

A Local Law: Enacting flood plain management measures to protect public health, safety, general welfare, and to minimize public and private losses due to flood conditions in specific areas.

Be it enacted by the: Board of Trustees of the Village of: Cassadaga as Follows:

This Local Law amends Local Law 74-1 by adding the following Section to Article VII.

Article VII. Section 724. Flood Plain Management.

1- Definitions.

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

“Appeal” Means a request for a review of the Zoning Officer’s interpretation of any provision of this section or a request for a variance.

“Area of Special Flood Hazard” Is the land in the flood plain within a community subject to a one percent or grater chance of flooding in any given year.

“Base Flood” Means the flood having a one percent chance of being equalled or exceeded in any given year.

“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 located within the area of special flood hazard.

“Existing Mobile Home Part or Mobile Home Subdivision” Means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Local Law.

“Expansion to an Existing Mobile Home Park or Mobile Home Subdivision” Means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

“Flood” or “Flooding” Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters.
- (2) The unusual and rapid accumulation or 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 in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary Floodway Map and the water surface elevation of the base flood.

“Flood-Proofed” Means 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.

“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.

“Habitable Floor” Means and flood usable for living purposes, which includes working, sleeping, eating, cooking recreation, or a combination thereof. A floor used only for storage purposes is not a “Habitable Floor”.

“ Mobile 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. It does not include recreational vehicles or travel trailers.

“ New Construction” means structures for which the “Start of Construction” commenced on or after the effective date of this Local Law.

“ New Mobile Home Park or Mobile Home Subdivision” Means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for the rent of sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this Local Law.

“Start of Construction” Means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footing, the “Start of Construction” includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, “Start of Construction” means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, “Start of Construction” is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

“Structure” Means a walled and roofed building that is principally above ground, as well as a mobile home.

“Substantial Improvement” Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(1) before the improvement or repair is started, or
(2) if the structure has been damaged and is being restored, before the damage occurred. 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 either:

(A) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

(B) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“Variance” Is a grant of relief to a person from the requirements of this local law which permits construction in a manner otherwise prohibited by this local law where specific enforcement would result in unnecessary hardship.

2- General Provisions.

2.1- Lands to Which this Local Law Applies.

This Local Law shall apply to all areas of special flood hazards within the jurisdiction of the Village of Cassadaga.

2.2- Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the Village of Cassadaga" dated June 1, 1977 with accompanying Flood Insurance Maps and Flood Boundary-Floodway Maps are hereby adopted by reference and declared to be a part of this local law.

2.3- Compliance.

No structure or land shall hereafter be located, extended converted, or structurally altered without full compliance with the terms of this local law and other applicable regulations.

2.4- Abrogation and Greater Restrictions.

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

2.5- Interpretation.

In the interpretation and application of this local law, all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed Neither to limit nor repeal any other powers granted under state statutes.

2.6- Warning and Disclaimer of Liability.

The degree of flood protection required by this local law 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 man made or natural causes. This local law does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Cassadaga or by any officer or employee thereof for any flood damage that result from reliance on this local law or any administrative decision lawfully made thereunder.

3- Provisions for Flood Hazard Reduction.

3.1- General Standards.

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

- (1) Anchoring
 - (A) All new construction and substantial improvements shall be anchored to prevent flotation collapse Or lateral movement of the structure.
 - (B) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (I) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side.
 - (II) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side.
 - (III) all components of the anchoring system be capable of carrying a force of 4,800 pounds: and,

(IV) any additions to the mobile home be similarly anchored.

(2) Construction Materials And Methods

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(3) Utilities

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and,

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed developments greater than 50 lots or 5 acres, whichever is the lesser.

3.2- Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 724-2.2 Basis for Establishing the Areas of Special Flood Hazard, or Section 724-4.3(4), the following provisions are required:

(1) Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) Nonresidential Construction: New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 724-4.3(5).

(3) Mobile Homes:

(A) Mobile homes shall be anchored in accordance with Section 724-3.1 (1)

(B) For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions: for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads for the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision require:

(I) Stands or lots are elevated on compacted fill or on pilings, so that the lowest floor of the mobile home will be at or above the base flood level;

(II) Adequate surface drainage and access for a hauler are provided; and,

(III) In the instance of elevation on pilings, that: lots are large enough to permit steps; piling Foundations are placed in stable soil no more than ten feet apart; and, reinforcement is provided for pilings more than six feet above the ground level.

(IV) No mobile home or mobile home park shall be placed in a floodway.

(4) Floodways: Located within areas of special flood hazard established in Section 724-2.2 are areas designed as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(A) Prohibit encroachment, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If Section 724-3.2 (4a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 724-3 Provisions for Flood Hazard Reduction.

4- Administration.

4.1- Establishment of Development Permit.

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 724-2.2. Application for a development Permit shall be made to the Zoning Officer on forms furnished by him and may include, but not limited to the following 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:

(A) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

(B) Elevation in relation to mean sea level to which any non-residential structure has been flood-proofed.

(C) Plans showing how any nonresidential flood-proofed structure will meet the flood-proofing criteria of Section 724-3.2 (2) and after the structure is built, a certification by a registered professional engineer or architect that the structure as built meets the criteria of Section 724-3.2 (2).

(D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2- Designation of Zoning Officer.

The Zoning Officer is hereby appointed to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.3- Duties and Responsibilities of the Zoning Officer.

Duties of the Zoning Officer shall include, but not be limited to:

(1) Review all development permits to determine that the permit requirements of this local law have been satisfied.

(2) Review all development permits to require that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if such proposed development is located within the floodway. If the proposed development is to be located in the floodway a certification shall be obtained in accordance with Section 724-3.2 (4).

(4) When the base flood elevation data has not been provided in accordance with Section 724-2.2 Basis for Establishing the Areas of Special Flood Hazard, then the Zoning Officer shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section 724-3.2 Specific Standards.

(5) Verify and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.

(6) For all new or substantially improved flood-proofed structures:

(I) verify and record the actual elevation (in relation to mean sea level); and,

(II) maintain the flood-proofing certifications required in Section 724-4.1(c)

(7) Maintain for public inspection all records pertaining to the provisions of this local

law.

(8) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(9) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(10) Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and the actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 724-4.4.

4.4- Variance Procedure.

(1) Appeal Board

(A) The Zoning Board of Appeals as established by the village of Cassadaga shall hear and decide appeals and requests for variances from the requirements of this local law.

(B) The 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 Zoning Officer in the enforcement or administration of this Local Law.

(C) Any person aggrieved by the decision of the Zoning Board of Appeals or any taxpayer may appeal such decision to the New York State Supreme Court as provided in Article 78 of Civil Practice Law and Rules.

(D) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other subsections of this local law, and:

(I) The danger that materials may be swept unto other lands to the injury of others;

(II) The danger to life and property due to flooding or erosion damage;

(III) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(IV) The importance of the services provided by the proposed facility to the community;

(V) The necessity to the facility of a waterfront location where applicable;

(VI) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(VII) The compatibility of the proposed use with existing and anticipated development;

(VIII) The relationship of the proposed use to comprehensive plan and flood plain management program for that area;

(IX) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(X) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable expected at the site; and,

(XI) 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.

(E) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(F) Upon consideration of the factors listed above and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

(G) The Zoning Officer shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(2) Conditions For Variances

(A) 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 subsection.

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

(C) Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(D) 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 to the applicant; 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 nuisances, cause fraud on or victimization of the public as identified in Section 724-4.4(1) Appeal Board, or conflict with existing local laws or ordinances.

(E) Any applicant to whom a variance is granted shall be given written notice indicating the elevation below the base flood level (in feet) to which the lowest floor of the structure will be built, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(3) Validity

If any subsection, sentence, clause or phrase of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect its remaining portions.

(4) Repeal of Conflicting Ordinances

All local laws and parts of local laws of the Village of Cassadaga, inconsistent herewith, are hereby expressly repealed.

(5) Effective Date

This local law shall be in full force and effect from and after its filing with the Secretary of State.