



**FLOODPLAIN MANAGEMENT REGULATIONS**

**ADOPTED BY  
THE INLAND WETLANDS COMMISSION  
OF THE  
TOWN OF NEW CANAAN  
CONNECTICUT**

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## **1.0 STATUTORY AUTHORIZATION AND PURPOSE**

### **1.1 STATUTORY AUTHORIZATION**

The Legislature of the State of Connecticut has, in Title 7, Chapter 98, Section 7-148(c)(7)(A) of the Connecticut General Statutes, delegated the authority to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Town Council of New Canaan has, in Section 16-1 of the Town Code, delegated to the Inland Wetlands Commission of the Town of New Canaan the power, duty and responsibility to regulate flood hazard areas. The Inland Wetlands Commission of the Town of New Canaan adopts these regulations based on the model floodplain management regulations of the State of Connecticut Department of Environmental Protection.

### **1.2 FINDINGS OF FACT**

The flood hazard areas of the Town of New Canaan are subject to periodic flood inundation which results in the 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 the floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damage. Uncontrolled development and use of the floodplains can adversely affect the community.

The Town of New Canaan has voluntarily participated in the National Flood Insurance Program (NFIP) since May 16, 1977. The NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments must share roles and responsibilities to meet the goals and objectives of the NFIP. The community's role is of paramount importance. Property owners are able to receive federally-subsidized flood insurance only if the community enacts and enforces the minimum floodplain regulations required for participation in the NFIP.

### **1.3 STATEMENT OF PURPOSE**

It is the purpose of these regulations to regulate floodplain development, promote public health, safety, and general welfare, and minimize public and private losses due to flood conditions in specific areas, by provisions designed to:

1.3.1 Protect human life and health, and prevent damage to property;

1.3.2 Minimize expenditure of public funds for costly flood control projects;

- 1.3.3 Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 1.3.4 Minimize prolonged business interruptions and other economic disruptions;
- 1.3.5 Minimize damage to public facilities, infrastructure and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges, located in the floodplain;
- 1.3.6 Help maintain a stable tax base by providing for the sound use and development of flood hazard areas in such a manner as to minimize flood damage and flood blight areas;
- 1.3.7 Assist potential buyers in ascertaining whether property is in a flood hazard area;
- 1.3.8 Prevent increase in flood heights that could increase flood damage and result in conflicts between property owners;
- 1.3.9 Ensure that those who occupy the flood hazard areas assume responsibility for their actions; and
- 1.3.10 Discourage development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.

#### **1.4 OBJECTIVES**

In order to accomplish its purposes, these regulations include objectives, methods and provisions that:

- 1.4.1 Restrict or prohibit uses that are dangerous to health, safety and property due to flood or erosion hazards, or that result in damaging increases in erosion or in flood heights or velocities;
- 1.4.2 Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- 1.4.3 Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;
- 1.4.4 Control filling, grading, dredging, and other development that may increase erosion or flood damage; and
- 1.4.5 Prevent or regulate the construction of barriers or obstructions that will unnaturally divert flood waters or that may increase flood hazards to other lands.

## 2.0 DEFINITIONS

Unless specifically defined below, words and phrases used in these regulations shall have the same meaning as they have in common usage, and that give these regulations their most reasonable application.

The following words or terms shall be interpreted as defined below, regardless of whether such words or terms are subsequently capitalized or highlighted in these regulations:

**Appeal** – Either (a) a request for a review of the Inland Wetlands Agent’s decision relative to the provisions of these regulations, or (b) a request for a variance from the requirements of these regulations.

**Base Flood** – The flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the 100-year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

**Base Flood Elevation (BFE)** – 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.

**Basement** – Any area of the building having its floor subgrade (below ground level) on all sides.

**Building** – See definition for “Structure.”

**Commission** – The Inland Wetlands Commission of the Town of New Canaan.

**Community** – The Town of New Canaan, Connecticut.

**Cost** – As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair, or other improvement of a structure shall be established by a detailed written contractor’s estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment, and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s profit; and grand total. The estimate shall not include: the 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.

**Development** – Any man-made change to improved or unimproved real estate, including but not limited to, the construction of buildings or structures; the construction of additions, alterations, or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities located within the area of special flood hazard.

**Dry Floodproofing** – A mitigation strategy to protect a structure and its contents from flood damage by sealing the building so that flood waters cannot enter. This method encompasses a variety of measures, such as: applying a waterproof coating or membrane to the exterior walls of the building; installing watertight shields over doors, windows, and other openings; anchoring the building as necessary so that it can resist floatation; installing backflow valves in sanitary and storm sewer lines; raising utility system components, machinery, and other pieces of equipment above the flood level; anchoring fuel tanks and other storage tanks to prevent floatation; installing a sump pump and foundation drain system; strengthening walls so that they can withstand the pressures of flood waters and the impacts of flood-borne debris. Dry floodproofing is used primarily for slab-on-grade buildings with concrete or solid masonry walls, and it may not be appropriate or allowed in all situations.

**Existing Manufactured Home Park or Subdivision** – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date, May 16, 1977, of the initial FIRM.

**Expansion to an Existing Manufactured Home Park or Subdivision** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Federal Emergency Management Agency (FEMA)** – The federal agency that administers the National Flood Insurance Program (NFIP).

**Finished Living Space** – As related to fully enclosed areas below the base flood elevation (BFE), a space that is, but is not limited to, heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.

**Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Fringe** – The outer portions of the floodplain, outside the floodway but still subject to periodic inundation by regular flooding. This is the area where development is most likely to occur, and where precautions to protect life and property need to be taken. See drawings in Appendix.

**Flood Hazard Area** – For the purposes of these regulations, the term “Flood Hazard Area” is synonymous with the term “Floodplain.” Land adjacent to a river, stream, or other body of water that is subject to flooding. The floodplain includes the floodway and the flood fringe. See drawings in Appendix.

**Flood Insurance Rate Map (FIRM)** – The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community. FIRM published after January 1990 may also show the limits of the regulatory floodway.

**Flood Insurance Study (FIS)** – The official report by the Federal Emergency Management Agency (FEMA), dated June 18, 2010. The report contains flood profiles, the water surface elevation of the base flood, and other flood data.

**Floodplain** – Land adjacent to a river, stream, or other body of water that is subject to flooding. The floodplain includes the floodway and the flood fringe. See drawings in Appendix.

**Floodway** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. For the purposes of these regulations, the term “Regulatory Floodway” is synonymous in meaning with the term “Floodway.” See drawings in Appendix.

**Floor** – 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.

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

**Highest Adjacent Grade (HAG)** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

**Inland Wetlands Agent** – The Commission shall have an administrative agent, with the title of “Inland Wetlands Agent,” with full power to administer and enforce these regulations on behalf of the Commission. This includes the Director of Inland Wetlands, and any other professional staff member employed by the Town and assigned to assist the Commission.

**License** – The whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by these regulations.

**Lowest Floor** – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building’s lowest floor, provided that such an area meets the design requirements specified in Section 5.3.1.3 of these regulations.

**Manufactured Home** – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty consecutive days or longer and intended to be improved property.

**Manufactured Home Park or Subdivision** – A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

**Market Value** – The market value of the structure shall be determined by an independent appraisal by a professional appraiser prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

**Mean Sea Level (MSL)** – For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on the community’s Flood Insurance Rate Map (FIRM) are referenced.

**New Construction** – Structures for which the “start of construction” commenced on or after the effective date of the initial FIRM, May 16, 1977, and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date, May 16, 1977, of the initial FIRM.

**Recreational Vehicle** – A vehicle that is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulations** – The phrase “these regulations” means this set of floodplain management regulations adopted by the Inland Wetlands Commission of the Town of New Canaan.

**Special Flood Hazard Area (SFHA)** – The land in the floodplain within a community subject to a one 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 and AE on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

**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, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the 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 erections 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.

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

**Substantial Damage** – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**Substantial Improvement** – Any combination of repairs, reconstruction, alteration, or other improvements to a structure taking place over a one-year period in which the cost equals or exceeds fifty percent of the market value of the structure. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. For the purpose 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 and have been identified by the local code enforcement official.

**Variance** – A grant of relief by the Commission from the terms of these regulations that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**Violation** – Failure of a structure or other development to be fully compliant with these regulations. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

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

### **3.0 GENERAL PROVISIONS**

#### **3.1 AREAS TO WHICH THESE REGULATIONS APPLY**

These regulations shall apply to all Special Flood Hazard Areas (SFHA) within the Town of New Canaan, Connecticut.

#### **3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS (SFHA)**

The Special Flood Hazard Areas (SFHA) identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for Fairfield County, Connecticut, dated June 18, 2010, and accompanying Flood Insurance Rate Maps (FIRM), dated June 18, 2010, and other supporting data applicable to the Town of New Canaan, and any subsequent revisions thereto, are adopted by reference and declared to be a part of these regulations. Since mapping is legally adopted by reference into these regulations it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA.

The special flood hazard areas include any area shown on the FIRM as Zones A and AE, including areas designated as a floodway on a FIRM. Special flood hazard areas 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 FIRM are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. The FIRM and FIS are on file in the Office of the Town Clerk, Town Hall, New Canaan, Connecticut, and in the Inland Wetlands Office located at Irwin Park, New Canaan, Connecticut.

#### **3.3 STRUCTURES ALREADY IN COMPLIANCE**

A structure or development already in compliance with these regulations shall not be made non-compliant by any alteration, modification, repair, reconstruction, or improvement and must also comply with other applicable local, state, and federal regulations. No structure or land shall hereafter be located, extended, converted, modified, or structurally altered without full compliance with the terms of these regulations and other applicable regulations.

#### **3.4 ABROGATION AND GREATER RESTRICTIONS**

These regulations are not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, regulation easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **3.5 INTERPRETATION**

In the interpretation and application of these regulations, 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.

### **3.6 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by these regulations is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply or guarantee that land outside the Special Flood Hazard Area or uses permitted in such areas will be free from flooding and flood damages. These regulations shall not create liability on the part of the Town of New Canaan or by any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder. The Town of New Canaan, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of New Canaan. The Town of New Canaan, its officers and employees shall not be liable for any errors or omissions in data submitted by applicants, their agents or engineers.

### **3.7 SEVERABILITY**

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

### **3.8 EFFECTIVE DATE OF REGULATIONS**

These regulations shall be effective on June 18, 2010, and all prior flood damage prevention regulations adopted by the Commission or its predecessors shall be repealed as of that date. Structures and uses in existence as of that date may be grandfathered in accordance with the provisions of Section 3.3.

## **4.0 ADMINISTRATION**

### **4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Inland Wetlands Agent is hereby appointed to administer, implement and enforce the provisions of these regulations.

### **4.2 CERTIFICATION**

Where required under these regulations, a Connecticut licensed 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 these regulations. Such certification must be provided to the Inland Wetlands Agent.

### **4.3 ESTABLISHMENT OF THE FLOODPLAIN MANAGEMENT PERMIT**

A Floodplain Management Permit shall be required in conformance with the provisions of these regulations prior to the commencement of any development activities. Permits issued under these regulations shall expire if actual construction of a permitted structure does not commence within twelve months of the permit approval date.

### **4.4 PERMIT APPLICATION PROCEDURES**

A floodplain management permit is hereby established for all construction and other development to be undertaken in Special Flood Hazard Areas in this community. Prior to any development, application for a floodplain management permit shall be made to the Inland Wetlands Agent on forms provided and shall include plans drawn to scale showing, at a minimum: the property lines and location of the parcel; the nature, location, dimensions, and elevations of the area in question; limit and extent of the 100-year floodplain and/or floodway boundary and base flood elevation(s); existing and proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required to be submitted to the Inland Wetlands Agent, in addition to such other information as the Commission may reasonably require:

#### **4.4.1 Application Stage**

The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form:

- 4.4.1.1** Base flood elevation (BFE) for the site in question as determined in the FEMA Flood Insurance Study (FIS) or Flood Insurance Rate Map (FIRM). The FIS flood profiles provide more accurate BFE data than the FIRM. The extent of the 100-year floodplain and floodway must be depicted with a boundary line on any site plans and shown in relation to existing and proposed structures or development;

- 4.4.1.2** Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all new construction, substantial improvements or repairs to structures that have sustained substantial damage;
- 4.4.1.3** Elevation in relation to mean sea level to which any non-residential new construction, substantial improvements or repair to structures that have sustained substantial damage will be dry floodproofed;
- 4.4.1.4** Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other materials required by the Federal Emergency Management Agency (FEMA) in order to officially amend or revise the Flood Insurance Rate Map. The applicant must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained;
- 4.4.1.5** A statement as to whether there will be dry land access to the structure during the 100-year flood event. Dry land access must be provided in Zones A and AE;
- 4.4.1.6** A statement and supporting documentation (all costs of project, market value of structure, etc.) verifying that the proposed alterations to an existing structure do not meet the criteria of the substantial improvement and/or substantial damage definition. Otherwise, the structure must be brought into compliance with all floodplain regulations as if it were new construction;
- 4.4.1.7** Where applicable the following certifications by a Connecticut licensed professional engineer or architect are required, and must be provided to the Inland Wetlands Agent. The design and methods of construction must be certified to be in accordance with accepted standards of practice and with the provisions of Section 5.3:
- (a) Non-residential floodproofing must meet the provisions of Section 5.3.1.2;
  - (b) Fully enclosed areas below the base flood elevation (BFE) must meet the minimum design criteria in Section 5.3.1.3;
  - (c) No (0.00 foot) increase in floodway water surface elevations is allowed. Any development in a floodway must meet the provisions of Section

5.3.4;

- (d) Support structures and other foundation members shall be certified by a Connecticut licensed professional engineer or architect as designed in accordance with ASCE24, Flood Resistant Design and Construction.

#### **4.4.2 Construction Stage**

Upon completion of the applicable portion of construction, the applicant shall provide verification to the Inland Wetlands Agent of the following as is applicable:

4.4.2.1 Lowest floor elevation shall be verified for:

- (a) A structure in Zones A and AE, is the top of the lowest floor (including basement). An elevation certificate prepared by a Connecticut licensed land surveyor, professional engineer, or architect must be provided;
- (b) A non-residential structure which has been dry floodproofed is the elevation to which the floodproofing is effective (Note: For insurance purposes, a dry floodproofed, non-residential structure is rated based on the elevation of its lowest floor unless it is floodproofed to one foot above the BFE.). A FEMA Floodproofing Certificate (FEMA Form 81-65) prepared by a Connecticut licensed professional engineer or architect must be provided.

4.4.2.2 Deficiencies detected by the review of the above listed shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

#### **4.5 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR**

Duties of the Inland Wetlands Agent shall include, but not be limited to:

- 4.5.1 Review all permit applications for completeness, particularly with the requirements of Section 4.4.1.
- 4.5.2 Review all permit applications to determine whether the proposed building sites will be reasonably safe from flooding.
- 4.5.3 Review all development permits to assure that the permit requirements of these regulations have been satisfied.
- 4.5.4 Advise the applicant 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 permit application. Such permits include, but are not limited to, Stream Channel Encroachment Line (SCEL) Permit, Coastal Area Management (CAM) Permit, Water Diversion Permit, Dam Safety Permit, and Army Corps of Engineers 401 and 404 Permits.

- 4.5.5 Require the applicant to notify the regional planning agency and affected municipality at least thirty-five days prior to a public hearing if any change of regulation or use of a flood zone will affect an area within 500 feet of another municipality.
- 4.5.6 Require the applicant to notify the adjacent communities and the Department of Environmental Protection (DEP), Inland Water Resources Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- 4.5.7 Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished, or require the applicant to submit maintenance reports showing the same.
- 4.5.8 Obtain, record and maintain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction, substantial improvements or repair to a structure that has sustained substantial damage. The Inland Wetlands Agent shall require and maintain Elevation Certificates provided by the applicant and prepared by a Connecticut licensed land surveyor, professional engineer, or architect containing this information.
- 4.5.9 Obtain, record and maintain the elevation (in relation to mean sea level) to which the new construction, substantial improvement or repair to a structure that has sustained substantial damage has been floodproofed. The Inland Wetlands Agent shall require and maintain FEMA Floodproofing Certificates for Non-Residential Structures (FEMA FORM 81-65). Floodproofing Certificate to be provided by the applicant and prepared by a Connecticut licensed professional engineer or architect containing this information.
- 4.5.10 When floodproofing is utilized for a particular structure, the Inland Wetlands Agent shall obtain certification from a Connecticut licensed professional engineer or architect, in accordance with Section 5.3.1.2.
- 4.5.11 Where interpretation is needed as to the exact location of boundaries of the area of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Inland Wetlands Agent may require a report by a Connecticut licensed professional engineer at the applicant's expense. The person contesting the location of the boundary may appeal the interpretation in accordance with Section 7.1.

- 4.5.12 Require the applicant to provide base flood elevation data for all proposed development, including manufactured home parks and subdivisions.
- 4.5.13 When base flood elevation data or floodway data have not been provided in accordance with Section 3.2 and Section 4.4, the Inland Wetlands Agent shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of Section 5.0.
- 4.5.14 All records pertaining to the provisions of these regulations shall be obtained and maintained in the office of the Inland Wetlands Agent.
- 4.5.15 Upon completion of the permitted development and prior to issuance of a Certificate of Occupancy (CO), necessary as-built surveys (prepared by a Connecticut Licensed Professional as per Connecticut State Statutes) and engineering and architectural certifications shall be provided to the Inland Wetlands Agent demonstrating compliance with the approved plans and standards set forth in Section 4.4.

#### **4.6 ENTRANCE ONTO PRIVATE PROPERTY**

In the performance of its duties under these regulations, the Commission may, by itself, its members or its agents, enter at all reasonable times upon any public or private property, except within a private residence, for the purpose of inspection and investigation in connection with an application, review of construction activities, or to ascertain possible violation of these regulations. Submission of an application shall constitute consent for entry onto private property. The Inland Wetlands Agent is authorized to obtain a search warrant if necessary.

#### **4.7 FEES**

The Board of Selectmen may from time to time determine and fix the amount of fees to be charged and paid to the Inland Wetlands Agent for the filing of applications and petitions. Such fees shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including, but not limited to, the cost of certified mailings, publication of notices and decisions, and monitoring compliance with permit conditions or agency orders.

The Commission may charge an additional fee to cover the cost of reviewing and acting on complex applications. Such fee may include, but is not limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Commission or the Inland Wetlands Agent shall estimate the complex application fee, and the applicant shall pay the complex application fee within ten days of applicant's receipt of the estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than thirty days after publication of the Commission's decision.

Upon discovery of permit violations, the Commission or the Inland Wetlands Agent may also require an additional application fee to cover monitoring inspections.

In the instance where both a floodplain management application and an inland wetlands application are submitted for the same development, the fee for the second application shall be an additional fee.

The schedule of fees shall be filed for public record in the office of the Town Clerk of the Town within ten days after adoption by the Board of Selectmen, and a copy shall also be made available in the office of the Inland Wetlands Department.

## **5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **5.1 GENERAL STANDARDS**

In all Special Flood Hazard Areas (SFHAs) the following provisions are required:

- 5.1.1 New construction, substantial improvements, and structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage.
- 5.1.2 New construction, substantial improvements, and structures that have sustained substantial damage shall be constructed with materials and utility equipment resistant to flood damage.
- 5.1.3 New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 5.1.4 New construction, substantial improvements, and repairs to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.
- 5.1.5 Electrical, heating, ventilation, plumbing, air conditioning equipment, HVAC ductwork, and other service facilities, or any machinery or utility equipment or connections servicing a structure shall be elevated to or above the base flood elevation (BFE) to prevent water from entering or accumulating within the components during conditions of flooding. This includes, but is not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation ductwork, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes.
- 5.1.6 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- 5.1.7 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- 5.1.8 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

- 5.1.9 Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.
- 5.1.10 In any portion of a watercourse that is altered or relocated, the flood carrying capacity must be maintained. Notify adjacent communities and the Connecticut Department of Environmental Protection (DEP), Inland Water Resources Division prior to any alteration or relocation of a watercourse.
- 5.1.11 If **any** portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
- 5.1.12 If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)
- 5.1.13 Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally-influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

- 5.1.14 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 Connecticut licensed 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 stage or flood velocity.
- 5.1.15 Dry Land Access. Each new residential or non-residential development in the Special Flood Hazard Area (Zones A and AE) shall have direct access to a walkway, driveway, or roadway whose surface elevation is not less than the base flood elevation (BFE) and such escape route shall lead directly out of the floodplain area.

## **5.2 STANDARDS FOR WATERCOURSES WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (UN-NUMBERED A ZONE), ADOPTED FLOODWAYS AND/OR FLOOD MAPPING**

- 5.2.1 The Inland Wetlands Agent shall require that base flood elevation (BFE) data be provided with any application for new construction, substantial improvement, repair to structures which have sustained substantial damage or other development in Zone A without a FEMA-published BFE (un-numbered A Zone). The Inland Wetlands Agent shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source, including data developed for subdivision proposals, as criteria for requiring that new construction, substantial improvements, repair to structures which have sustained substantial damage or other development in un-numbered A Zones on the community's Flood Insurance Rate Map (FIRM) meet the standards in Section 4.4 and Section 5.3. If no BFE can be determined, the lowest floor, including basement, must be elevated to two feet above the highest adjacent grade next to the structure.
- 5.2.2 When BFEs have been determined within Zones A and AE on the community's FIRM but a regulatory floodway has not been designated, the Inland Wetlands Agent must require that no new construction, substantial improvements, repair to structures which have sustained substantial damage or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

- 5.2.3 The Inland Wetlands Agent 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 municipality's request or not), the community 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 within the community.
- 5.2.4 The Inland Wetlands Agent shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, repair to structures which have sustained substantial damage or other development in any area of potential, demonstrable or historical flooding within the community meet the standards in Section 4.4 and Section 5.3.
- 5.2.5 Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.

### **5.3 SPECIFIC STANDARDS**

#### **5.3.1 Construction Standards in Special Flood Hazard Areas (SFHA), Zones A and AE.**

##### **5.3.1.1 Residential Construction**

All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are residential structures shall have the bottom of the lowest floor, including basement, elevated two feet above the base flood elevation (BFE). Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE.

##### **5.3.1.2 Non-Residential Construction.**

All new construction, substantial improvements, and repair to structures that have sustained substantial damage, which are commercial, industrial or non-residential structures, shall:

- (a) Have the bottom of the lowest floor, including basement, elevated two feet above the base flood elevation (BFE); or
- (b) In lieu of being elevated, non-residential structures may be dry floodproofed to one foot above the BFE provided that together

with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Connecticut licensed professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this section. Such certification shall be provided to the Inland Wetlands Agent on the FEMA Floodproofing Certificate, Form 81-65.

- (c) Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE.

#### 5.3.1.3 Fully Enclosed Areas Below The Base Flood Elevation Of Elevated Buildings.

All new construction, substantial improvements, or repair of substantial damage to residential or non-residential structures that include fully enclosed areas formed by a foundation and other exterior walls below the base flood elevation (BFE) of an elevated building, shall be designed to preclude finished living space and be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls (wet floodproofing). Designs for complying with this requirement must either be certified by a Connecticut licensed professional engineer or architect, or meet the following minimum criteria listed in sections (a)-(g) below:

- (a) Provide a minimum of two openings (hydraulic flood vents) having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding. These hydraulic openings must be located on at least two different walls. Only the area (square footage) that lies below the BFE can be used in the calculation of net area of vents required. If the structure has more than one enclosed area, openings must be installed in the exterior walls of each enclosed area so that flood waters can enter directly from the outside;

- (b) The bottom of all openings shall be no higher than one foot above grade. At least one side of the structure's fully enclosed area must be at or above grade. Fill placed around the foundation walls must be graded so that the elevation inside the enclosed area is equal to or higher than the adjacent outside elevation on at least one side of the building. The finished floor of the enclosed area shall be no lower than the bottom of the foundation openings. The foundation slab of a residential structure, including the slab of a crawlspace, must be set equal to the outside finished grade on at least one side of the building;
- (c) The openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters in both directions without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means. Other coverings may be designed and certified by a Connecticut licensed professional engineer or approved by the Inland Wetlands Agent;
- (d) The area cannot be used as finished living space. Use of the enclosed area shall be the minimum necessary and shall only be used for the parking of vehicles, building access or limited storage. Access to the enclosed area shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The enclosed area shall not be used for human habitation or partitioned into separate rooms;
- (e) All interior walls, floor, and ceiling materials located below the BFE shall be unfinished and resistant to flood damage.
- (f) Electrical, plumbing, HVAC ductwork, machinery or other utility equipment and connections that service the structure (including, but not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation, washers, dryers, electrical junction boxes, circuit breaker boxes and food freezers) are prohibited in the fully enclosed area below the BFE. Utilities or service equipment located in this enclosed area, even if elevated above the BFE in the space, will subject the structure to increased flood insurance rates.

- (g) A residential building with a structurally attached garage having the floor slab below the BFE is considered an enclosed area below the BFE and must meet the standards of Sections 5.3.1.3 (a)-(f). A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters in both directions. Flood openings or vents are required in the exterior walls of the garage or in the garage doors. The human intervention necessary to open garage doors when flooding occurs is not an acceptable means of meeting the openings requirements. In addition to the automatic entry of floodwaters, the areas of the garage below BFE must be constructed with flood resistant materials. Garages attached to non-residential structures must also meet the aforementioned requirements or be dry floodproofed as per the requirements of Section 5.3.1

### 5.3.2 Manufactured (Mobile) Homes and Recreational Vehicles (RVs).

5.3.2.1 Manufactured (mobile) homes are prohibited in all special flood hazard areas. This includes manufactured (mobile) homes located in special flood hazard areas outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in 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.

5.3.2.2 Recreational vehicles placed on sites within Zones A or AE must be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanent attached additions.

### 5.3.3 Floodways

Located within Special Flood Hazard Areas (SFHA) are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM). 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, repairs to substantially damaged structures, and other developments shall be permitted unless certification, with supporting technical data, by a Connecticut licensed professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the 100 year base flood discharge. Fences located in the

floodway must be aligned with the flow and be of an open design. 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 requirements of C.F.R. 44, Chapter 1, Subsection 65.12.

## **6.0 DESIGN STANDARDS FOR SUBDIVISION PROPOSALS**

If a proposed subdivision, including the placement of a manufactured home park or subdivision, is located in a Special Flood Hazard Area (SFHA) 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 have adequate drainage provided to reduce exposure to flood hazards; and
- 6.4 In all special flood hazard areas where base flood elevation (BFE) data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a Connecticut licensed professional engineer that includes BFEs for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions. The Inland Wetlands Agent shall require the applicant to provide BFE data for all subdivision proposals, including manufactured home parks and subdivisions, as per Section 4.5.12.

## **7.0 VARIANCE AND APPEAL PROCEDURES**

### **7.1 ESTABLISHMENT OF VARIANCE AND APPEAL PROCESS**

- 7.1.1 The Commission, as established by the Town of New Canaan, shall hear and decide appeals and requests for variances from the requirements of these regulations.
- 7.1.2 The Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Inland Wetlands Agent in the enforcement or administration of these regulations. Any such appeal shall be taken by filing with the Commission a notice of appeal specifying the grounds thereof. To be timely, the notice of appeal must be filed with the Commission within fifteen days of the requirement, decision or determination being appealed.
- 7.1.3 Any person aggrieved by the decision of the Commission or any person owning land which abuts or is within a radius of one hundred feet of the land in question may appeal within fifteen days after publication of such decision to the Connecticut Superior Court for the judicial district of Stamford-Norwalk, as provided in Section 8-8 of the General Statutes of Connecticut, or as the statute may be amended from time to time.
- 7.1.4 The Inland Wetlands Agent shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

### **7.2 SPECIFIC SITUATION VARIANCES**

#### **7.2.1 Buildings on a Historic Register**

Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or any locally-adopted historic district 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.

#### **7.2.2 Functionally Dependent Use or Facility**

Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use or facility provided that the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety and meet all the requirements of Section 7.3.

### 7.2.3 Floodway Prohibition

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

## 7.3 CONSIDERATIONS FOR GRANTING OF VARIANCES

In passing upon such applications, the Commission may consider all technical evaluations, all relevant factors, all standards specified in other sections of these regulations, including but not limited to the items listed below as 7.3.1 – 7.3.11. Upon consideration of these factors and the purposes of these regulations, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

- 7.3.1 The danger that materials may be swept onto other lands to the injury of others;
- 7.3.2 The danger to life and property due to flooding or erosion damage;
- 7.3.3 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 7.3.4 The importance of the services provided by the proposed facility to the community;
- 7.3.5 The necessity of the facility to waterfront location, in the case of a functionally dependent facility;
- 7.3.6 The availability of alternative locations not subject to flooding or erosion damage for the proposed use;
- 7.3.7 The compatibility of the proposed use with existing and anticipated development;
- 7.3.8 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 7.3.9 The safety access to the property in times of flood for ordinary and emergency vehicles;
- 7.3.10 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
- 7.3.11 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.

## 7.4 CONDITIONS FOR VARIANCES

- 7.4.1 Variances shall only be granted upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard; 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 design of the building and result in the loss of historic designation of the building. Variances pertain to a piece of property and are not personal in nature. A properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the regulation would create an exceptional hardship to the applicant or the surrounding property owners. Those characteristics must be unique to that property and not be shared by adjacent parcels. For example, economic or financial hardship is not sufficient cause for a variance, nor are inconvenience, aesthetic considerations, physical handicaps, personal preferences or disapproval of neighboring property owners.
- 7.4.2 Variances shall only be used 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, damage the rights or property values of other persons in the area, cause fraud on or victimization of the public, or conflict with existing local laws, ordinances or regulations. Only hardships that are based on unusual or unique physical characteristics of the property in question, characteristics that are not shared by adjacent parcels, shall qualify to meet subsection (ii) above. Claims of hardship based on the structure, on economic gain or loss, or on personal or self-created circumstances are not sufficient cause for the granting of a variance.
- 7.4.3 No variance may be issued within a regulatory floodway that will result in any increase in the 100-year flood levels. A variance may be issued for new construction, substantial improvements and other development necessary for the conduct of a “functionally dependent use” provided that there is good and sufficient cause for providing relief; and the variance does not cause a rise in the 100-year flood level within a regulatory floodway. The structure and other development must be protected by methods that minimize flood damages.
- 7.4.4 Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE) and the elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

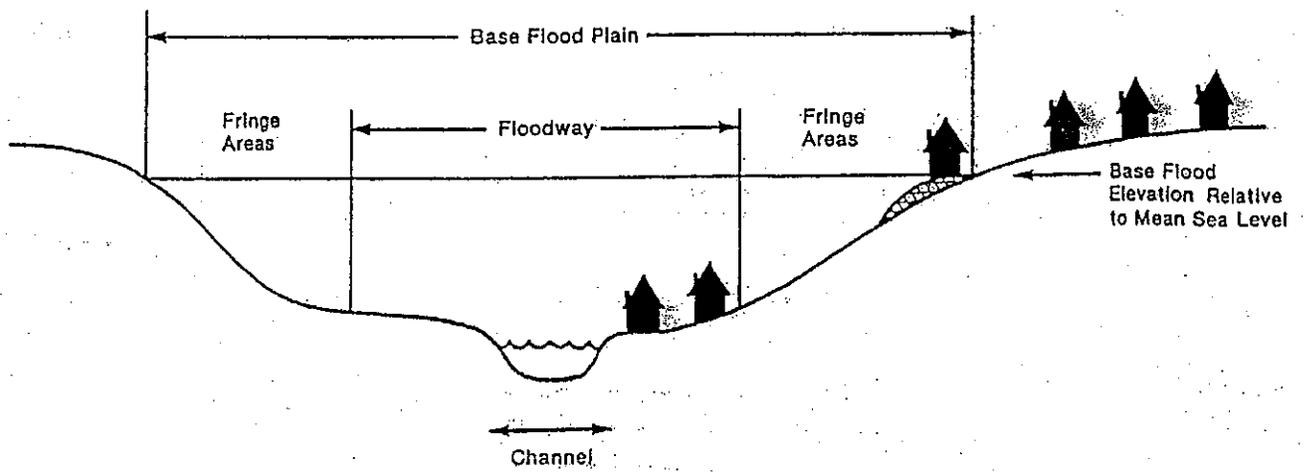
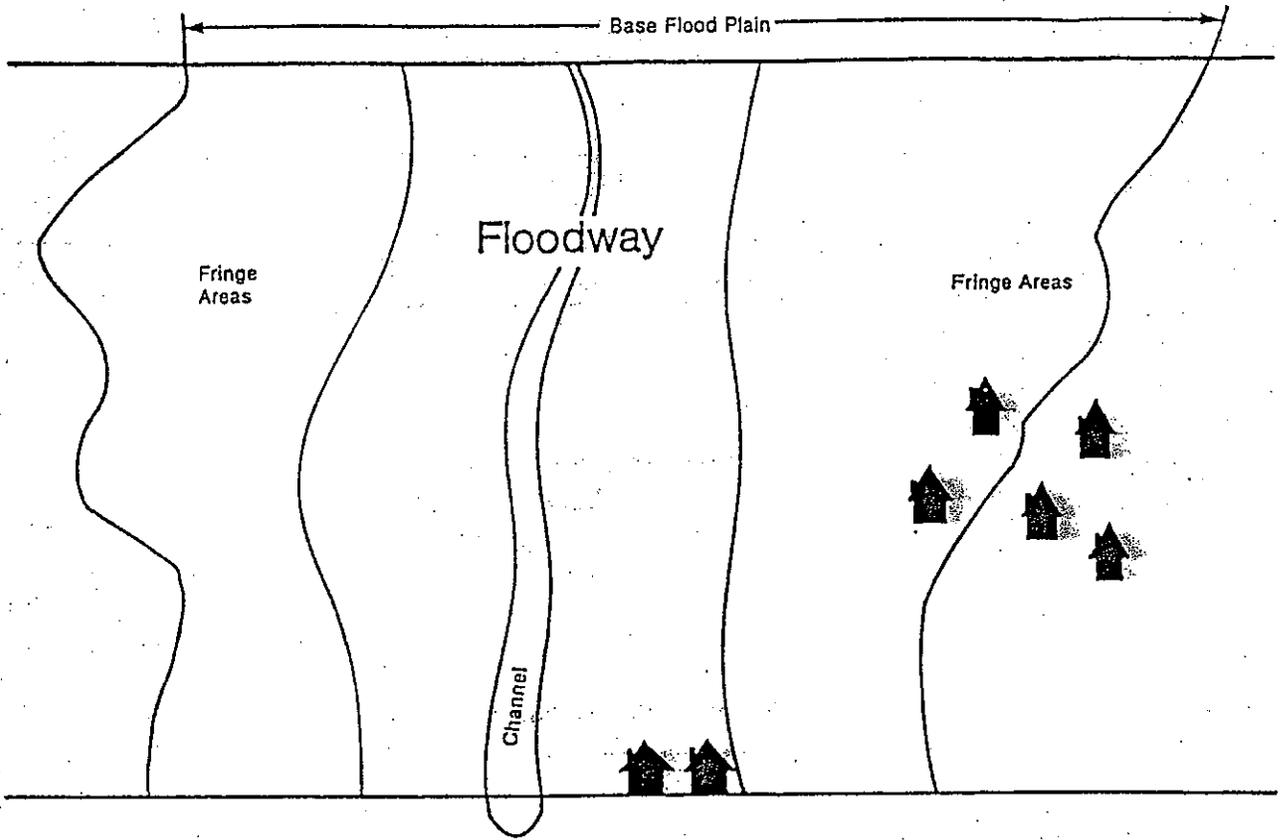
## **8.0 ENFORCEMENT**

- 8.1 Each Floodplain Management Permit shall authorize, as a condition of approval, the Inland Wetlands Agent to make regular inspections of the subject property. The Inland Wetlands Agent is also authorized to inspect any property in a Special Flood Hazard Area (SFHA) where it appears that violations of these regulations may be taking place.
- 8.2 If the Inland Wetlands Agent finds that any person is undertaking any construction, substantial improvement, filling, or any other activity or maintaining a condition which in violation of these regulations, the Inland Wetlands Agent may:
  - 8.2.1 Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the activity cease and ordering the property owner to either obtain a Floodplain Management Permit prior to continuing with the activity or, if appropriate, ordering that all violations and/or obstructions be removed from the Special Flood Hazard Area (SFHA) immediately.
  - 8.2.2 Notify the Building Department and request that any building permit(s) in force be revoked or suspended and that a stop work order be issued.
  - 8.2.3 The Inland Wetlands Agent may suspend or revoke a Floodplain Management Permit if it is found that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of work as set forth in the application including application plans. Prior to revoking any permit, the Inland Wetlands Agent shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.
  - 8.2.4 Failure to comply with any written order issued under this section shall be considered a violation of these regulations and is subject to the penalties described in Section 9.0.
  - 8.2.5 In the event that violations or obstructions are not promptly removed from the Special Flood Hazard Area (SFHA), the Inland Wetlands Agent may cause such removal and remediation work to be performed utilizing bond money held in escrow, or may direct the Director of Public Works to cause such work to be done and to place a lien against the property.
  - 8.2.6 Any person subjected to enforcement action pursuant to these regulations, may appeal any requirement, decision, or determination of the Inland Wetlands Agent to the Commission, in accordance with Section 7.1 of these regulations. Such person shall provide such information as

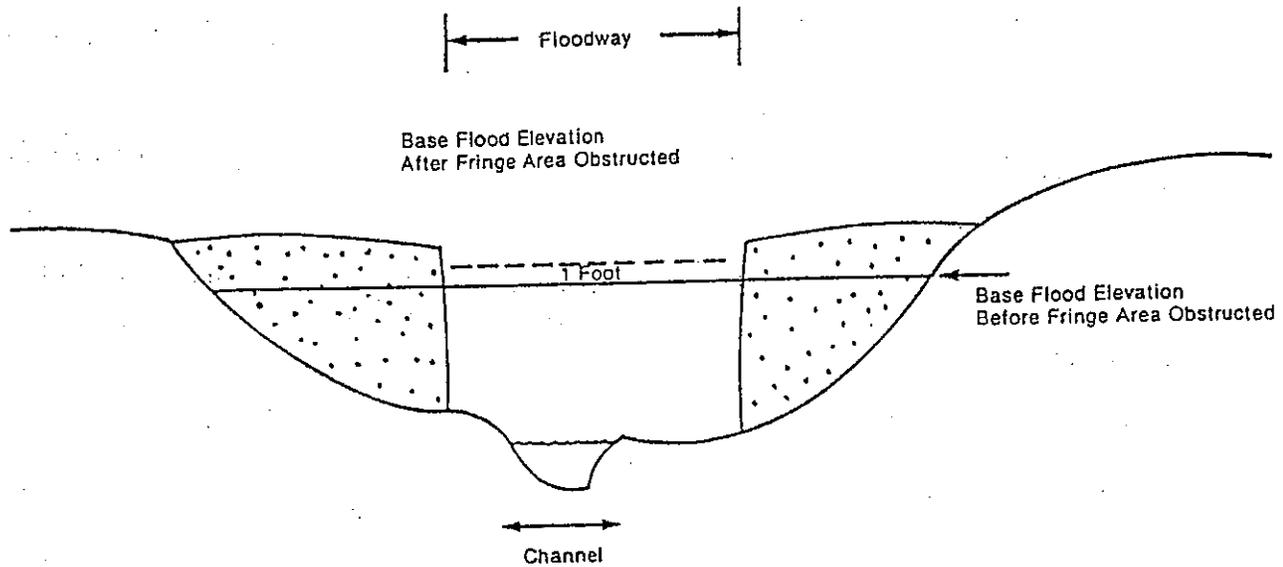
necessary including appropriate certifications from a Connecticut licensed professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the Inland Wetlands Agent was in error or unwarranted.

## **9.0 PENALTIES FOR VIOLATION**

Any violation of the provisions of these regulations or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grant of variances or special exceptions, shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined a penalty of \$250.00 per day for each day of violation, and in addition shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the Town of New Canaan from taking such lawful action as is necessary to prevent or remedy any violation.

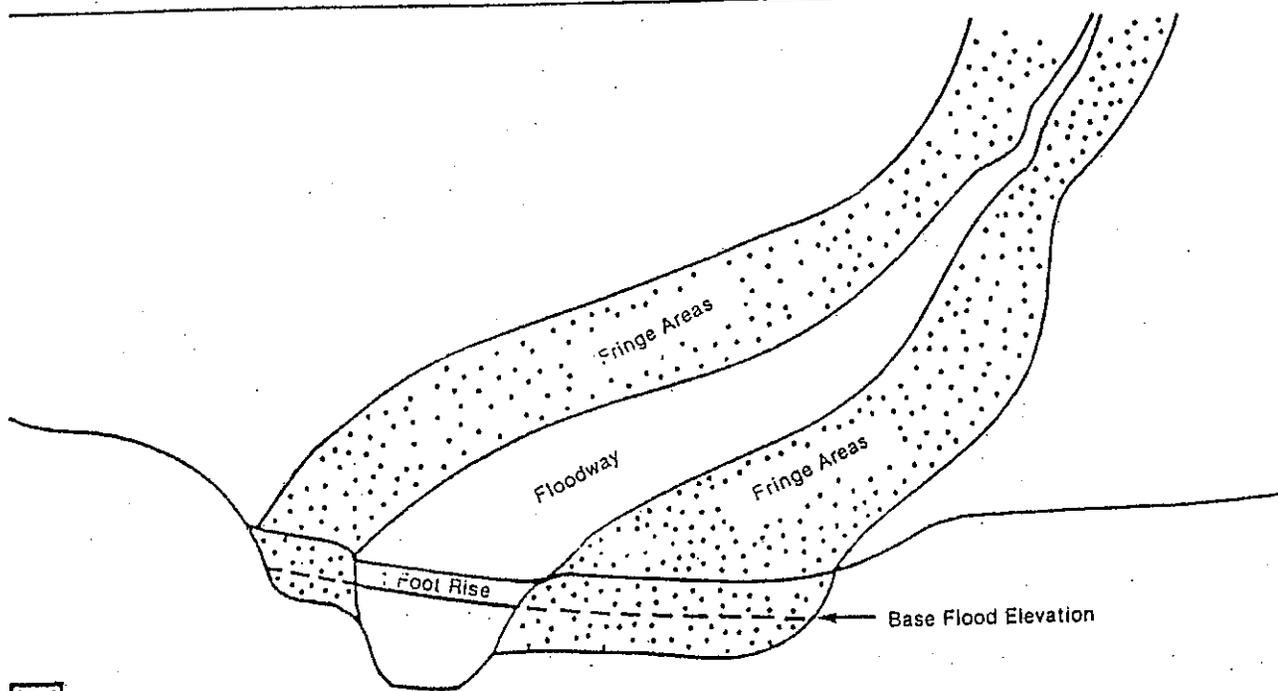


Floodway and Fringe Areas.



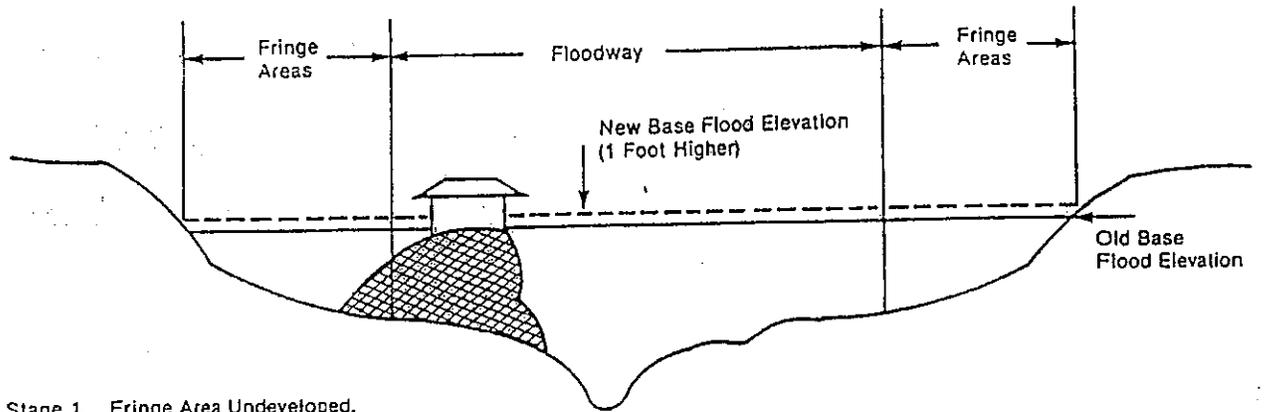
 Area Assumed Obstructed by Future Development

Developing the Floodway Boundaries by "Squeezing in" the Floodwaters.

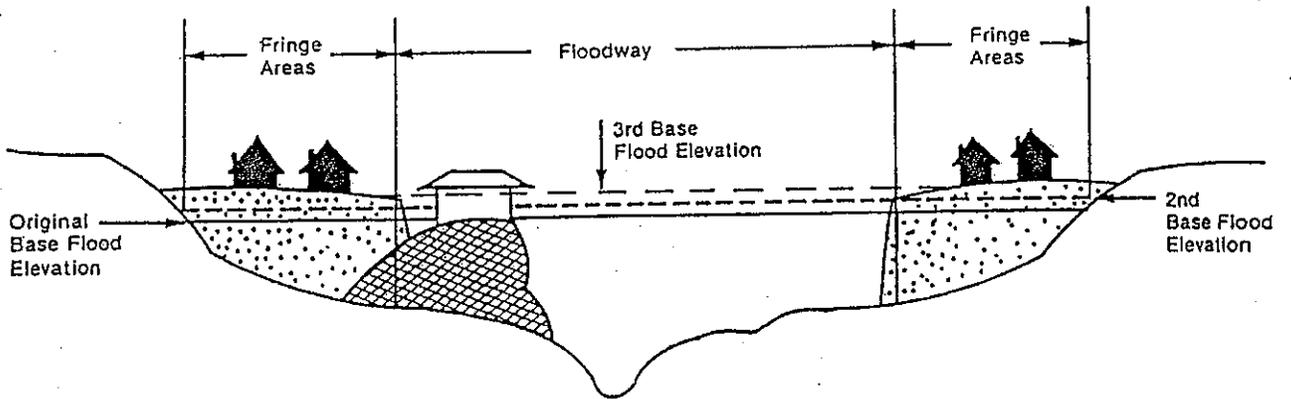


 Area Assumed to be Obstructed

The Limits of the Imaginary Obstruction are the Floodway Boundaries.



Stage 1. Fringe Area Undeveloped.  
 Factory Built in Floodway Raises  
 Base Flood Elevations by One Foot.  
 This Structure is in Violation of FIA Regulations.



Stage 2. Fringe Area Developed.  
 Base Flood Elevation Rises Another Foot.  
 Total Rise now Two Feet.

Effect of Floodway Obstructions.