

Chapter 9

**FLOOD DAMAGE PREVENTION AND CONTROL\***

- Art. I.** In General, §§ 9-1—9-15  
**Art. II.** Flood and Erosion Control Board, §§ 9-16—9-30  
**Art. III.** Flood Damage Prevention, §§ 9-31—9-111
- Div. 1. Statutory Authorization, Finding of Fact, Purpose and Objectives, §§ 9-31—9-40
  - Div. 2. Definitions, §§ 9-41—9-50
  - Div. 3. General Provisions, §§ 9-51—9-65
  - Div. 4. Administration, §§ 9-66—9-75
  - Div. 5. Provisions for Flood Hazard Reduction, §§ 9-76—9-90
  - Div. 6. Design Standards for Subdivision Proposals, §§ 9-91—9-100
  - Div. 7. Variance Procedures, §§ 9-101—9-110
  - Div. 8. Enforcement, § 9-111

**ARTICLE I. IN GENERAL**

**Secs. 9-1—9-15. Reserved.**

**ARTICLE II. FLOOD AND EROSION CONTROL BOARD**

**Sec. 9-16. State law adopted.**

The provisions of sections 25-84 through 25-94 of the Connecticut General Statutes are adopted.

(Ord. of 2-15-78, § I)

**Sec. 9-17. Composition; appointment; terms.**

The flood and erosion control board shall consist of five (5) members who shall be electors of the town and shall be appointed by the town council. The terms of such members shall initially be from one (1) to five (5) years in duration, and each term shall expire on the first day of February of a particular year at 12:00 noon. The town council shall annually appoint a member to fill an expired term, and such appointment shall be for a term of five (5) years to likewise expire on the first day of February at 12:00 noon.

(Ord. of 2-15-78, § II)

**Editor's note**—Technical changes were made in this section as part of the Code adoption in order to conform to current procedures.

**\*Cross references**—Buildings and building regulations, Ch. 6; fire prevention and protection, Ch. 8; health and sanitation, Ch. 10; planning, Ch. 14; streets, sidewalks and public places, Ch. 17; water, sewage and sewage disposal, Ch. 20; housing regulations, App. A; sanitary sewer system construction, extension, maintenance and operation regulations, App. B.

**Sec. 9-18. Alternate members.**

In addition to the members referred to in section 9-17, there shall be three (3) alternate members of the flood and erosion control board; and such alternates shall be appointed by the town council. Such alternates shall initially serve for a period of from one (1) to three (3) years in duration, and each term shall expire on the first day of February of a particular year. The town council shall annually appoint an alternate to fill an expired term and such appointment of such alternate shall be for a term of three (3) years to likewise expire on the first day of February at 12:00 noon.

(Ord. of 2-15-78, § III)

**Editor's note**—Technical changes were made in this section as part of the Code adoption in order to conform to current procedures.

**Secs. 9-19—9-30. Reserved.****ARTICLE III. FLOOD DAMAGE PREVENTION\*****DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND OBJECTIVES****Sec. 9-31. Statutory authorization.**

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7)(A) and in Title 8, Chapter 124, Section 8-2 of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of the Town of East Haven, Connecticut, does ordain as follows:

(Ord. No. 867, § 1.1, 12-9-10)

**Sec. 9-32. Finding of fact.**

The flood hazard areas of the Town of East Haven 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

**\*Editor's note**—Ord. No. 867, adopted Dec. 9, 2010, amended art. III in its entirety to read as herein set out. Former art. III, §§ 9-31—9-34, 9-41, 9-51—9-58, 9-66—9-68, 9-76—9-82, pertained to similar subject matter, and derived from Ord. No. 493, adopted April 2, 1991. See Code Comparative Table for complete derivation.

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 East Haven has voluntarily participated in the National Flood Insurance Program (NFIP) since February 15, 1978. 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.

(Ord. No. 867, § 1.2, 12-9-10)

**Sec. 9-33. Statement of purpose.**

It is the purpose of this article 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:

- (1) To protect human life and health, and prevent damage to property;
- (2) To minimize expenditure of public funds for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions and other economic disruptions;
- (5) To 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;
- (6) To 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;
- (7) To insure that potential buyers are notified that property is in a flood hazard area;
- (8) To prevent increases in flood heights that could further increase flood damage;
- (9) To ensure that those who occupy the flood hazard areas assume responsibility for their actions; and
- (10) To discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(Ord. No. 867, § 1.3, 12-9-10)

**Sec. 9-34. Objectives.**

In order to accomplish its purposes, this article includes objectives, methods and provisions that:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to flood or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of floodwaters;
  - (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
  - (5) Prevent or regulate the construction of barriers or obstructions which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (Ord. No. 867, § 1.4, 12-9-10)

**Secs. 9-35—9-40. Reserved.**

DIVISION 2. DEFINITIONS

**Sec. 9-41. [Definitions.]**

Unless specifically defined below, words and phrases used in this article shall have the same meaning as they have in common usage and to give this article its most reasonable application.

*Area of shallow flooding* (for a community with AO or AH zones only) means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one (1) to three (3) 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.

*Base flood* means 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)* means the elevation of the crest of the base flood (100-year flood). The height in relation to mean sea level (NGVD of 1929) expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

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

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

*Building.* See definition for "Structure."

*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 zones V and VE on a flood insurance rate map (FIRM).

*Cost* means as related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure as 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. Items to be excluded include: 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* means any manmade 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.

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home 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 of initial adoption, of the floodplain management regulations adopted by the community.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the 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)* means the federal agency that administers the National Flood Insurance Program (NFIP).

*Finished living space* means 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* means 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 insurance rate map (FIRM)* means 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.

*Flood insurance study (FIS)* means the official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

*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 (1.0) foot. For the purposes of these regulations, the term "regulatory floodway" is synonymous in meaning with the term "floodway".

*Functionally dependent use or facility* means 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, longterm storage, manufacturing, sales or service facilities.

*Highest adjacent grade (HAG)* (for community with AO/AH zones) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* means any structure that is:

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

*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 design requirements specified in subsection 9-78(a)(3) of this article.

*Manufactured home* means a structure, transportable in one (1) 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 eighty (180) consecutive days or longer and intended to be improved property.

*Manufactured home park or subdivision* means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

*Market value* means the market value of the structure shall be determined by the property's appraised value from the tax assessor's office, minus land value 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)* means The North American Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

*New construction* means structures for which the "start of construction" commenced on or after the date of initial adoption, the effective date of the floodplain management regulations, and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of initial adoption, of the floodplain management regulation adopted by the community.

*Recreational vehicle* means a vehicle which is:

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

*Sand dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach. (CTDEP OLISP alternate definition: Accumulation of sand in mounds or ridges located landward of the beach face, usually arranged parallel to the shoreline, created by constructive waves, wind, and/or manmade restoration that tend to grow landward and/or seaward in response to windblown sand accumulation trapped by vegetation.)

*Special flood hazard area (SFHA)* means 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, AE, and the coastal high hazard areas shown as zones V and VE on a FIRM. The SFHA is also called the area of special flood hazard.

*Start of construction* means 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 eighty (180) 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* means a walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

*Substantial damage* means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a ten-year period, in which the cumulative cost equals or exceeds fifty (50) 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 purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (2) Any alteration of a "historic" structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Variance* means a grant of relief by a community from the terms of the floodplain management article that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

*Violation* means failure of a structure or other development to be fully compliant with the community's floodplain management article. 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* means 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 flood plains of coastal or riverine areas.  
(Ord. No. 867, § 2.0, 12-9-10)

**Secs. 9-42—9-50. Reserved.**

### DIVISION 3. GENERAL PROVISIONS

**Sec. 9-51. Areas to which this article applies.**

This article shall apply to all Special flood hazard areas (SFHA) within the Town of East Haven, Connecticut.  
(Ord. No. 867, § 3.1, 12-9-10)

**Sec. 9-52. 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 the Town of East Haven, dated December 17, 2010, and accompanying flood insurance rate maps (FIRM), dated December 17, 2010, and other supporting data applicable to the Town of East Haven, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this article. Since mapping is legally adopted by reference into this article it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA.

The areas of special flood hazard includes any area shown on the FIRM as zones A, AE, and VE, including areas designated as a floodway on a FIRM. Zones VE are also identified as coastal high hazard areas. 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 BFEs 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 (BFE) as shown in the FIS, and the where the area is not protected from flooding by a natural or manmade feature. The FIRM and FIS are on file in the engineering department, 461 North High Street, East Haven.  
(Ord. No. 867, § 3.2, 12-9-10)

**Sec. 9-53. Structures already in compliance.**

A structure or development already in compliance with this article shall not be made noncompliant 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 this article and other applicable regulations.

(Ord. No. 867, § 3.3, 12-9-10)

**Sec. 9-54. Abrogation and greater restrictions.**

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

(Ord. No. 867, § 3.4, 12-9-10)

**Sec. 9-55. Interpretation.**

In the interpretation and application of this article, 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.

(Ord. No. 867, § 3.5, 12-9-10)

**Sec. 9-56. Warning and disclaimer of liability.**

The degree of flood protection required by this article 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. This article does 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. This article shall not create liability on the part of the Town of East Haven or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. The Town of East Haven, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of East Haven.

(Ord. No. 867, § 3.6, 12-9-10)

**Sec. 9-57. Severability.**

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

(Ord. No. 867, § 3.7, 12-9-10)

**Sec. 9-58. Penalties for violation.**

Any violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of variances or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined a penalty of two hundred fifty dollars (\$250.00) per day or imprisoned for not more than ten (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 East Haven from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 867, § 9.0, 12-9-10)

**Secs. 9-59—9-65. Reserved.**

## DIVISION 4. ADMINISTRATION

**Sec. 9-66. Designation of the local administrator.**

The East Haven Town Engineer is hereby appointed to administer, implement and enforce the provisions of this article.

(Ord. No. 867, § 4.1, 12-9-10)

**Sec. 9-67. Certification.**

Where required under this article, 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 article. Such certification must be provided to the East Haven Town Engineer.

(Ord. No. 867, § 4.2, 12-9-10)

**Sec. 9-68. Establishment of the floodplain development permit.**

A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities. Permits issued under this article shall expire if actual construction of a permitted structure does not commence within one hundred eighty (180) days of the permit approval date.

(Ord. No. 867, § 4.3, 12-9-10)

**Sec. 9-69. Permit application procedures.**

A floodplain development 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 activities, application for a floodplain development permit shall be made to the East Haven Town Engineer on forms provided and may include, but not be limited to, plans in duplicate 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 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 East Haven Town Engineer:

- (1) *Application stage.* The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form.
  - a. 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;
  - b. 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;
  - c. 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;
  - d. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. Computations by a registered professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance that 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;
  - e. A statement and supporting documentation (all costs of project, market value of structure, etc.) verifying that the proposed alterations to an existing structure meets or does not meet the criteria of the substantial improvement and/or

substantial damage definition. If a development meets the definition of substantial improvement and/or substantial damage, the structure must be brought into compliance with all floodplain regulations as if it were new construction;

- f. Where applicable the following certifications by a registered professional engineer or architect are required, and must be provided to the East Haven Town Engineer. The design and methods of construction must be certified to be in accordance with accepted standards of practice and with the provisions of section 9-78.
  1. Nonresidential floodproofing must meet the provisions of subsection 9-78(a)(2);
  2. Fully enclosed areas below the base flood elevation (BFE) must meet the minimum design criteria in subsection 9-78(a)(3);
  3. No (0.00) increase in floodway water surface elevations are allowed. Any development in a floodway must meet the provisions of subsection 9-78(d);
  4. Breakaway walls must meet the design criteria specified in subsections 9-78(b)(9) and 9-78(b)(10); and
  5. Structural anchoring must meet the design criteria specified in subsections 9-78(b)(4) and 9-78(b)(5).

(2) *Construction stage.* Upon completion of the applicable portion of construction, the applicant shall provide verification to the East Haven Town Engineer of the following as is applicable:

- a. Lowest floor elevation shall be verified for:
  1. A structure in zones A or AE is the top of the lowest floor including basement);
  2. A structure in zones V or VE is the lowest horizontal structural member (excluding pilings or columns);
  3. A nonresidential structure that has been dry floodproofed is the elevation to which the floodproofing is effective. (Note: For insurance purposes, a dry floodproofed, nonresidential structure is rated based on the elevation of its lowest floor unless it is floodproofed to one (1) foot above the BFE.);
- b. 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.

(Ord. No. 867, § 4.4, 12-9-10)

**Sec. 9-70. Duties and responsibilities of the local administrator.**

Duties of the East Haven Town Engineer shall include, but not be limited to:

- (1) Review all permit applications for completeness, particularly with the requirements of subsection 9-69(1).

- (2) Review all permit applications to determine whether the proposed development and building sites will be reasonably safe from flooding.
- (3) Review all permit applications to assure that the permit requirements of this article have been satisfied.
- (4) Review all permit applications to assure that all necessary federal and state permits have been received. 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.
- (5) Notify the regional planning agency and affected municipality at least thirty-five (35) days prior to a public hearing if any change of regulation or use of a flood zone will affect an area within five hundred (500) feet of another municipality.
- (6) 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.
- (7) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (8) Obtain, record and maintain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction, substantial improvement or repair to a structure that has sustained substantial damage.
- (9) Obtain, record and maintain the elevation (in relation to mean sea level) to which all new construction, substantial improvement or repair to a structure that has sustained substantial damage has been floodproofed.
- (10) In coastal high hazard areas (VE zones), obtain, record and maintain the elevation of the bottom of the lowest horizontal structural member for all new construction, substantial improvement or repair to a structure that has sustained substantial damage.
- (11) When floodproofing is utilized for a particular structure, the East Haven Town Engineer shall obtain certification from a registered professional engineer or architect, in accordance with subsection 9-78(a)(2).
- (12) Where interpretation is needed as to the exact location of boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the East Haven Town Engineer shall make the necessary interpretation utilizing any data available to render a decision. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

- (13) Require the applicant to provide base flood elevation data for all proposed development, including manufactured home parks and subdivisions.
  - (14) When base flood elevation data or floodway data have not been provided in accordance with sections 9-52 and 9-69, the East Haven Town Engineer 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 this article.
  - (15) In coastal high hazard areas (zones V and VE), certification shall be obtained from a registered professional engineer or architect that the structure is designed to be securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, in accordance with subsection 9-78(b).
  - (16) In coastal high hazard areas (zones V and VE), the East Haven Town Engineer shall review plans for adequacy of breakaway walls, in accordance with subsection 9-78(b).
  - (17) All records pertaining to the provisions of this article shall be obtained and maintained in the office of the East Haven Town Engineer for public inspection.
  - (18) 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 East Haven Town Engineer demonstrating compliance with the approved plans and standards set forth in section 9-69.
- (Ord. No. 867, § 4.5, 12-9-10)

**Secs. 9-71—9-75. Reserved.**

#### DIVISION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

##### **Sec. 9-76. General standards.**

In all Special flood hazard areas (SFHAs) the following provisions are required:

- (1) New construction, substantial improvements, and repair to structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage.
- (2) New construction, substantial improvements, and repair to structures that have sustained substantial damage shall be constructed with materials and utility equipment resistant to flood damage.
- (3) New construction, substantial improvements, and repair 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.

- (4) New construction, substantial improvements, and repair 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) Electrical, heating, ventilation, plumbing, air conditioning equipment, HVAC ductwork, 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.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (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 floodwater.
- (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.
- (11) If any portion of a structure lies within the special flood hazard area (SFHA), the entire structure is considered to be located within 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 standard of the more restrictive zone.
- (12) If a structure lies within two (2) 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 flood zone will require the entire structure to meet the standard of the more restrictive zone.)
- (13) 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 floodwater 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.

- (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 stage or flood velocity.

(Ord. No. 867, § 5.1, 12-9-10)

**Sec. 9-77. Standards for watercourses without established base flood elevations, adopted floodways, and/or flood mapping.**

(a) The East Haven Town Engineer shall require base flood elevation (BFE) data be provide 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 East Haven Town Engineer 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 unnumbered A zones on the community's flood insurance rate map (FIRM) meet the standards in section 9-69 and section 9-78. If no BFE can be determined, the lowest floor, including basement, must be elevated to two (2) feet above the highest adjacent grade next to the structure.

(b) When BFEs have been determined within zone AE on the community's FIRM but a regulatory floodway has not been designated, the East Haven Town Engineer 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 (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

(c) The East Haven 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 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 (1.0) foot at any point within the community.

(d) The East Haven Town Engineer 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 9-69 and section 9-78.

(e) 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 zone AE on the community's FIRM which increases the water surface elevation of the base flood by more than one (1.0) foot, provided that the community first completes all of the provisions required by Section 65.12.

(Ord. No. 867, § 5.2, 12-9-10)

#### **Sec. 9-78. Specific standards.**

(a) *Construction standards in special flood hazard areas (SFHA), zones A and AE.*

(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 to or 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.

(2) *Nonresidential 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 to or above the base flood elevation (BFE); or
- b. In lieu of being elevated, non-residential structures may be dry floodproofed to one (1) 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 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 section. Such certification shall be provided to the East Haven Town Engineer 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.
- (3) *Fully enclosed areas below the base flood elevation of elevated buildings.* All new construction, substantial improvements, or repair to structures that have sustained substantial damage, whether residential or non-residential, 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 floodwaters to automatically equalize hydrostatic flood forces on exterior walls (wet floodproofing). Designs for complying with this requirement must either be certified by a registered professional engineer or architect, or meet the following minimum criteria listed in subsections a.—g. below:
- a. Provide a minimum of two (2) 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 (2) 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 (1) enclosed area, openings must be installed in the exterior walls of each enclosed area so that floodwaters can enter directly from the outside;
  - b. The bottom of all openings shall be no higher than one (1) foot above the finished grade adjacent to the outside of the foundation wall. At least one (1) entire 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 (1) 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 (1) 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 floodwaters in both directions without any external influence or control such as human intervention, including the use of electrical and other nonautomatic mechanical means. These coverings must not block or impede the automatic flow of floodwaters into and out of the enclosed area. Other coverings may be designed and certified by a registered professional engineer or approved by the East Haven Town Engineer;
  - 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, washer and dryer hook-ups, 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 subsections (a)(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. Garage doors that must be manually opened do not meet the flood vent opening requirements in subsections (a)(3)a.—c. 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 subsection (a)(2).

(b) *Construction standards in coastal high hazard areas, zones V and VE.* Located within the special flood hazard areas (SFHA) are areas designated as coastal high hazard areas (zones V and VE). These areas have additional flood hazards associated with wave wash, erosion scour, and high wind. Therefore, the following provisions shall apply:

- (1) All new construction, substantial improvement and repair to structures that have sustained substantial damage shall be located at least twenty-five (25) feet landward of the reach of mean high tide.
- (2) All new construction, substantial improvement and repair to structures that have sustained substantial damage shall be elevated so that the bottom of the lowest horizontal structural member (excluding pilings and columns) is located at or above the base flood elevation (BFE), with all space below the lowest horizontal supporting member open and free of obstruction so as not to impede the flow of water. Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE and cannot be located below the structure. Any service equipment that must be located below the BFE must be floodproofed to prevent water from entering during conditions of flooding.

- (3) All new construction, substantial improvement and repair to structures that have sustained substantial damage shall be securely anchored on pilings or columns.
- (4) All pilings and columns and the attached structures shall be anchored to resist flotation, collapse and lateral movement due to the effects 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 required by applicable state or local building codes.
- (5) A registered professional engineer or architect shall develop structural specifications and plans for the construction and shall certify that the design, specifications and plans for construction are in accordance with acceptable standards and are in compliance with the provisions contained in subsections (b)(1)—(4).
- (6) There shall be no fill used for structural support. Limited noncompacted fill may be used around the perimeter of the building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction, prior to generating excessive loading forces, ramping effects, or wave deflection. The East Haven Town Engineer shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by a registered professional engineer, architect and/or soil scientist, which demonstrates that the following factors have been fully considered: (1) Particle composition of fill material does not have a tendency for excessive natural compaction; (2) Volume and distribution of fill will not cause wave deflection to adjacent properties; and (3) Slope of fill will not cause wave run-up or ramping.
- (7) There shall be no alteration of sand dunes that would increase potential flood damage.
- (8) Prior to construction, plans for any structures that will have breakaway walls, lattice work or screening must be submitted to the East Haven Town Engineer for approval.
- (9) Nonsupporting breakaway walls, lattice work or mesh screening shall be allowed below the base flood elevation provided it is not part of the structural support of the structure and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the structure on which it is to be used and provided the following design specifications are met: (1) Design safe loading resistance of each wall shall not be less than ten (10) pounds per square foot or more than twenty (20) pounds per square foot; or (2) If more than twenty (20) pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and 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 prior to or during the collapse of such wall.
- (10) If breakaway walls, lattice work or screening are utilized, the resulting enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

(11) Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with breakaway walls, lattice work, or screening as provided for in [subsections] (b)(8) and (b)(9) of this section.

(c) *Manufactured (mobile) homes and recreational vehicles (RVs).*

- (1) In special flood hazard areas (SFHA) with zones A and AE, any manufactured (mobile) home to be newly placed, undergoing a substantial improvement or repaired as a result of substantial damage, shall be elevated so that the bottom of the lowest floor is at or above the base flood elevation (BFE). The manufactured home must also meet all the construction standards for zones A and AE as per subsection (a). This includes SFHAs outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood.
- (2) In special flood hazard areas (SFHA) with zones V and VE, any manufactured (mobile) home to be newly placed, undergoing a substantial improvement or repaired as a result of sustained substantial damage, shall be elevated so that the bottom of the lowest horizontal structural member is at or above the base flood elevation (BFE). The manufactured home must also meet all the construction standards for zones V and VE as per subsection (b). This includes SFHAs outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood.
- (3) All manufactured (mobile) homes within SFHA shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.
- (4) All manufactured (mobile) homes within SFHA shall be installed using methods and practices that minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.
- (5) Recreational vehicles placed on sites within zones A and AE in the SFHA shall either be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use, or meet all the general standards of section 9-76 and the elevation and anchoring requirement of subsections (c)(1), (c)(3), and (c)(4). 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 permanently attached additions.

- (6) Recreational vehicles placed on sites within zones V and VE in the SFHA shall either be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use, or meet all the general standards of section 9-76, the V zone construction requirements of subsection (b), and the elevation and anchoring requirement of subsections (c)(2), (c)(3), and (c)(4). 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 permanently attached additions.

(d) *Floodways*. Located within special flood hazard areas (SFHA) are areas designated as floodways on the community's flood insurance rate maps (FIRM) or flood boundary and floodway maps (FBFM). Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and has 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 registered 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 base flood discharge published by FEMA. Fences 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.

(Ord. No. 867, § 5.3, 12-9-10)

**Secs. 9-79—9-90. Reserved.**

## DIVISION 6. DESIGN STANDARDS FOR SUBDIVISION PROPOSALS

### **Sec. 9-91. [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:

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- (4) The East Haven Town Engineer shall require the applicant to provide BFE data for all subdivision proposals, including manufactured home parks and subdivisions, as per subsection 9-70(12). In all special flood hazard areas where base flood elevation (BFE) data is not available, the applicant shall provide a hydrologic and hydraulic engineer-

ing analysis performed by a registered professional engineer that generates BFEs for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions.

(Ord. No. 867, § 6.0, 12-9-10)

**Secs. 9-92—9-100. Reserved.**

DIVISION 7. VARIANCE PROCEDURES

**Sec. 9-101. Establishment of variance process.**

(a) The East Haven Zoning Board of Appeals, as established by the Town of East Haven shall hear and decide appeals and requests for variances from the requirements of this article.

(b) The East Haven 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 East Haven Town Engineer in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the East Haven Zoning Board of Appeals or any person owning land which abuts or is within a radius of one hundred (100) feet of the land in question may appeal within fifteen (15) days after such decision to the State Superior Court of New Haven, as provided in G.S. § 8-8.

(d) The East Haven Town Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA).

(Ord. No. 867, § 7.1, 12-9-10)

**Sec. 9-102. Specific situation variances.**

(a) *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.

(b) *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 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 9-104.

(c) *Floodway prohibition.* Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(Ord. No. 867, § 7.2, 12-9-10)

**Sec. 9-103. Considerations for granting of variances.**

In reviewing such applications for variances, the East Haven Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article and the items listed below as [subsections] (1)—(11). Upon consideration of these factors and the purposes of this article, the East Haven Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

- (1) The danger that materials may be swept onto lands causing injury to others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity of the facility to waterfront location, in the case of a functionally dependent facility;
- (6) The availability of alternative locations not subject to flooding or erosion damage for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safe access to the property in times of flood for ordinary and emergency vehicles;
- (10) The heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (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.

(Ord. No. 867, § 7.3, 12-9-10)

**Sec. 9-104. Conditions for variances.**

(a) Variances shall only be used 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 one's neighbors.

(b) Variances shall only be granted 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, creation of 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.

(c) 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.

(d) 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 that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. No. 867, § 7.4, 12-9-10)

**Secs. 9-105—9-110. Reserved.**

#### DIVISION 8. ENFORCEMENT

##### **Sec. 9-111. [Enforcement.]**

(a) Each floodplain development permit shall authorize, as a condition of approval, the East Haven Town Engineer or designated agents to make regular inspections of the subject property. The East Haven Town Engineer or designated agents are 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.

(b) If the East Haven Town Engineer 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 East Haven Town Engineer shall:

(1) Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the prohibited activity cease and ordering the property owner to

either seek to obtain a floodplain development 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.

- (2) Notify the East Haven Town Engineer and request that any floodplain development permit(s) in force be revoked or suspended and that a stop work order be issued.
- (3) The East Haven Town Engineer may suspend or revoke a floodplain development 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 East Haven Town Engineer 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.
- (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 9-58.
- (5) In the event violations or obstructions are not promptly removed from the special flood hazard area (SFHA), the East Haven Town Engineer may cause such removal and remediation work to be performed utilizing bond money held in escrow pursuant to division 3 of this article, or may direct the director of public works or appropriate agent to cause such work to be done and to place a lien against the property.
- (6) Any person subject to enforcement action pursuant to this article may appeal any requirement, decision, or determination of the East Haven Town Engineer to the East Haven Zoning Board of Appeals, in accordance with division 7 of this article. Such person shall provide such information as necessary including appropriate certifications from a registered professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the East Haven Town Engineer was in error or unwarranted.

(Ord. No. 867, § 8.0, 12-9-10)