

# TOWN OF KENT, CT PLANNING AND ZONING COMMISSION

## FLOOD PLAIN MANAGEMENT REGULATIONS

Whereas, Congress has determined that a National Flood Insurance Program would alleviate personal hardships and economic distress, and as Congress has required towns participating in the National Flood Insurance Program to adopt certain regulations and inasmuch as it is of vital importance to the citizens of Kent that this Town participate in this program.

NOW, THEREFORE, Pursuant to 42 U.S.C. and under the authority of the Connecticut General Statutes 7-148 and 22a-42 and Chapter 24 and in order to promote the public health, safety and general housing to protect wetlands and watercourses within the Town of Kent and in order to minimize public and private losses due to flood conditions, the following regulation has been adopted, the purpose of which regulation is to protect human life and health, to minimize expenditure of public monies for costly flood control products, to minimize the need for rescue and relief efforts associated with flooding, to minimize damage to public facilities and utilities, to help maintain a stable tax base to ensure that potential purchasers are notified of that property which is in an area of special flood hazard and to ensure that those who occupy the areas of special flood hazard assume responsibility for certain of their actions, the Town of Kent adopts the following regulations:

### ARTICLE I: DEFINITIONS

Unless specifically defined below, words or phrases used in this regulation shall be interpreted so as to give them the meaning they have in common usage and to give this regulation it's most reasonable application. When defined terms appear in this regulation and also in the Kent Zoning or Subdivision Regulations have different definitions, the definitions in this regulation shall control only when the premises, structure or other defined term is or are located within the Flood Plain as currently defined or the area currently under FEMA jurisdiction.

**“Appeals”** means (a) a request of the Planning and Zoning Commission's decision related to the provision of this regulation or (b) a request for a variance from the requirements of this regulation.

**“Area of special flood hazard”** means the land in the flood plain within a community subject a one percent or greater chance of flooding in any given year designated as Zone A and zones A-1-A-30 in FIRM map as defined herein and Article II Section I.

**“Base flood”** means the flood having a one percent chance of being equaled or exceeded in any given year.

**“Basement”** means any area of the building having its floor sub-grade (below ground level on all sides for Floodplain Management purposes).

**“Commission”** means the Kent Planning and Zoning Commission of the Town of Kent, Connecticut.

**“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 material located within the area of special flood hazard.

**“Flood or flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) overflow of inland waters or (b) the unusual and rapid accumulation of runoff of surface waters from any source.

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

**“Flood Insurance Study”** means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

**“Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**“Lowest floor”** means the lowest floor of the lowest enclosed area (including basement).

**“Manufactured home”** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**“Mean Sea Level”** means for the purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on community’s Flood Insurance Rate Map are referenced.

**“New construction”** means structure for which the “start of construction” commenced on or after the effective date of this regulation.

**“Recreational vehicle”** means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be

self-propelled or permanently towable by a light truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**“Start of construction”** includes substantial improvement and means the date of the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 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 a 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 or walkways nor does it include the excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affect the external dimensions of the buildings.

**“Structure”** means a walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above the ground.

**“Substantial damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**“Substantial improvement”** means any combination of repairs, reconstruction, alteration or improvements to a structure taking place over a ten year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure should be (a) the appraised value of the structure using the cost approach to value prior to the start of the initial repair or improvement, or (b) 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 specification which are solely necessary to assure safe living conditions.

**“Variance”** means a grant of relief from the requirements of this regulation which permits construction in a manner that would otherwise be prohibited by this regulation.

**“Water surface elevation”** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## **ARTICLE II: GENERAL PROVISIONS**

**Section 1:** This regulation shall apply to all areas of special flood hazards, namely Zone A and Zones A1-A30 which are delineated on a map entitled “Flood Insurance Rate Map, Town of Kent, Litchfield County” effective March 4, 1980. Prepared by the United States Federal Emergency Management Agency, and as such zones may be amended from time to time by such Agency, which map is hereby made part of this regulation and is hereinafter referred to as “Flood Insurance Rate Map”. The Flood Insurance Rate Map is based on a document entitled “Flood Insurance Study for the Town of Kent, Connecticut, Litchfield County” dated September 1979, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, including a flood boundary-floodway map dated March 4, 1980, all of which are hereby adopted by reference as part of this regulation it must take precedence when more restrictive until such time as a map amendment is obtained. All of the maps herein before referred to and the Flood Insurance Study are on file at the office of the Town Clerk.

**Section 2:** No structure or land in a special flood hazard area shall hereinafter be developed, constructed, located, extended, converted or altered without full compliance with the terms of this regulation and the regulations issued pursuant to the authority granted herein.

## **ARTICLE III: ADMINISTRATION**

**Section 1:** A Flood Hazard Area Permit shall be obtained before construction of any structure or development of any land begins within any area of special flood hazard established in Article II Section 1. The Flood Hazard permit shall be in addition to any other permit required by the Town of Kent, but may, in the Commission’s discretion be attached to the Kent Building Permit. Application for a Flood Hazard Area Permit shall be made on forms furnished by the Commission and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures fill, storage of materials, drainage facilities, and the location of the foregoing, specifically, the following information is required:

- (1) Elevation in regulation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been flood proofed;
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Article IV, Section (f) and,
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**Section 2:** The Kent Planning and Zoning Commission is hereby appointed to administer and implement this regulation.

**Section 3:** The duties of the Commission in administering and enforcing this regulation shall include:

- A. Adoption of such regulations as the Commission determines to be consistent with the intent and purpose of this regulation.
  - 1. The Commission shall adopt regulations allowing such non-structural development within the flood hazard area as will not affect the direction, height or velocity of flood waters.
- B. Applications.
  - 1. Review all Flood Hazard Area Permit applications to determine that the permit requirements of this regulation have been satisfied.
  - 2. Review all Flood Hazard Area Permit Applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
  - 3. Review all Flood Hazard Area Permit applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Article IC (g)(1) are met.
- C. Use of other Base Flood and Floodway Data.
  - 1. When base flood elevation of floodway data has not been provided in accordance with Article II Section 1, the Commission shall obtain, review and reasonably utilize any base flood elevation data available from Federal, State or other source in order to administer this regulation.
- D. Information to be obtained and maintained.
  - 1. Obtain and record the actual elevation as built (in relation to mean sea level) of the lowest floor (including basement) of all new substantially improved structures and whether or not the structure contains a basement.
  - 2. For all new substantially improved flood proofed structures (1) verify and record the actual elevation as built (in relation to mean sea level) and (2) maintain the flood proofing certifications as required in Article III Section 1.
  - 3. Maintain for public inspection all records pertaining to the provisions of this regulation.

- E. Interpretation of FIRM Boundaries.
  - 1. Make interpretations where needed, as to the exact location of the boundaries of the areas of special hazards, (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the locations of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article V.
  
- F. Alteration of Watercourses.
  - 1. Notify adjacent communities, the Connecticut Department of Environmental Protection and the Inland Water Resource Division prior to any alteration or relocation of a major border watercourse.
  - 2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - 3. Submit evidence of such notification to FEMA Program Administration.

## **ARTICLE IV: STANDARDS**

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

- A. Anchoring
  - 1. All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.
  - 2. No manufactured home or recreational vehicle shall be located in a Special Hazard Area.
  
- B. Construction material and methods
  - 1. All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
  - 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - 3. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and located so as to prevent water from entering or accumulating within the components during conditions or flooding.
  
- C. Utilities
  - 1. All new replacement water supply systems shall be designed to minimize infiltration of flood waters into the system.

2. All new and replacement sanitary systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.
3. All new and replacement on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
4. Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres, whichever is less.

E. Residential construction

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

F. Nonresidential construction

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

1. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effect of buoyancy; and
3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official a set forth in Article III, Section 1.
4. In A zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted which will 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.

G. Floodways

Located within areas of special flood hazard established in Article II are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential and erosion potential, the following provisions apply:

1. All encroachments are prohibited, including fill, new construction, substantial improvements and other development, unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachment shall not result in any (0.00) increase in flood levels during occurrence of the base flood discharge.
2. If Section g(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reductions provisions of this Article.

## **ARTICLE V: VARIANCES**

**Section 1:** The Kent Zoning Board of Appeals shall hear and decide appeals and request for variances from the requirements of this regulation and may, in appropriate cases, vary the application of this regulation or the regulation promulgated hereunder, in harmony with their general purpose and intent, where owing conditions especially affecting such parcels, a literal enforcement of this regulation would result in exceptional difficulty or unusual hardship, so that substantial justice will be done and the public safety and welfare served, and the Kent Board of Appeals shall hear and decide appeals when it is alleged that there is a error in any requirement, decision or determination made by the Kent Planning and Zoning Commission in the enforcement or administration of this regulation.

### **Section 2:**

- A. In considering such appeal, the Zoning Board of Appeals shall consider all factors it determines relevant, including but not limited to:
  - (1) the danger that materials may be swept onto other lands to the injury of others;
  - (2) the danger of life and property due to flooding or erosion damage;
  - (3) the susceptibility of the proposed construction to flood damage;
  - (4) the importance of the services by the proposed construction to the community;
  - (5) the necessity for a waterfront location, where applicable;
  - (6) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) the compatibility of the proposed use with existing and anticipated development;
  - (8) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - (11) the cost 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.
- B. The Zoning Board of Appeals may attach such conditions to the granting of the variance as it deems appropriate and shall, prior to granting a variance, make determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expenses.
- C. The Zoning Board of Appeals shall maintain the records of all appeal action including technical information and report of variances to the Federal Insurance Administration upon request.
- D. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historical Places or the State Inventory of Historic Places, without regard to the procedure set forth in the remainder of this section. Variances shall not be issued within any designated floodway if any increase in flood level during the base flood discharge would result.
- E. Where an application is granted a variance allowing a floor elevation below base flood elevation, that applicant shall be given written notice that the structure will be permitted to be built with a lowest flood elevation and that the cost of flood insurance will commensurate with the increased risk resulting from the reduced lowest floor elevation.

**Section 3:** This regulation is not intended to repeal, abrogate, or impair any easements or other laws, and whichever imposes the more stringent restrictions shall prevail. If any section, subsection, provision, portion, paragraph, sentence, clause, or phrase of these regulations should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared to be severable.

**Section 4:** In the interpretation and application of this regulation, all provisions shall be considered as minimum requirements and shall be construed so as to preserve and maintain the purpose and intent thereof.

**Section 5:** The degree of flood protection required by this regulation is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This regulation 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 regulation shall not create liability on the part of the Town of Kent or the Commission or any officer or employee thereof.

## **ARTICLE VI: APPEALS**

If an applicant or an aggrieved party desires to appeal an action, requirement, determination or decision of the commission such party may (A) File an appeal with the Zoning Board of Appeals or (B) File and appeal to the Superior Court pursuant to Section 8-8 of the Connecticut General Statutes.

Adopted by the Kent Planning and Zoning Commission: November 8, 2001  
Effective Date: December 1, 2001