.1 "Accessory Structure" means an appurtenant, unfinished structure of less than 401 square feet, the use of which shall be incidental or subordinate to the principal use of the parcel of the principal structure on the parcel, and which shall not be used for human habitation.
- 2.2 "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.
- 2.3 "Appeal" means either (a) a request for review of the Town Engineer's decision relative to the provisions of this Ordinance or (b) a request for a variance from the requirements of this Ordinance.
- 2.4 "Area of Shallow Flooding" means designated A0 or AH Zones on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average 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.

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- 2.5 "Base flood" means the flood having one percent chance of being equaled or exceeded in any given year.
- 2.6 "Base Flood Elevation (BFE)" means the elevation of the crest of the base flood (100-year flood). The height in relation to mean sea, level North American Vertical Datum (NAVD) of 1988, expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
- 2.7 "Basement" means that portion of a building having its floor below ground level on all sides.
- 2.8 "Breakaway Wall" means a wall that is not part of the structural support of the building, intended through its design and construction to collapse under specific lateral wind and water loading conditions without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls must include flood vents to further mitigate times of high water loading.
- 2.9 "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.
- 2.10 "Coastal AE Zone" means the portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet and bounded by a line labeled the "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction and substantial improvements in the Coastal AE Zone. Note: The ~~2012-2018~~ International Residential Code (IRC) refers to the Coastal AE as the Coastal A Zone.
- 2.11 "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. Coastal High Hazard Areas are designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map (FIRM).
- 2.12 "Cost" as related to substantial improvements, means the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure which shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing components, structural components, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters, labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded: cost of plans and specifications; survey costs; permit fees; outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.
- 2.13 "Critical Facility" means a development which is critical to the community's public health and safety, is essential to the orderly functioning of a community, stores or produces highly volatile, toxic or water-reactive materials, or houses occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include: jails, hospitals, fire stations, police stations, nursing homes, wastewater treatment facilities, drinking water plants, and gas/oil/propane storage facilities.
- 2.14 "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings, additions, accessory structure or other structures, new construction, substantial improvements, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.
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- 2.15 "Elevated Building" means a non-basement building to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, posts, piers, shear walls, or breakaway walls, as allowed under applicable standards.
- 2.16 "Federal Emergency Management Agency (FEMA)" means the federal agency that administers the National Flood Insurance Program (NFIP).
- 2.17 "Finished Living Space" means finished living space can include, but is not limited to, a space that contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace. A fully enclosed area below the base flood elevation (BFE) including the additional ~~one-foot~~ two (2) feet of freeboard required by this Ordinance cannot have finished living space and needs to be designed for exposure to flood forces and can only be used for parking, building access or limited storage of low value items. A maximum of twenty-five percent (25%) of the floor area below the base flood elevation (BFE), excluding the area of any separate attached garages and open porches, may be determined to be utilized as an entry/foyer area including but not limited to flooring, walls and trim, provided that all materials meet FEMA flood damage resistant materials requirements, and that the use of any such areas are restricted to parking, building access or limited storage of low value items.
- 2.18 "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland or tidal waters; and/or (b) the unusual and rapid accumulation of runoff of surface waters from any source.
- 2.19 "Flood Insurance Rate Map (FIRM)" means the official maps of the Town of Old Saybrook on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the applicable risk premium zones.
- 2.20 "Flood Insurance Study" means the official report, including any supplements thereto, by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, and other flood data.
- 2.21 "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.
- 2.22 "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 one foot.
- 2.23 "Floor" means the top surface of an enclosed area in a building (including basement) i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.
- 2.24 "Functionally Dependent Facility" means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, sales, or service facilities.
- 2.25 "Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- 2.26 "Historic Structure" means any structure that is:
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- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

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

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

2.27 "Limit of Moderate Wave Action" (LiMWA) means the landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

2.28 "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such an area meets the requirements of Sections 5.3.3 and 5.1.9 hereof.

2.29 "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. Recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer shall be considered manufactured homes for the purpose of this Ordinance.

2.30 "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.

2.31 "Market Value" means that the market value of the structure shall be determined by the property's tax assessment, minus land value; or, an independent appraisal by a professional appraiser.

2.32 "Mean Sea Level (MSL)" means the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

2.33 "New Construction" means structures for which the "start of construction" commenced on or after June 26, 1978, and includes any subsequent improvements to such structures.

2.34 "Recreational Vehicle" means a vehicle which is (i) built on a single chassis, (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; and (iv) designed primarily not for use as a

permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

- 2.35 "Sand Dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- 2.36 "Special Flood Hazard Area (SFHA)" means the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, AE, AQ, AH and the Coastal High Hazard Areas shown as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action (LiMWA)" on a FIRM. The SFHA is also called the Area of Special Flood Hazard.
- 2.37 "Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 2.38 "Structure" means a walled and roofed building that is principally above ground, a manufactured home, swimming pool or a gas or liquid storage tank.
- 2.39 "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 damage" also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.
- 2.40 "Substantial Improvement" means any combination of repairs, re-construction, alteration, or improvements to a structure taking place within a ten (10) year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should be the appraised value of the structure using the cost approach to value prior to the start of construction of the repair or improvement, or (2) in case of damage, the value of the structure prior to the damage occurring. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed.

For the purposes of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any improvement project required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

The start date for cumulative cost of repairs, re-construction, alterations or improvements to a structure that was constructed in compliance with the minimum elevation requirements identified on the Flood Insurance Rate Map (FIRM), including any freeboard requirements specified by the Ordinance, that were in effect at the time, shall commence on the effective date of any subsequent FIRM or Ordinance Amendments that render the structure to be non-compliant.

2.41 "Variance" is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship. Such hardship shall be based on the unusual physical characteristics of the property in question which are not shared by adjacent parcels; hardship shall not be based on the structure, nor on economic or personal hardships.

2.42 "Violation" means failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

2.43 "Water Surface Elevation" means the height, in relation to the-North American Vertical Datum (NAVD) of 1988.

SEC. 3 GENERAL PROVISIONS

3.1 Lands to Which This Ordinance Applies

This Ordinance shall apply to all special flood hazard areas within the jurisdiction of the Town of Old Saybrook.

3.2 Basis for Establishing the Special Flood Hazard Areas

The special flood hazard areas (SFHA) identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for the Town of Old Saybrook, Middlesex County, Connecticut dated February 6, 2013 with accompanying Flood Insurance Rate Maps (FIRM) dated February 6, 2013, (Panels 09007C0341J, 09007C0342J, 09007C0343J, 09007C0344J, 09007C0353J, 09007C0361J, 09007C0362J, 09007C0363J, 09007C0364J) and August 28, 2008 (Panels 09007C0333G and 09007C0334G), and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be part of this regulation. Since mapping is legally adopted by reference into the regulation it must take precedence when more restrictive until such time as a map amendment is obtained from FEMA.

The SFHA includes any area shown on the FIRM as Zones A, AE, AO, AH and VE, including areas designated as a floodway on a FIRM. The VE Zone and Coastal AE Zone bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) are also identified as the Coastal High Hazard Area on a FIRM. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFE's published in the FIS for a specific location. Also included in the SFHA are areas of potential, demonstrable or historical flooding, including any area contiguous with, but outside the SFHA identified by FEMA, and where the land surface elevation is lower than the base flood elevation as shown in the Flood Insurance Study, and where the area is not protected from flooding by a natural or man-made feature. The FIRM and FIS are on file in the Building and Land Use Departments, Town Hall, 302 Main Street, Old Saybrook and at the Acton Public Library, 60 Old Boston Post Road,

Old Saybrook. Flood Insurance Rate Maps are additionally available on the Town of Old Saybrook website www.oldsaybrookct.org

3.3 Establishment of the Flood Hazard Area Permit

The applicable sections of the Application for Certificate of Zoning Compliance must be completed in conformance with the provisions of this Ordinance prior to the commencement of any development activities.

3.3.1 Permit Expiration

Permits issued under this Ordinance shall expire if actual construction of a permitted structure does not commence within 180 days of the permit approval date, or if for good cause shown, a 180 day extension is granted prior to the expiration of the original permit.

3.4 Compliance

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

3.5 Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. Where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.6 Interpretation

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

3.7 Warning and Disclaimer of Liability

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

SEC. 4 ADMINISTRATION

4.1 Designation of Administrator

The Old Saybrook Town Engineer is hereby appointed to administer and implement the provisions of this Ordinance. The Town Engineer shall have the responsibility and authority to grant or deny permit applications for Development in Special Flood Hazard Areas in accordance with the provisions of this Ordinance. The Zoning Enforcement Officer and Building Official serve as deputies to assist and act for the Town Engineer.

4.2 Certification

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

4.3 Permit Procedure

Prior to any development activities, the Flood Hazard Area Permit Section, and other applicable sections of the Application for Certificate of Zoning Compliance shall be completed and submitted to the Zoning Enforcement Officer on forms furnished by him or her. The application shall be accompanied by fees as established by the Board of Selectman. No development activities shall be commenced within any Special Flood Hazard Area until the Application for Certificate of Zoning Compliance is approved.

Such application shall be accompanied by two sets of plans drawn to scale showing, at a minimum, the property lines and location of the parcel; existing and proposed contours; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. The following information shall also be required in connection with all applications:

4.3.1 Application Stage

- 4.3.1.1 Elevation in relation to mean sea level of the proposed lowest floor, including basement, crawl space slab, and garage slab, of all structures (Sections 5.3.1-5.3.3);
- 4.3.1.2 Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed (Section 5.3.2.2);
- 4.3.1.3 Description of the extent to which any watercourse will be altered or relocated as a result of proposed development (Section 5.1.8);
- 4.3.1.4 A statement as to whether or not the proposed alterations to an existing structure meet the criteria of the substantial improvement definition (Section 2.32);
- 4.3.1.5 Architectural and structural drawings for any proposed building, including floor plans, elevations and typical sections, if requested;
- 4.3.1.6 Plans and details for any proposed breakaway walls, including a Certification that: a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and b) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a 1 percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval); c) Design of flood vents located within breakaway walls.
- 4.3.1.7 Certification as to use of floodproofing for non-residential structures, as required by Section 5.3.2.2;
- 4.3.1.8 Certification as to the provisions of Section 5.3.3 governing fully-enclosed areas below base flood elevation, if the minimum design criteria in Sections

5.3.3.1.1 - 5.3.3.1.3 is not used;

4.3.1.9 Certification of Compliance with the floodway standards contained in Sections 5.2.2 and 5.3.5; and

4.3.1.10 Completed elevation certificate on the most current available FEMA form.

4.3.1.11 Additional information that may be required in order for the Town Engineer to conduct a complete review.

4.3.2 Construction Stage

Upon completion of the applicable portion of construction, the applicant shall provide verification to the Town Engineer of the following as is applicable:

- a) For a structure in Zones A-~~and~~ AE, AO & AH, provide the elevation of the top of the lowest floor (including basement). An elevation certificate prepared by a Connecticut licensed land surveyor, engineer or architect must be provide; or
- b) For a structure in Zone VE or a Coastal AE that is bounded by a line labeled "Limit of Moderate Wave Action (LiMWA), provide the elevation of the lowest horizontal structural member (excluding pilings or columns). An elevation certificate prepared by a Connecticut licensed land surveyor, engineer or architect must be provided; or
- c) For a non-residential structure that has been dry flood-proofed provide the elevation to which the flood-proofing is effective (BFE plus ~~one~~ foot two (2) feet for insurance purposes). A FEMA Floodproofing Certificate (FEMA Form 81-65) prepared by a Connecticut licensed engineer or architect retained by the applicant must be provided.

4.3.3 Compliance

Deficiencies in the lowest floor elevations and any other requirements of the Ordinance or other conditions of approval shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to make corrections required hereby shall be cause for issuance a stop-work order.

4.4 Duties and Responsibilities of the Old Saybrook Town Engineer

In the administration of this Ordinance, the Old Saybrook Town Engineer shall perform the following duties, among others:

4.4.1 Application Stage

4.4.1.1 Review all development permits to assure that the requirements of this Ordinance have been satisfied;

4.4.1.2 Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with the

Application for Certificate of Zoning Compliance. Such additional permit requirements may include, but not be limited to: Coastal Area Management Permit, Water Diversion Permit, Dam Safety Permit, Corps of Engineers 401 & 404 Permits;

- 4.4.1.3 Notify adjacent communities and the Department of Environmental Protection, Inland Water Resources Management Division prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- 4.4.1.4 Require, as a condition of any approval, that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained;
- 4.4.1.5 Make the necessary interpretation, where needed, as to the exact location of boundaries of the special flood hazard areas. Any person contesting the interpretation of the location of a boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;
- 4.4.1.6 Require the applicant to provide base flood elevation data for all proposed development, including manufactured home parks and subdivisions, which are five acres or fifty lots, whichever occurs first, and are located in Zone A; and
- 4.4.1.7 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 4.4.1.6 of this Ordinance, in order to administer the provisions of Section 5.3, when base flood elevation data or floodway have not been provided in accordance with Sections 3.2.

4.4.2 Construction Stage

- 4.4.2.1 Obtain, record and maintain the as-built elevation in relation to mean sea level of the lowest floor, including basement, of all new construction, or substantial improvement or repair to a structure that has sustained substantial damage. The Town Engineer shall require and maintain Elevation Certificates provided by the applicant and prepared by a Connecticut licensed land surveyor, engineer or architect containing this information;
- 4.4.2.2 Obtain, record and maintain the elevation in relation to mean sea level to which all new construction, substantial improvements or repair to a structure that has sustained substantial damage has been flood-proofed. The Town Engineer shall require and maintain FEMA Floodproofing Certificates for Non-Residential Structures (FEMA Form 81-65). A Floodproofing Certificate shall be provided by the applicant and prepared by a Connecticut licensed engineer or architect containing this information;
- 4.4.2.3 In coastal high hazard areas, obtain certification from a Registered Professional Engineer or Architect that the standard of Sections 5.3.4.2 and 5.3.4.3 have been met; and
- 4.4.2.4 Maintain all records pertaining to the provisions of this Ordinance.

SEC. 5 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 General Standards

In all special flood hazard areas the following provisions shall apply:

- 5.1.1 New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 5.1.2 New construction, ~~and~~ substantial improvements and repair to structures that have sustained substantial damage shall be constructed with materials and utility equipment that are resistant to flood damage and conform to the provisions of FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements. This includes, but is not limited to, flooring, interior and exterior walls, wall coverings and other materials installed below the base flood elevation plus two (2) feet;
- 5.1.3 New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 5.1.4 ~~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; The bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, appliances, fixtures and components, HVAC duct work and duct systems, and any other utility service equipment, facilities, machinery or connections serving a structure shall be elevated two (2) feet above the base flood elevation (BFE). This includes, but is not limited to, furnaces, air conditioners, heat pumps, hot water heaters, ventilation duct work, washer and dry hook-ups, gas regulator valves located both on the house and on the tank, electrical meters, electrical junction boxes and circuit breaker boxes. Systems, fixtures, equipment and components shall not be mounted on or penetrate through breakway walls intended to fail under flood loads.~~
Connections or other equipment that must be located below the BFE plus two (2) feet in elevation are permitted only when no other alternative is available and provided that they are installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effect of buoyancy, during the occurrence of the base flood event plus two (2) feet. Electrical wiring systems that must be located below the BFE plus two (2) feet shall conform to the standards for wet locations. Such systems shall only be permitted to the extent required by code for life/safety compliance.
- 5.1.5 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 5.1.6 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters;
- 5.1.7 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and
- 5.1.8 In any portion of a watercourse which is altered or relocated, the flood carrying capacity shall be maintained.
- 5.1.9 Accessory Structures & Swimming Pools

5.1.9.1 In Zones A, ~~and AE~~, AO and AH, the requirement of Sections 5.3.2.1 and 5.3.2.2 shall not apply to the following:

- a) Reserved.
- b) Accessory structures and swimming pools which are less than 401 square feet in floor area and are accessory to a residential structure; and
- c) One-story row garages located on a lot in a residential district containing multiple dwelling units.

5.1.9.2 Accessory buildings and attached garages as defined in Section 5.1.9.1 shall conform to the following:

- a) Shall not be used for human habitation;
- b) Shall be designed to have low flood damage potential and constructed with flood resistance materials below the base flood elevation;
- c) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- d) Shall be firmly anchored to prevent flotation which may result in damage to their structures;
- e) Shall have all service facilities, such as electrical and heating equipment, designed and/or located so as to prevent water from entering or accumulating within components during conditions of flooding or elevated above base flood elevation; and
- f) There shall be no basement or excavated area below any accessory building or garage.

5.1.10 Manufactured Homes

Manufactured homes are prohibited in all special flood hazard areas.

5.1.11 Fuel Tanks

In all flood zones, above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated ~~one foot~~ two (2) feet above the base flood elevation (BFE) ~~on a concrete pad~~, or be securely anchored with tie-down straps to prevent flotation, collapse or lateral movement. Where elevated on platforms, tanks will be cantilevered from the building or supported on elevated foundation that conforms to the standards for the particular flood zone as described in Section 5.3. Anchored tanks must have the top of the fill pipe located at least two (2) feet above the BFE and have a screw fill cap that does not allow for the infiltration of flood water.

Below ground fuel tanks shall be anchored to counteract the buoyancy force exerted by fully saturated soil during a flood. The top of all fuel oil tank fill and vent pipes, and vent pipes for gas regulator or pressure release valves, shall extend two (2) feet ~~one foot~~ above the BFE.

5.1.12 Portion of Structure in Flood Zone

If any portion of a structure lies within or cantilevers into the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, patios six (6") inches or in height from existing natural grade or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

5.1.13 Structures in Two Flood Zones

If a structure lies within or cantilevers into two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., VE zone is more restrictive than AE zone; structure must be built to one-foot-two feet above the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

5.1.14 Equal Conveyance

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

5.1.15 Compensatory Storage

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

5.2 Standards for Stream without Established Base Flood Elevations, Floodways and/or Flood Mapping

- 5.2.1 The Town Engineer shall, when necessary, 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 4.4.1.6 or Section 6.4 of this Ordinance as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community's FIRM meet the standards in Section 5.3. This does not relieve the applicant's responsibility of providing base

flood elevation /or floodway data with every application.

- 5.2.2 In A zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development, including fill, shall be permitted which will increase base flood elevations more than one foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
- 5.2.3 The Town Engineer may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source, in response to the Town's Engineer request or not, the Town of Old Saybrook shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one foot at any point along the watercourse.
- 5.2.4 The Town Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, as criteria for requiring that new construction, substantial improvements, or other development in any area of potential, demonstrable or historical flooding within the community meet the standards in Section 5.3.

5.3 Specific Standards

In all special flood hazard areas A and AE, where base flood elevation data has been provided, the following provisions shall apply in addition to all general standards contained in Section 5.1.

5.3.1 Residential construction

New construction, ~~or~~ substantial improvements, or repair of any residential structure that has sustained substantial damage shall have the lowest floor, including basement, elevated at least ~~one foot~~ two (2) feet above the base flood elevation. If an existing residential structure has a current elevation above the BFE and meets the requirements of this Ordinance and FEMA standards, the structure will not be required to elevate the ~~one~~ two (2) additional ~~foot~~ feet above the BFE.

5.3.2 Non-Residential Construction

5.3.2.1 New construction, ~~or~~ substantial improvements, and repair to structures that have sustained substantial damage of any commercial, industrial, or non-residential structure located in Zone A or AE, shall have the lowest floor, including basement, elevated at least ~~one foot~~ two (2) feet above the base flood elevation; or

5.3.2.2 Non-residential structures located in all A and AE zones may be dry flood-proofed at least ~~one foot~~ two (2) feet above the base flood elevation in lieu of being elevated provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection. Such certification shall be provided to the Old Saybrook Town Engineer on the

FEMA Floodproofing Certificate, Form 81-65.

5.3.3 Fully-Enclosed Areas Below Base Flood Elevation

New construction, ~~or~~ substantial improvements, and repair to structures that have sustained substantial damage, whether residential or non-residential, of buildings in A and AE Zones that include fully enclosed areas formed by foundation and other exterior walls located below the base flood elevation, excluding basements, shall be designed to preclude finished living below the lowest floor and designed to allow for the automatic entry and exit of flood waters to equalize hydrostatic flood forces on exterior walls. An enclosed area below the base flood elevation that meets the design criteria specified below is not considered the lowest floor of the structure. ~~The lowest floor must be elevated one foot above the base flood elevation.~~

5.3.3.1 Designs for complying with this requirement must meet the following minimum criteria:

- 5.3.3.1.1 Provide a minimum of two openings, located on at least two different exterior walls of each enclosed area, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, with the enclosed area measured on the exterior of the enclosure walls;
- 5.3.3.1.2 The bottom of all openings shall be not higher than one foot above the slab elevation and set at or above the exterior ground elevation so as to permit free drainage away from the structure;
- 5.3.3.1.3 Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions without any external influence or human intervention. Other coverings must be designed and certified by an engineer and approved by the Old Saybrook Town Engineer. The exterior grade shall be at or below the interior slab elevation across the entire length of at least one side of the structure.

5.3.3.2 Electrical, plumbing, HVAC (including duct work) and other utilities, are prohibited below the base flood elevation; and

5.3.3.3 Use of the enclosed area shall be the minimum necessary to allow for parking of vehicles or limited storage of maintenance equipment used in connection with the premises or entry to the living area via a stairway or elevator.

5.3.4 Coastal High Hazard Areas

The following additional standards are applicable to development, including new construction, ~~and~~ substantial improvement, and repair to structures that have sustained substantial damage, in the Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) portion of Special Flood Hazard Areas:

5.3.4.1 All buildings and structures shall be located landward of the reach of the Connecticut Coastal Jurisdiction Line as defined in CGS 22a-359 as amended by Public Act 12-101.

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- 5.3.4.2 All buildings or structures shall be elevated so that the lowest supporting horizontal member is located no lower than ~~one foot~~ two (2) feet above the base flood elevation and with all space below the lowest supporting horizontal member open so as not to impede the flow of water, except for breakaway walls as defined in Section 2.7 and provided for in Section 5.3.4.5;
- 5.3.4.3 All buildings and structures shall be securely anchored on pilings or columns. Pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. The anchoring and support system shall be designed with wind and water loading values which equal or exceed the 100-year mean recurrence interval (1 percent annual chance floods and wind). There shall be no fill used for structural support;
- 5.3.4.4 Compliance with the provision of Sections 5.3.4.2 and 5.3.4.3 shall be certified by a registered professional engineer or architect, as designed in accordance with ASCE24 Flood Resistant Design and Construction, which certification shall be provided to the Town Engineer as set forth in Section 4.3.1.10;
- 5.3.4.5 Space Below Lowest Floor: The following are applicable to any new construction, ~~or~~ substantial improvements, repair to structures that have sustained substantial damage, and to any alteration, repair, reconstruction or improvement to a structure started after June 26, 1978:

- a) There shall be no enclosure of the space below the lowest floor unless breakaway walls are used;
- b) Breakaway walls are allowed below the base flood elevation provided that they include flood vents, are not a part of the structural support of the building and are designed with a safe loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot, so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used;
- c) If breakaway walls are utilized, such enclosed space shall not be used for human habitation, but shall be designed to be used for parking of vehicles, or limited storage of maintenance equipment used in connection with the premises; and
- d) Prior to construction, plans for any structure that will have breakaway walls including flood vents must be submitted to the Town Engineer for approval.

NOTE: Breakaway enclosures of three-hundred (300 s.f.) square feet or more are subject to substantially higher flood insurance premiums than enclosures of two-hundred ninety nine (299 s.f.) square feet or less.

- e) No fill shall be used for structural support.

- 5.3.4.6 Alteration of sand dunes in Zone VE is prohibited.

5.3.5 Manufactured (Mobile) Homes and Recreational Vehicles

- 5.3.5.1 Manufactured (Mobile) Homes are prohibited in all Special Flood Hazard Areas (SFHAs). This includes SFHAs in a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood.
- 5.3.5.2 Recreation vehicles placed on a site in a SFHA for one hundred and eighty (180) consecutive days or longer and intended to be improved property are prohibited. Recreational vehicles placed onsite in a SFHA for fewer than 180 consecutive days must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheel or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

5.3.6 Floodways

Located within special flood hazard areas established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and have erosion potential, no encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless certification, along with supporting technical data provided by a registered professional engineer is submitted demonstrating that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge. Buildings and structures meeting the standards above and located in whole or in part in the floodway shall be designed and constructed in accordance with American Society of Civil Engineers (ASCE) 24 standards. Fences located in the floodway must be aligned with the flow and be of an open design.

- 5.3.6.1 A permit may be given which allows encroachments resulting in increases in base flood elevations provided the community first obtains a conditional floodway revision by meeting the requirement of C.F.R. 44, Chapter 1, Subsection 65.12.

5.3.7 Critical Facilities

- 5.3.7.1 New construction of critical facilities shall be elevated or dry flood proofed to the base flood elevation for the five hundred (500) year flood zone. The five-hundred (500) year flood is calculated by multiplying the elevation of the 100 year BFE by 1.25.

5.3.8 Standards for Development in Areas of Shallow Flooding (Zones AO and AH)

Located within the Special Flood Hazard Areas (SFHA) are areas designated as shallow flooding areas (AO and AH Zones). These areas have flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In AO and AH zones, the following provisions apply:

- 5.3.8.1 For residential structures, all new construction, substantial improvements and repair to structures that have sustained substantial damage shall have the lowest floor,

including basement, elevated to two (2) feet above the depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade.

5.3.8.2 For non-residential structures, all new construction, substantial improvements and repair to structures that have sustained substantial damage shall:

- a. Have the lowest floor, including basement, elevated to two (2) feet above the depth number specified on the Flood Insurance Rate Map (FIRM) above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade; or
- b. Together with attendant utility and sanitary facilities be completely flood- proofed to two (2) feet above the depth number specified on the FIRM above the highest adjacent grade, or if no depth number is specified at least two (2.0) three (3) feet above the highest adjacent grade, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Designs for complying with this requirement must either be certified by a registered professional engineer or architect.

5.3.8.3 On-site drainage for all proposed structures in AO and AH Zones located on slopes shall provide adequate drainage paths to guide flood waters around and away from such structures.

5.3.8.4 Fully enclosed areas below the lowest floor in AO and AH Zones must comply with the provisions of Section 5.3.3 for hydraulic flood vents.

SEC. 6 STANDARDS FOR SUBDIVISION PROPOSALS

In all special flood hazard areas the following requirements shall apply:

- 6.1 All subdivision proposals shall be consistent with the need to minimize flood damage;
- 6.2 All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- 6.3 All subdivision proposals shall provide adequate drainage to reduce exposure to flood hazards;
- 6.4 All subdivision proposals shall provide the boundary of the SFHA, the floodway boundary, and the base flood elevation; and
- 6.5 Base flood elevation data shall be provided for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which are five acres or fifty lots, whichever occurs first, and are located in Zone A.

SEC. 7 VARIANCE PROCEDURES

- 7.1 The Town of Old Saybrook Zoning Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- 7.2 The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Town Engineer in the enforcement or administration of this Ordinance.
- 7.3 Any person aggrieved by the decision of the Zoning Board of Appeals or any person owning land which abuts or is within a radius of one hundred feet (100) of the land in question may appeal within 15 days after such decision to the State Superior Court of the Middletown Judicial District as provided in Section 8-8 of the General Statutes of Connecticut.
- 7.4 A variance issued under this Ordinance shall become effective as such time as is fixed by the Zoning Board of Appeals, provided a copy thereof shall be filed in the Office of the Old Saybrook Town Clerk and in the land records of the Town of Old Saybrook in the same manner as required for filing of variances from zoning regulations.
- 7.5 Specific Situation Variances

- 7.5.1 Buildings on an Historic Register

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, and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation.

- 7.5.2 Pre-Existing, Small Lot Location

Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of one-half acre or less in size which is contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with Sections 7.7.1 - 7.7.4.

- 7.5.3 Functionally-Dependent Uses

Variances may be issued for new construction and substantial improvement and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to safety and meets the requirements of Sections 7.7.1 - 7.7.4.

7.5.4 Floodway Prohibition

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

7.6 Considerations for Granting of Variances

In passing upon such applications for variance, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance and the items listed below as 7.6.1 - 7.6.11. Upon consideration of these factors and the purposes of this Ordinance, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

- 7.6.1 The danger that materials may be swept onto other lands to the injury of others;
- 7.6.2 The danger to life and property due to flooding or other erosion damage;
- 7.6.3 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 7.6.4 The importance of the services provided by the proposed facility to the community;
- 7.6.5 The necessity of the facility to waterfront location, in the case of a functionally dependent facility;
- 7.6.6 The availability of alternative locations which are not subject to flooding or erosion damage for the proposed use;
- 7.6.7 The compatibility of the proposed use with existing and anticipated development;
- 7.6.8 The relationship of the proposed use to the comprehensive plan of development and the floodplain management program for that area;
- 7.6.9 The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 7.6.10 The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- 7.6.11 The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

7.7 Criteria for Variances

- 7.7.1 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and result in the loss of historic designation of the building.

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- 7.7.2 Variances may only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, 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 nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances. Only hardships which are based on unusual physical characteristics of the property in question, characteristics which are not shared by adjacent parcels, shall qualify to meet subsection (ii) above. Claims of hardship based on structure, on economic or on personal circumstances are not sufficient cause for the granting of a variance under this Ordinance.
- 7.7.3 Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25.00 for each \$100.00 of insurance coverage.
- 7.7.4 The Town Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) as required by FEMA.

SEC. 8 CONFLICTS BETWEEN CODES

When conflicts arise between this Code and the State Building /Fire Safety Codes, the State Building/Fire Safety Codes will apply and a variance of Chapter 128 will not be required.

SEC. 9 PENALTIES FOR VIOLATION

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250.00 per day if proven to be done willfully and \$100.00 per day if not, or imprisoned for not more than 10 days for each day of violation, or both, and in addition, shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the Town of Old Saybrook from taking such other lawful action as is necessary to prevent or remedy any violation.

Adopted on: _____

By: _____

Old Saybrook Board of Selectmen

Certified by: _____

Date: _____
