

May 9, 2019

TOWN OF CONCORD TOWN BOARD MEETING
7:00 p.m.

May 9, 2019

MEETING CALLED TO ORDER BY CLYDE M. DRAKE, SUPERVISOR

PRESENT: CLYDE M. DRAKE, SUPERVISOR
 JAMES M. KREZMIEN, COUNCILMAN
 KENNETH D. ZITTEL, COUNCILMAN
 WILLIAM F. SNYDER, III, COUNCILMAN
 PHILIP DROZD, COUNCILMAN

ALSO PRESENT: DARLENE G. SCHWEIKERT, Town Clerk
 BRIAN F. ATTEA, Town Atty
 DENNIS M. DAINS, Hwy Supt
 CAROLYN ROBINSON, Dog Control Officer
 JOHN MILLS, Legislator
 KARL SIMMETH, Assemblyman DiPietro's Community Liaison
 NANCY HEATH, Legislator Mills' Secretary

KELLEN M. QUIGLEY, Springville Times	MAX BORSUK, Springville Journal
GEORGE DONHAUSER	STEVE BUGARY
JOYCE ABBOTT	MARY CAROL DEARING
DAVID C. GRAVES	REV. RANDY SMITH
JEANNE FORNES	MARK FORNES
JOSEPH BUGARY	RON SOLEM
MARY JANE MIESS	JOHN MIESS
DAVID BATTERSON	JOEL MAUL
DAVID R. STAHLEY	STEPHANIE SCHNEIDER
MELANIE MILLER	BOB DARLING
WENDY DARLING	

INVOCATION DELIVERED BY TOWN CLERK SCHWEIKERT

PLEDGE TO THE FLAG LED BY SUPERVISOR DRAKE

ITEM #1 APPROVAL OF MINUTES

Supervisor Drake asked the Board for a motion to add (e) Gravel Bid 4/22/19 to the Agenda. Motion by Councilman Krezmien, seconded by Councilman Zittel, to add (e) Gravel Bid 4/22/19 to the Agenda. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

a) Work Session – 4/11/2019 – Motion by Councilman Krezmien, seconded by Councilman Zittel, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

b) Town Board Meeting – 4/11/2019 – Motion by Councilman Krezmien, seconded by Councilman Snyder, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

c) Special Town Board Meeting – 04/16/2019 - Motion by Councilman Krezmien, Seconded by Councilman Krezmien, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

d) Special Town Board Meeting – 04/24/2019 - Motion by Councilman Drozd, Seconded by Councilman Zittel, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

e) Gravel Bid Opening – 4/22/2019 – Motion by Councilman Krezmien, seconded by Councilman Snyder, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #2 PUBLIC COMMENT

Supervisor Drake thanked those in attendance for coming tonight and opened the floor for Public Comment.

a) Mary Carol Dearing – Ms. Dearing shared information about the Erie Cattaraugus Rail Trail. She read the letter she had sent to Supervisor Drake previously. “I am happy to let you know that the newly formed Concord-Springville Friends of the Erie Cattaraugus Rail Trail. I have volunteered to facilitate our local group. Friends groups have also formed in neighboring towns along the ECRT corridor with the aim of working to engage residents as the design process of the trail unfolds. Our group has met several times and is planning public outreach in the coming months at several community events. As you know, ECRT has finalized a 49 year+ agreement with five 10-year extensions to construct a multi-use trail on the former 27-mile rail line. Here are just a few of the reasons why we are excited to be moving forward: The trail will be a significant recreational, historic, economic and environment asset to the communities it serves including WNY Southtowns and the entire Buffalo-Niagara Region. The trail will enhance economic development by boosting spending at local businesses, attracting new businesses and increasing property values. Rail Trails are quiet, economic generators that promote economic growth while preserving community character. The 1.7-mile Pop Warner Trail is already being enjoyed by the residents of our community. The extension north and south is what we envision. Towns along the corridor will be key players in the planning process as the specifics of the trail are imagined. As the ECRT initiative continues, the Concord-Springville Friends Group looks forward to joining with our Town to do the work that still needs to be done. Concord has an incredible opportunity here. We can be a model for other communities. Let’s imagine Concord as the Town that made this happen for the betterment of our region and for future generations.”

Ms. Dearing updated the Board on developments since this letter was sent to Supervisor Drake: The ECRT as well as the Friends Groups that are up and down the corridor, including ours, would like to thank Legislator Mills for his support of the trail. They have recently had presence at both the Art Crawl as well as the Earth Day event that Green Springville had and they have added over 80 signatures to the list and they now have a total of 120 emails that are regularly sent emails and that are invited to our local meetings. Moving forward, they will continue to have a presence at many of the local events going on this summer and will continue to share information about the trail and to update the public. Ms. Dearing thanked the Board for their time.

Supervisor Drake noted that he had asked the ECRT Board for a copy of the proposed lease that she spoke about; the Town has not yet seen this lease. The Town would like their attorney review this lease. Ms. Dearing will follow up. Supervisor Drake also noted that at that same time it was also agreed that they would reach out to the East Concord property owners along the trail and he has not heard of anything like that happening yet. Ms. Dearing said that as part of Friends Group that is something that they can arrange so that if there are people who have concerns, they are all invited to attend the meetings with their specific concerns. Her understanding is that ECRT Board members would visit properties and talk to property owners about their concerns. This has been happening in Colden and West Falls.

b) Supervisor Drake invited Legislator Mills to speak now. Legislator Mills presented Town Clerk Schweikert with a Proclamation from the Erie County Legislature. Town Clerk Schweikert had been recognized by the Erie County Town Clerk/Tax Receiver and Tax Collector Association as the “2019 Erie County Town Clerk of the Year.” Legislator Mills read the Proclamation recognizing Town Clerk Schweikert for her service, commitment and dedication to the community. Congratulations Darlene.

Legislator Mills reported on the roads and infrastructure. He noted that County roads in our area are in rough conditions. At the Town level the roads are well taken care of; plowed and maintained. The Town Board listens to the residents’ issues and responds to them. Government at its best is right here at this local level. Legislator Mills shared a list of roads given to him by the East Concord Highway Department Engineer Tony Scolese that will be worked on this summer. Town of Concord roads included Abbott Hill Road, Brown Hill Road, Emerling Road and South Vaughn Street. Bridge replacement on Trevett Road at Route 39. Legislator Mills noted that the other end of Trevett Road is closed due to the wash out. Re-engineering it to try to open it back up. Heavy duty patching is lined up for Zoar Valley Road. The Legislature is trying to get the State to work with them on this road. To do that road repair correctly, it would cost 22 million dollars. Emergency services needs to get down there; and this pristine area has visitors from all over. A cross culvert will be put in on Sharp Street in Concord. The intersection of Route 240, Genesee Road and Sibley Road is also a project. Legislator

Mills advised that 30% of the road infrastructure are in disrepair; he had signs made that say "Poloncarz fix our roads" which residents can have to put up on their roads.

Legislator Mills' discussion on the local roads invoked lengthy discussion about the state of the roads in the southern district of the Mortons Corners Fire District. Firemen Steve Bugary and Bob Darling explained the problems that the fire company is having serving the residents in that area; Trevett Road/Groth Road. The fire company has to come into Springville to get; the department cannot take any of their bigger trucks down there. Legislator Mills advised that the County is in the design state for Trevett Road. This is all about public safety. Legislator Mills said he is working on trying to get emergency funding for Groth Road. Dave Graves asked what citizens can do to push the politicians that need to be pushed. Bob Darling said they are going to start knocking on doors and explain to people how bad this area is. Legislator Mills advised that Petitions are one way as well as putting up the signs he had made. Legislator Mills will orchestrate at the County level to explain how dangerous it is; he'll bring the news media. Steve Bugary said that he has already done that twice. Legislator Mills urged the residents to call the County Executive, use social media, circulate petitions designating those roads as a safety hazard. Be a squeaky wheel. Get petitions signed and delivered to his secretary Nancy Heath or Town Clerk Schweikert. Legislator Mills advised to do a written campaign because written stays around for a long time; TV stories are one day stories.

No one else wished to address the Board.

Motion by Councilman Krezmien, seconded by Councilman Zittel, to close Public Comment. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #3 MONTHLY REPORTS

Motion by Councilman Zittel, seconded by Councilman Snyder, to approve the Monthly Reports, Items a-i. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

- a) Code Enforcement Officer – April 2019. There were 8 new homes and 14 significant additions being inspected and renovated.
- b) Dog Control Officer – April 2019. Five Summonses were served for unlicensed dogs; 64 phone calls received and 94 phone calls made. Picked up and returned three dogs.
- c) Town Clerk Report – April 2019
- d) Judge Frank Report – March 2019
- e) Judge Gibbin Report – March 2019
- f) Supervisor Report – January 2019
- g) Supervisor Report – February 2019
- h) Supervisor Report – March 2019
- i) Senior Van Report – March 2019
- j) Highway Report - Hwy Supt Dains reviewed his filed report.

1) Copies of the Gravel Bids were attached to his report. Hwy Supt Dains asked the Board for a motion to approve the Gravel Bid results. In compiling his results, it is not necessarily the low bidder. It has to do with if it is material that the department can haul; taking into account if he has his trucks haul it then it includes the man hours to and from the pits, the mileage and fuel usage to and from the pits; there are few different factors involved. There were three bidders: McEwan, D&H Materials in Delevan and Gernatt Asphalt Products on Middle Road, Springville and Freedom. The bids in bold type are the lowest responsible bid based on the above specifications and Hwy Supt Dains asked the Board for their approval with one exception to the approval. The 1A Gravel Chip Stone was bid by both D&H Materials and Gernatt. Samples have been taken from both plants and have been sent to the lab to check to make sure everything looks good. Hwy Supt Dains asked that the motion be with the above exception either being D&M Material or Gernatt after the lab results are back and then one of those two companies will get that bid. Motion by Councilman Krezmien, seconded by Councilman Snyder, to accept Hwy Supt Dains monthly report and also award the Gravel Bids under Hwy Supt Dains' recommendations with the one exception on the 1A Chip Stone. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

2) Hwy Supt Dains advised that last month he provided information on the status of CHIPS and PAVENY funding. The EWR (Emergency Winter Relief) of 65 million dollars was pulled out by the State in their project but there is a slim chance that that may go back in in June when the budget is reviewed. That would give the Town \$12,480 additional funding which the Town desperately

needs. The oil index is going to go up considerably and will affect the amount of work the Highway Department can do on the roads. The Highway Association went in March to lobby for the CHIPS money. Concord got a slight increase of \$7.02 in CHIPS money. PAVENY the increase was \$1.60.

3) Hwy Supt Dains attended Southern Tier West training today and thanked the Board for allowing his attendance. He will report next month the changes in FEMA submittals for emergency declarations. Guidelines have changed. It is basically more legwork and more paperwork.

k) Fire Department Report – Councilman Drozd advised that the Springville Volunteer Fire Company was awarded the only grant in New York State for the automatic stretcher. The Company is continuing working on the major fundraiser for July 21st. The car show, artists & craft vendors, food truck, music. All free of charge. It is the same weekend as the All Class Reunion.

Motion by Councilman Krezmien, seconded by Councilman Zittel to accept the Fire Department Report. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #4 OLD BUSINESS

There was nothing for Old Business.

ITEM #5 NEW BUSINESS

a) Authorize transfer of fund from Highway Equipment Reserve to the M&T Checking for the purchase of the new truck – Motion by Councilman Drozd, seconded by Councilman Zittel, to accept the Fire Department Report. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

b) Audit of the Bills – Supervisor Drake stated that these bills were audited by Councilman Zittel, and reviewed by the Board.

General Fund A, abstract 5, bills 412-474 & 529-530 & 534-538; \$58,212.25
 General Fund B, abstract 5, bills 475-482 & 531; \$3,187.83
 Library Fund, abstract 5, bills 483-484 & 532; \$612.10
 Fire Protection, abstract 5, bill 485; \$37,643.00
 Joint Van, abstract 5, bills 486-489; \$3,527.52
 Joint Youth, abstract 5, bills 490-491; \$1,229.41
 Craneridge Lighting, abstract 5, NONE
 Craneridge Sewer, abstract 5, bills 492-497 & 533; \$6,875.72
 Highway DA, abstract 5, NONE
 Highway DB, abstract 5, bills 498-519; \$288,358.66
 Kissing Bridge Water, abstract 5, bills 520-521; \$182.00
 Kissing Bridge Sewer, abstract 5, bills 522-525; \$3,541.49
 Trevett Rd. Water, abstract 5, NONE
 Cattaraugus St. Water, abstract 5, bills 526-527; \$423.85
 Trust & Agency, abstract 5, bill 528; \$756.25
 Capital (HA) Craneridge Sewer, abstract 5, NONE
 Capital (HB) Land, abstract 5, NONE
 Capital (HD) Catt St, abstract 5, NONE
 Capital (HE) Sr. Ctr, abstract 5, NONE
 Capital (HF) Hwy Equip, abstract 5, NONE
 Capital (HG) Waste Study, abstract 5, NONE

Motion by Councilman Zittel, seconded by Councilman Krezmien, to approve the bills as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

c) Concord Historical Society - Concord Historical Society President Joyce Abbott had sent a letter to Supervisor Drake. The Town cut their funds in the budget. Ms. Abbott noted that those cuts have made it so that the Society does not have enough money to do the things that they were doing free for the public; for example, Concord Country Christmas which cost them nearly \$1,000. The Society has five buildings which need to be maintained; except for the Lucy Bensley building which the Town takes care of. The Society is hoping that the Board might be able to find someone else who would be willing to help them find someone to do this or sponsor the Society so that they could do it. They don't mind doing it but they just don't have the funds to do so. Dave Batterson stated that the Society is very

appreciative of the Board's support over the years and he feels that the Society has been very diligent and able to stretch dollars a long way with the different construction of the Heritage Building and Mercantile. A large portion of the Heritage Building was supported by individual donations and did not come from the Town. There are approximately 30-40 individuals who participate. No one is paid. The Society's support has been reduced to a third of what it was; and they understand. Mr. Batterson believes that one item that the Society has not been diligent enough in is keeping this Board aware of what they are doing and also what the costs are. They do many fundraisers and kicked around ideas of charging people to come in. They don't want to do that; keep it donations. Joseph Maul noted that they would like to continue to do what they are doing but financially they cannot afford to do the free programs that they have been doing over the years. Mr. Batterson noted that as they added on, there are more utility costs and insurance. They do have a cushion right now because they have been proactive but bringing it to the Board to consider in this next budget to put them back into a position where it would be helpful to stay afloat. Supervisor Drake advised the Society members that by August 1st he will need a letter detailing what their requests are and exactly what the Society plans to do for the Town. Supervisor Drake personally believes the Society has a great program but he has to worry about all the residents of the Town. He reached out to the surrounding towns: Boston gives \$2,000; North Collins gives \$2,000; Sardinia right now is giving \$15,000 because they are doing rehabilitation on the old Town Hall; once rehabilitation is complete; they are on their own. Holland is giving \$10,500 as a one-time gift; Eden gives \$600. The Town is giving the Society \$12,500 and the use of half the Bensley Center with utilities. Mr. Batterson said that is a shared situation with other clubs and the Chamber of Commerce. Supervisor Drake asked how these other Historical Societies are surviving. Mr. Batterson questioned what the other Societies are producing in reference of what the Concord Historical Society does for our Town with the outreach. Supervisor Drake asked if they were seeking sponsorships? What is their mission? Does the Society have to adjust your mission? Mr. Batterson noted that they are trying to promote the Town of Concord and the history that we have here. Mr. Batterson advised that Sardinia also has a yearly contract with their Society over and above that amount. Mr. Batterson noted that the Society had \$30,000 set aside that went to the Lucy Bensley Center for the construction project. Mr. Batterson, Mr. Maul and Ms. Abbott thanked the Board.

d) Trevett & Groth Road Closures – Councilman Drozd discussed the condition of the roads and his past efforts as County Highway Superintendent. Motion by Councilman Drozd, seconded by Councilman Zittel, to authorize Supervisor Drake send a letter to the Erie County DPW Commissioner regarding the recent deterioration of Groth Road making travel treacherous for emergency vehicles, school buses, and the general public and the continued negligence to re-open south Trevett Road at the closed section just north of Zoar Valley Road. These would be two separate letters. Supervisor Drake advised that the Town would be putting the County on notice. Steve Bugary and Bob Darling thanked the Board for their efforts. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

e) Rescind Current Local Flood Law from 1987 – Supervisor Drake asked that this item be taken off tonight's agenda. The Board will wait until next month to rescind the old law. The Local Law on Flood Damage Prevention states in it that it supersedes any current flood laws on the book so he believes that the Town is good. The rescinding of the old law just gets it totally off the books so the Board will want to do that next month. Motion by Councilman Krezmien, seconded by Councilman Zittel, to scratch this item from the Agenda. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

f) Local Law#1 of 2019 – National Flood Insurance Program - The Public Hearing was held earlier this evening. No one wished to speak at the hearing. This is a model law put out by the NYS DEC and the Town has to pass this law so that residents can get flood insurance based on the new flood maps. Supervisor Drake asked the Board for a resolution adopting Local Law No. 1 of the Year 2019.

Councilman Zittel moved the adoption of Resolution 4, seconded by Councilman Krezmien:

**Local Law No. 1 of the Year 2019
Town of Concord, County of Erie**

**A local law for Flood Damage Prevention as authorized by the New York State Constitution,
Article IX, Section 2, and Environmental Conservation Law, Article 36**

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Concord finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Concord and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**SECTION 2.0
DEFINITIONS**

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

"**Accessory Structure**" is a structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a minimal investment of not more than 10 percent of the value of the primary structure, and may not be used for human habitation.

"**Appeal**" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"**Area of shallow flooding**" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"**Area of special flood hazard**" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

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

"**Basement**" means that portion of a building having its floor subgrade (below ground level) on all sides.

"**Building**" see "Structure"

"**Cellar**" has the same meaning as "Basement".

"**Crawl Space**" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"**Development**" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"**Elevated building**" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"**Federal Emergency Management Agency**" means the Federal agency that administers the National Flood Insurance Program.

"**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 or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"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 does not include a "Recreational vehicle"

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

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

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

"Regulatory 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 a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or

other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Concord.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Maps:

36029C0660H, 36029C0670H, 36029C0676H, 36029C0680H, 36029C0681H,
36029C0682H, 36029C0685H, 36029C0690H, 36029C0693H, 36029C0694H,
36029C0695H, 36029C0705H, 36029C0785H, 36029C0805H, 36029C0806H,
36029C0807H

whose effective date is June 7, 2019, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction

- (2) A scientific and engineering report entitled "Flood Insurance Study, Erie County, New York (All Jurisdictions)" dated June 7, 2019.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

Concord Town Hall
86 Franklin Street
Springville NY 14141

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Concord from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 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 that land outside the area 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 Town of Concord, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

**SECTION 4.0
ADMINISTRATION**

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the

Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and 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.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$ 75.00. In addition, the applicant shall be responsible for reimbursing the Town of Concord for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.
- (3) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in Section 3.2, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured

homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

**SECTION 5.0
CONSTRUCTION STANDARDS**

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Concord agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Concord for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Concord for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the Town of Concord agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Concord for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Concord for all costs related to the final map revisions.
- (3) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Town of Concord shall as soon as practicable, but not later than six months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(i) a minimum of two openings of each enclosed area 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 such openings no higher than one foot above the lowest adjacent finished grade and;

(iii) openings not less than three inches in any direction.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation, or at least three feet above the highest adjacent grade in a Zone A without an available base flood elevation, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with

automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,

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

5.2-4 STORAGE TANKS

- (1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood.
- (2) Above-ground tanks shall be:
 - a. anchored to prevent floatation, collapse or lateral movement during conditions of the base flood or;
 - b. installed at or above the base flood elevation as shown on the Flood Insurance Rate Map enumerated in Section 3.2 plus two feet.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 plus two feet (at least three feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below

the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus two feet (at least three feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the bottom of the frame of the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the bottom of the frame of the manufactured home chassis shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 plus two feet (at least three feet if no depth number is specified).

5.6 ACCESSORY STRUCTURES INCLUDING DETACHED GARAGES

The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

- (1) Within Zones A1-A30, AE, AO, AH, A, accessory structures must meet the standards of Section 5.2-1, ANCHORING,
- (2) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, areas below two feet above the base flood elevation shall be constructed using methods and practices that minimize flood damage.
- (3) Within Zones AO and Zone A, if base flood elevation data are not available, areas below three feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.
- (4) Structures must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters in accordance with Section 5.2-2(3).
- (5) Utilities must meet the requirements of Section 5.2-3, UTILITIES.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Board of Appeals as established by the Town of Concord shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The 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 Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto 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 for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

- (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) 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
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) 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-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (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 or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

ATTACHMENT A

APPLICATION # _____

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE _____

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

NAME	ADDRESS	TELEPHONE
APPLICANT	_____	_____
BUILDER	_____	_____
ENGINEER	_____	_____

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

APPLICATION # _____

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

<u>ACTIVITY</u>	<u>STRUCTURE TYPE</u>
<input type="checkbox"/> New Structure	<input type="checkbox"/> Residential (1-4 Family)
<input type="checkbox"/> Addition	<input type="checkbox"/> Residential (More than 4 Family)
<input type="checkbox"/> Alteration	<input type="checkbox"/> Non-residential (Floodproofing? <input type="checkbox"/> Yes <input type="checkbox"/> No)
<input type="checkbox"/> Relocation	<input type="checkbox"/> Combined Use (Residential & Commercial)
<input type="checkbox"/> Demolition	<input type="checkbox"/> Manufactured (Mobile) Home
<input type="checkbox"/> Replacement	(In Manufactured Home Park? <input type="checkbox"/> Yes <input type="checkbox"/> No)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- Fill Mining Drilling Grading
- Excavation (Except for Structural Development Checked Above)
- Watercourse Alteration (Including Dredging and Channel Modifications)
- Drainage Improvements (Including Culvert Work), Stormwater Control Structures or Ponds
- Road, Street or Bridge Construction
- Subdivision (New or Expansion)
- Individual Water or Sewer System
- Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- The proposed development is reasonably safe from flooding. Entire property is in Zone B, C or X.
- The proposed development is in adjacent to a flood prone area.
100-Year flood elevation at the site is:
_____ Ft. NGVD 1929/ NAVD 1988 (MSL)
 Unavailable
- See Section 4 for additional instructions for development that is or may be in a flood prone area.

SIGNED _____ DATE _____

APPLICATION # _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

The applicant must submit the documents checked below before the application can be processed:

- A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor, openings in foundation for entry and exit of floodwaters.
Other: _____
- Elevation Certificate
- Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- Plans showing the watercourse location, proposed relocations, Floodway location.
- Topographic information showing existing and proposed grades, location of all proposed fill.
- Top of new fill elevation _____ Ft. NGVD 1929/ NAVD 1988 (MSL)
- PE Certification of Soil Compaction
- Floodproofing protection level (non-residential only) _____ NGVD 1929/ NAVD 1988 (MSL)
For floodproofed structures, applicant must attach certification from registered engineer or architect.
- Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. Is
B. Is not
in conformance with provisions of Local Law # _____, (yr) _____. This permit is hereby issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.
If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

Expiration Date: _____

APPLICATION # _____

APPEALS: Appealed to Board of Appeals? Yes No

Hearing date: _____
Appeals Board Decision --- Approved? Yes No

Conditions: _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT.
 NGVD 1929/ NAVD 1988 (MSL).
Attach Elevation Certificate FEMA Form 81-31

2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD 1929/ NAVD 1988 (MSL).
Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)

The LOCAL ADMINISTRATOR will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO

SECTION 8: CERTIFICATE OF COMPLIANCE (To be completed by LOCAL ADMINISTRATOR)

Certificate of Compliance issued: DATE: _____

BY: _____

**ATTACHMENT B
CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA**

(Owner Must Retain This Certificate)

Premises located at: _____

Owner: _____

Owner's Address: _____

Permit No. _____ Permit Date: _____

Check One:
 New Building
 Existing Building
 Fill
 Other:

The Local Floodplain Administrator is to complete a. or b. below:

- a. Compliance is hereby certified with the requirements of Local Law No. _____, (yr) ____.
Signed: _____ Dated: _____
- b. Compliance is hereby certified with the requirements of Local Law No. _____, (yr) ____, as modified by variance no. _____, dated _____.
Signed: _____ Dated: _____

Voting as follows:

Councilman Drozd	Aye
Councilman Krezmien	Aye
Councilman Snyder	Aye
Councilman Zittel	Aye
Supervisor Drake	Aye

The foregoing Resolution was thereupon declared duly adopted.

g) PERMA Broker – Supervisor Drake met with Evans Insurance Agency and the result of the meeting was that Evans Insurance Agency offered to become our broker of record for workman's compensation insurance. Prior years, the Town used Charlie Cox's company for risk assessment. Evans Insurance Agency is basically doing this for free; gives them some leverage to go back against workman's compensation and be the Town's intermediary. They can see if they can broker a better deal and keep track of what is going on. Motion by Councilman Zittel, seconded by Councilman Drozd, to authorize Supervisor Drake to appoint Evans Insurance Agency as the Town's broker for PERMA. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

Supervisor Drake asked the Board for a motion to add (h) Public Hearing for Solar Law. He plans on rewriting the Solar Law. The Town has been working with Solarize to try to bring solar to the Town. One catch is that the law has to be the Unified Solar Law. In 2017 the Town passed the solar law in haste trying to prevent solar farms from coming into the Town. Shortly after that NYS drafted a Unified Solar Law and the Town should really update our Solar Law to be in conjunction with the Unified Solar Law. This law will be ready for the June meeting. A Public Hearing is necessary. Motion by Councilman Krezmien, seconded by Councilman Zittel, to add (h) Public Hearing for Solar Law to the Agenda. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

h) Public Hearing for Solar Law – Motion by Councilman Snyder, seconded by Councilman Drozd, to set the Public Hearing for the Solar Law for Thursday, June 13, 2019 at 6:30 p.m. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #6 EXECUTIVE SESSION

a) Pending Litigation. Supervisor Drake advised that the Board needed to go into Executive Session to discuss pending litigation. No action will be taken. Motion by Councilman Krezmien, seconded by Councilman Snyder, to go into Executive Session at 8:06 p.m. to discuss pending litigation. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

Motion by Councilman Krezmien, seconded by Councilman Zittel, to come out of Executive Session at 8:27 p.m. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #7 CONSENT AGENDA

There was nothing for Consent Agenda.

ITEM #8 COUNCILMAN NOTES

a) Councilman Drozd thanked Hwy Supt Dains for his recent work at the Hulbert Library.

b) Councilman Krezmien had stopped at the Highway Department to see the new truck. It will serve the Town well.

c) Supervisor Drake had been at training at Houghton today. He and

Councilman Drozd attended the seminar on Cemeteries. It was very informative.

d) Town Clerk Schweikert will post the Town Hall Summer Hours Ad in the Springville Times. Summer hours start Memorial Day and continue through Labor Day.

ITEM #9 MOTION TO ADJOURN

Motion by Councilman Krezmien, seconded by Councilman Zittel, and passed unanimously, to adjourn the meeting at 8:30 p.m. in memory of:

Lee G. Greenley
Matthew S. Golabek
Joan L. Ratajczak
Michael A. Hansen



Darlene G. Schweikert
Town Clerk

