

ORDINANCE AMENDING AND RESTATING THE TOWN OF HARWINTON FLOOD
DAMAGE PREVENTION ORDINANCE

SECTION 1. PURPOSE AND OBJECTIVE

The Legislature of the State of Connecticut has, in Section 7-148(c)(7) of the Connecticut 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. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. The flood hazard areas of the Town of Harwinton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

SECTION 2. DEFINITIONS

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

- 2.1. *"Area of special flood hazard"* is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
- 2.2. *"Base flood"* means the flood having a one percent chance of being equaled or exceeded in any given year.
- 2.3. *"Basement"* means any area of the building having its floor subgrade (below ground level) on all sides.
- 2.4. *"Development"* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- 2.5. *"Floodway"* means the channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood with out cumulatively increasing the water surface elevation more than one foot.
- 2.6. *"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.

- 2.7. *"Manufactured home"* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes **recreational vehicles**, park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property
- 2.8. *"Mean Sea Level"* means, for purposes of the national Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- 2.9. *"Start of construction"* includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- 2.10. *"Substantial improvement"* means any combination of repairs, reconstruction, alteration, or improvements to a structure, **taking place over a ten (10) year period**, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure, **before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.** The market value of the structure should be (1) the appraised value of the structure prior to the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

SECTION 3. GENERAL PROVISIONS

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town of Harwinton. The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood insurance Study (FIS) or Flood Insurance Rate Map (FIRM), dated February 17, 1982, with accompanying floodway maps and other supporting data, declared to be a part of this ordinance. **Since mapping is legally adopted by reference into this ordinance it must take precedence when more restrictive until such time as a map amendment is obtained.** A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

SECTION 4. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

The Board of Selectmen shall designate a local administrator of this ordinance.

Duties of the local administrator shall include, but not be limited to:

- 4.1. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- 4.2. Advise permittee that additional Federal or State permits may be required. Notify adjacent communities and the Department of Environmental Protection, Water Resources Unit prior to any alteration or relocation of a watercourse. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- 4.3. Record the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved or flood proofed-structures. When flood-proofing is utilized for a particular structure the local administrator shall obtain certification from a (local administrator) registered professional engineer or architect.
- 4.4. When base flood elevation data or floodway data have not been provided, then the local administrator 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 Sections 5.2. and 5.3.
- 4.5. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard the local administrator shall make the necessary interpretation. All records pertaining to the provisions of this ordinance shall be maintained in the office of the local administrator. **The degree of flood protection required by this ordinance is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Harwinton or any officer or employee thereof for any flood damages that result from reliance or any administrative decision lawfully made thereunder.**

SECTION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

- 5.1. *General Standards:* In all areas of special flood hazard the following provisions are required:
 - 5.1.1. *New Construction and Substantial Improvements:* New construction and substantial improvements shall be:
 - (i) anchored to prevent flotation, collapse or lateral movement of the structure
 - (ii) constructed with materials and utility equipment resistant to flood damage

(iii) constructed by methods and practices that minimize flood damage (iv) constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- 5.1.2. *Water Supply and Sanitary Sewage Systems:* New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into the flood waters. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- 5.1.3 Manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to the ground anchors.
- 5.2 *Specific Standards:* In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Section 3 or as determined in Section 4.4, the follow provisions, in addition to those in Section 5.1., are required.
- 5.2.1. *Residential Structures:* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood evaluation.
- 5.2.2. *Non-residential Structures:* New construction or substantial improvement of any commercial, industrial or non-residential structure located in special flood hazard area shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- 5.2.3 *Floodproofing:* Non-residential structures located in all A-Zones may be flood-proofed in lieu of being elevated provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall review and/or develop structural design, specifications, and/or develop structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection.
- 5.2.4. *Elevated Buildings:* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to

preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria: (i) provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding (ii) the bottom of all openings shall be no higher than one foot above grade (iii) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

5.2.5 *Manufactured Homes:* All manufactured homes placed or substantially improved within areas of special flood hazard (A, AI-30, AE, AH zones) shall have the lowest floor elevated to or above the base flood elevation. They shall be placed on a securely anchored and permanent foundation, to which the manufactured home is securely anchored to resist flotation, collapse, or lateral movement.

5.2.6. In A-Zones where base flood elevations have been determined, but before a floodway is designated, require that no new construction, substantial improvement, or other development (including fill) be permitted which would increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.

5.2.7 *Recreational Vehicles:* All recreational vehicles located within areas of special flood hazard (A, AI-30, AE, AH zones) must be on site for less than 180 consecutive days and be fully licensed and ready for highway use, OR meet the elevation and anchoring requirements of a manufactured home as stated in Section 5.1.3 and Section 5.2.5. 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.

5.3. *Floodways:* In areas where floodways have been designated or determined:

Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any (0.00) increase in flood levels during occurrence of the base flood discharge. When utilizing data other than that provided by the Federal Emergency Management Agency, the following standard applies: select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any one point.

SECTION 6. STANDARDS FOR SUBDIVISION PROPOSALS

In all special flood hazard areas the following requirements shall apply: (i) all subdivision

proposals shall be consistent with the need to minimize flood damage (ii) all subdivision proposals shall have the public utilities and facilities such as sewer, gas, electrical and water systems located and construed to minimize flood damage (iii) all subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards (iv) in Zone A, base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which are five acres or fifty lots, which ever occurs first.

SECTION 7. VARIANCE PROCEDURES

The Inland Wetlands and Water Courses Commission shall hear and decide appeals and requests for variances from the requirements of this ordinance. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing town regulations. Only hardships which are based on unusual physical characteristics of the property in question, characteristics which are not shared by adjacent properties, shall qualify to meet subsection (ii) above. Claims of hardship based on the structure, personal, or economic circumstances are not sufficient cause for granting of a variance under this regulation. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The Town shall maintain records of all variances granted and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

SECTION 8. PENALTIES FOR VIOLATIONS

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to a fine of \$250.00 per day and to a further penalty of not less than \$250.00 for each and every day that such violation continues to exist. Nothing herein contained shall prevent the Town of Harwinton from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 9. SEVERABILITY

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court for any reason whatsoever, the remainder of the ordinance shall not be affected, which shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared to be severable.

SECTION 10. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing laws,

regulations, ordinances, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 11. AMENDMENT AND RESTATEMENT

This ordinance amends and restates Ordinance No. 39, adopted June 24, 1975, Ordinance No. 57, adopted February 16, 1982, and Ordinance No. 86, adopted December 18, 1990, to incorporate changes required or suggested by the State of Connecticut, Department of Environmental Protection, Water Management, Inland Water Resources Division as of January, 2003.

SECTION 12. EFFECTIVE DATE

This ordinance shall take effect fifteen (15) days after the publication of a summary of its provisions in accordance with Connecticut General Statutes, §7-157(b).

ADOPTED AT TOWN MEETING: October 28, 2003
PUBLISHED IN THE: Republican-American ON October 30, 2003.
EFFECTIVE DATE: November 14, 2003
HARWINTON TOWN RECORDS: VOLUME 7, PAGES 85 - 90

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