

**LEGAL NOTICE
TOWN OF PLAINVILLE**

NOTICE IS HEREBY GIVEN that the following action was taken by the Town Council of the Town of Plainville in meeting duly assembled on October 7, 2019:

1. Adoption of following amendments:

**Chapter 225
FLOOD DAMAGE PREVENTION**

Article V; Provisions for Flood Hazard Reduction; sections §225-17, 225-18, 225-19, 225-20, 225-21D, 225-23, 225-24A, 225-25A, 225-26 and 225-27 are to be amended and read:

§ 225-17 General standards.

In all areas of special flood hazard the following provisions are required:

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- B. New construction, substantial improvements and structures that have sustained substantial damage shall be constructed with materials and utility equipment that are flood damage resistant and conform to the provisions of FEMA Technical Bulletin 2, Flood Damage-Resistant Material Requirements. This includes but is not limited to flooring, interior and exterior walls, wall coverings and other materials installed below the Base Flood Elevation plus one (1) foot;
- C. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- D. The bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, appliances, fixtures and components, HVAC duct work and duct systems and any other utility service equipment, facilities, machinery, or connections serving the structure shall be elevated one (1) foot above the Base Flood Elevation, (BFE). This includes but is not limited to furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation duct work, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes. Systems, fixtures, equipment and components shall not be mounted on or penetrate through breakaway walls intended to fail under flood conditions. Connections or other equipment that must be located below the BFE plus 1-foot elevation are permitted only when no other elevation alternative is available, provided they are designed and installed to prevent water from entering and or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects or buoyance, during the occurrence of the base flood event. Electrical wiring systems that must be located below the BFE plus one (1.0) foot shall conform to the standards for wet locations;
- E. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters and shall be subject to review and approval by the Superintendent of the Plainville Water Pollution Control Authority;
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding and shall be subject to review and approval by the Plainville Town Sanitarian;
- H. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. Aboveground storage tanks which are located outside or inside of a structure must be elevated one (1.0) foot above the Base Flood Elevation (BFE) or shall be securely anchored to prevent flotation, collapse or lateral movement under conditions of the base flood. Where elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on elevated foundations that conform to the standards for the particular flood zone as described herein. Anchored tanks must have the top of the fill pipe located at least one (1) foot above the BFE and have a screw fill cap that does not allow for the infiltration of flood water;
- I. In any portion of a watercourse which is altered or relocated, the flood-carrying capacity shall be maintained;
- J. A structure already in compliance with the provisions of this chapter shall not be made noncompliant by any alteration, repair, reconstruction or improvement to the structure;

- K. **Compensatory storage**-The water holding capacity of the floodplain, except those areas which are tidally influenced shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure shall be compensated for by deepening and or widening the floodplain. Storage shall be provided on site unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted connection to the same waterway or water body. Compensatory storage can be provided off site if approved by the Town of Plainville;
- L. **Equal Conveyance**-Within the floodplain, except those areas which are tidally influence, as designated on the Flood Insurance Rate Map (FIRM) for the Town of Plainville, encroachments resulting from filling, new construction or substantial improvements involving an increase in foot print 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. 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.

§ 225-18 Determination of Base Flood Elevations.

- A. The Town Engineer shall require Base Flood Elevation (BFE) data be provided with any application for new construction, substantial improvements, repair to structures which sustained substantial damage or other development in Zone A without a FEMA-published BFE, (un-numbered A Zone). A registered professional engineer must determine the BFE in accordance with accepted hydrologic and hydraulic engineering practices and document the technical methods used. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval. The 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, repairs to structures which have sustained substantial damage or other development in un-numbered A Zones. If no BFE can be determined, the lowest floor, including the basement must be elevated two (2) feet above the adjacent grade next to the structure.
- B. When BFEs have been established with Zones A1-30 but a regulatory floodway has not been designated, the Town Engineer must require that no new construction, substantial improvements, repairs 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) foot at any point when all existing and anticipated development is considered cumulatively with the proposed development.
- C. The Town Engineer may request floodway data of an applicant for watercourse without FEMA published floodways. When such data is provided by an applicant or whenever such data is available from other sources, the Town of Plainville shall adopt a regulatory floodway based on the principle that the floodway must convey the waters of the base flood without increasing the water surface elevation more than one (1) foot at any point within the Town.
- D. The Town Engineer shall obtain, review and reasonable 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 based on the standards described herein.

§ 225-19 Specific standards.

- A. In all areas of special flood hazard, Zones A1-30, AE, and AH, where base flood elevation data has been provided, as set forth in **§ 225-8 or 225-16A(10)**, the following provisions are required:
- (1) 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 the basement elevated one (1) foot above the Base Flood Elevation (BFE). Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated one (1) foot above the BFE.
 - (2) Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the BFE and be securely anchored to an adequately anchored foundation system. Manufactured homes placed or substantially improved within Zones A1-30, AH, and AE shall meet one of the following location criteria: outside of a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as a result of a flood.
- B. **Nonresidential construction.**
- (1) 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 the basement elevated one (1) foot above the Base Flood Elevation (BFE); or
- (b) In lieu of being elevated, non-residential structures may be dry flood-proofed to one (1) foot above the BFE provided that together with all attendant utilities and sanitary facilities the area of the structure below the required elevation are watertight with wall 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 Town Engineer on the FEMA Floodproofing Certificate Form 81-65
- (c) The bottom of all electrical, plumbing, machinery or other equipment that service the structure must be elevated one (1) foot above the BFE.

C. Manufactured (mobile) Homes

- (1) In all Special Flood Hazard Areas (SFHA), any manufactured (mobile) homes to be newly placed, undergoing a substantial improvement or repair as a result of substantial damage shall be elevated to that the bottom of the frame is located one (1) foot above the Base Flood Elevation (BFE). The manufactured home must also meet all the construction standards of Section 225-19B1. The foundation and anchorage of manufactured homes located in floodways shall be designed and constructed in accordance with ASCE24. This includes SFHAs outside a manufactured home park or subdivision, in existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision or on a site in an existing park which a manufactured home has incurred substantial damage as the result of flooding.
- (2) All manufactured (mobile) homes within a 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 floatation, 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.
- (3) All manufactured (mobile) homes within a SFHA shall be installed using methods and practices which 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.

D. Fully Enclosed Areas Below the Base Flood Elevation (BFE) of Elevated Building.

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 shall have the lowest elevated to one (1) foot above the Base Flood Elevation (BEF). The elevated building shall be designed to preclude finished living space below the lowest floor and be designed to allow the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls (wet floodproofing). Designs for complying with this requirement must be certified by a registered professional engineer or architect as meeting the requirements of ASCE 24 Section 2.6.2.2 or meet the following minimum criteria listed in sections 1-8 below:

- (1) Provide 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 area subject to flooding. The enclosed area is measured on the exterior of the enclosure walls. The hydraulic openings must be located on at least two different walls of each enclosure area. If the structure has more than one enclosed area the opening must be installed in the exterior walls of each enclosed area so that flood waters can enter directly from the outside;
- (2) The bottom of all openings shall be no higher than one (1) foot above the higher of either the final grade or floor elevation or the finished exterior grade adjacent to the outside foundation wall. At least one side of the structure's fully enclosed area must be at or above grade. Fill placed around the foundation walls must be graded so that the elevation inside the enclosed area is equal to or higher than the adjacent outside elevation on at least one side of the building. The finished floor of the enclosed area shall be no lower than the bottom of the foundation openings. The foundation slab of a residential structure including the slab, or a crawlspace must be set equal to the outside finished grade on at least one side of the building;
- (3) The openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters in both directions without external influence or control such as human intervention including the use of electrical and other non-automatic 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 Town Engineer;

- (4) Openings shall not be less than three (3) inches in any direction in the plane of the wall;
- (5) 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. Limited storage of maintenance equipment in connection with the premises or entry to the living area. The enclosed area shall not be used for human habitation;
- (6) All interior walls, floors and ceiling materials located below one (1) foot above the Base Flooding Elevation (BFE) shall be unfinished and resistant to flood damage in accordance with FEMA Technical Bulletin 2, Flood Damage-Resistant Requirements;
- (7) 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 Base Flooding Elevation (BFE) plus one (1) foot. Utilities or service equipment located in this enclosed area even if elevated one (1) foot above the BFE in the space will subject the structure to increased flood insurance rates; and
- (8) A residential building with a structurally attached garage having the floor slab below the Base Flooding Elevation (BFE) is considered an enclosed area below the BFE and must meet the standards describe above (1 thru 8). A garage attached to a residential structure constructed with a garage floor slab below the BFE must be designed to allow the automatic entry and exit of floodwaters in both directions. Flood openings or vents are required in the exterior wall of the garage or in the garage doors. Garage doors that must be manual opened do not meet the flood vent opening requirements. In addition to the automatic entry of floodwaters the area of the garage below the BFE plus one (1) foot must be constructed with flood damage-resistant materials per the requirements of FEMA Technical Bulletin 2. Garages attached to non-residential structures must also meet the above noted requirements or be dry floodproofed as per the requirements previously noted.

E. Floodways. Located within areas of special flood hazard established in § **225-8** are areas designated as floodways on the community's Flood Boundary and Floodway Map. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and have erosion potential, the following provisions shall apply:

- (1) 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. Buildings and structures shall be designed and constructed in accordance with ASCE 24.
- (2) In zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement or other development (including fill) shall be permitted which will increase base flood elevations (BFE) more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with proposed development.
- (3) The Town may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source in response to the Town's request or not, the Town shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one foot at any point along the watercourse.
- (4) 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 one-hundred-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.[1]

- (5) Within the floodplains, 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 analyses performed in accordance with standard engineering practice, that such encroachment shall not result in any (0.00 foot) increase in flood levels (base flood elevation). Work within the floodplain and 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.

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

- (1) For residential structures, all new construction, substantial improvements and repair to structures that have sustained substantial damage shall have the lowest floor, including the basement elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified on the Flood Insurance Rate Map (FIRM). If no depth number is specified, the lowest floor including the basement shall be elevated at least three (3) feet above the highest adjacent grade.
- (2) For non-residential structures all construction, substantial improvements and repair to structures that have sustained damage shall have the lowest floor including the basement at least as high as one (1) foot above the depth number specified on the Flood Insurance Rate Map (FIRM). If no depth number is specified, the lowest floor including the basement shall be elevated at least three (3) feet above the highest adjacent grade or together with attendant utility and sanitary facilities be completely floodproofed to above the highest adjacent grade at least as high as one (1) foot above the depth number specified on the FIRM or if no depth number is specified, at least (3) feet above the highest adjacent grade. Any space below the flood level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Designs for complying with these requirements must be certified by either a registered professional engineer or architect.
- (3) On-site drainage for all proposed structures in AO and AH Zones located on slopes shall provide adequate drainage paths to guide flood waters around and away from such structures.
- (4) Fully enclosed areas below the lowest floor in AO and AH Zones must comply with the provisions of Section 225-19D for hydraulic flood vents.

§ 225-20 Recreational vehicles.

Recreational vehicles placed on sites within a Special Flood Hazard Area shall either (1) be on the site for fewer than 180 consecutive days and (2) be fully licensed and ready for highway use, or (3) meet all the general standards of elevation and anchoring as specified herein. 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.

§ 225-21 Requirements in special flood hazard areas.

D. The Town Engineer shall require the applicant to provide BFE data for all subdivision proposal in or partially in a SFHA including manufactured home parks. In SFHA where the BFE is not available, the applicant shall provide hydrologic and hydraulic engineering analysis performed by a registered professional that develops a BFE for the subdivision; and

- (1) Variances shall be issued only upon a showing of good and sufficient cause, a determination that failure to grant the variance will result in exceptional hardship, a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (2) Applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25 or \$ \$100 for insurance.
- (3) The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

§ 225-23 Appeals.

Any person aggrieved by the decision of the Zoning Board of Appeals or any person owning land which abuts or is within a radius of 100 feet of the land in question may appeal within 15 days after such decision to the State Superior Court of the

Judicial District of New Britain at New Britain, as provided in § 8-8 of the General Statutes. The Town Engineer shall maintain the records of all appeals and report any variances to the Federal Emergency Agency (FEMA).

§ 225-24 Specific situation variances.

- A. Buildings on historic register. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this article, except for § **225-25C (1) to (4)**, and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.

§ 225-25 Considerations for granting of variances.

- A. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter. Technical evaluations, relevant factors and standards shall include the following:

§225-26 Enforcement

- A. Each Flood Permit shall authorize as a condition of approval, the Town Engineer or their designated agent to make regular inspections of the subject property. The Town Engineer or their designated agent is also authorized to inspect any property in a SFHA where it appears a violation(s) to these regulations is occurring.
- B. If the Town Engineer finds any individual or entity undertaking any construction, substantial improvement, filling or any other activity or maintaining a condition which is in violation of these regulations, the Town Engineer shall:
- (1) Issue a written order by certified mail return receipt requested to the subject owner ordering the activity to cease and ordering the property owner to obtain a Flood Permit prior to continuing with the activity or if appropriate ordering all violations and or obstructions be removed from the SFHA immediately;
 - (2) Notify the Building Official and request that any Building Permit(s) in force be revoked or suspended and that a stop work order be issued;
 - (3) The Town Engineer may suspend or revoke a Flood Permit if it is found that the applicant has not complied with the terms, conditions, or limitations set forth in the permit or has exceeded the scope of the work set forth in the application. Prior to revoking any permit, the Town Engineer shall issue a notice to the permittee personally or by certified mail receipt return requested setting forth the facts or conduct which warrants the intended actions.
- C. 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 225-27.
- D. In the event the violations and or obstructions are not promptly addressed, the Town Engineer may correct the violations utilizing any necessary means and place a lien against the property.
- E. Any person subjected to an enforcement action pursuant to this regulation may appeal any decision or determination of the Town Engineer to the Zoning Board of Appeals in accordance with the procedures set forth in this regulation, (Article VII Variance and Appeals; Enforcement). Such person shall provide such information as necessary including appropriate certifications from registered professional engineers or architects in order to substantiate the claim(s) that the requirement(s), decision(s), or determination(s) of the Town Engineer was in error or unwarranted.

§ 225-27 Penalties for offenses.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with variances or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250 per day if proven done willfully and \$100 per day if not, or imprisoned for not more than 10 days for each day of violation, or both, and, in addition, shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the Town of Plainville from taking such other lawful action as is necessary to prevent or remedy any violation.

Dated at Plainville, CT this 10th day of October 2019.

Carol A. Skultety
Plainville Town Clerk