



MODEL INTERMUNICIPAL FLOODPLAIN OVERLAY DISTRICT LOCAL LAW

Article I: Purpose and Intent

1. Flooding is the primary natural hazard in New York State, causing millions of dollars' worth of damage to homes and businesses each year.
2. The National Flood Insurance Program (NFIP) was created in 1968 by Congress to help people financially protect themselves from flooding. The NFIP offers flood insurance to homeowners, renters, and business owners if their community participates in the NFIP and enforces floodplain management regulations.
3. FEMA's Flood Insurance Rate Maps—the primary type of flood maps in the United States—are used to determine flood insurance rates, development regulations, and flood preparation for those at risk. Based on the National Hydrographic Dataset, there are 3.5 million miles of streams in the nation. Currently, only 1.2 million miles have flood maps.
4. Even with thousands of communities participating in the NFIP, flood damages continue to rise. More than 20 percent of flood claims come from properties outside high-risk flood zones.
5. The NFIP sets minimum requirements for new construction in a floodplain, and has no regulations for development outside the mapped floodplain. Communities can adopt higher development standards than required by the NFIP and prepare maps for land use planning, regulation, and other purposes using a variety of geospatial modeling methods in conjunction with FEMA's Flood Insurance Rate Maps.
6. No Adverse Impact (NAI) floodplain management is an approach developed by the Association of State Floodplain Managers (ASFPM) that ensures the action of any community or property owner—public or private—does not adversely impact the property and rights of others. For local governments, NAI floodplain management represents a more effective way to prevent increases in flood damage to other properties.
7. Intermunicipal cooperation in comprehensive planning and land use regulation is recognized under New York General Municipal Law §119-u. Under §119-u 4., intermunicipal agreements can be used to (e) "create an intermunicipal overlay district for the purpose of protecting, enhancing, or developing community resources that encompass two or more municipalities."
(Continued, next page.)

Disclaimer: This annotated model local law is not a replacement for the Model Local Law for Flood Damage Prevention, which contains language that complies with the floodplain management requirements of the National Flood Insurance Program (NFIP) contained in federal regulations 44 CFR 60.3 through 44 CFR 60.6. This model does not constitute a legal document or the provision of legal advice. For this model to be valid and legally enforceable, it must be modified, reviewed, and approved by the local government's legislative body and its respective municipal attorney or other legal counsel.

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8. This Local Law outlines a foundation by which a municipality can organize and coordinate with neighboring municipalities to address adverse effects or impacts of land use actions in and around the floodplain and watershed, such as increased flood peaks, increased flood stages, higher flood velocities, increased erosion and sedimentation, or other impacts the community considers important, by coordinating during the planning and development review process.

ARTICLE I ANNOTATIONS

Article I sets forth the purposes and intent of the model local law: to promote NAI floodplain management as a way to promote responsible floodplain development through community-based decision-making. Current national standards for floodplain management and minimal flood mapping are not reducing flood damage. The home rule provision of the New York State Constitution empowers local governments to adopt or amend local laws relating to “property, affairs or government” for the purpose of the public health, safety, welfare, comfort, peace, and prosperity. The regulation of floodplains relates to public safety. Local governments have the authority to decide what floodplain map they will use so long as the final decision is supported by “substantial” evidence. With the NAI approach, local governments identify the potential impacts of development and implement actions to mitigate them before the impacts occur.



Article II: Definitions

Floodplain, 500-year - this is the boundary of the flood that has a 0.2-percent chance of being equaled or exceeded in any given year. This area may be designated as Zone B, C, or X. X Zone relates to newer Flood Insurance Rate Maps, which show B and C Zones as X Zone. The shaded X Zone corresponds to a B Zone and the unshaded X Zone corresponds to a C Zone. It is officially termed the 0.2-percent annual chance floodplain and is outside the SFHA.

Floodplain Storage Compensation - an artificially excavated, hydraulically equivalent volume of floodplain storage sufficient to offset a reduction in floodplain storage resulting from filling or construction within the local regulatory floodplain as determined by the administering agency. Such floodplain storage compensation shall be within the same watershed and shall be provided on the same property or at an alternate site if the administering agency so approves.

Floodprone Area - an area most prone to flooding that is delineated using _____ mapping methods. The floodplain for a localized flood problem may not be mapped as Special Flood Hazard Area on the Flood Insurance Rate Map.

Receiving Municipality - the municipality that provides advisory comments for regulated actions/project referrals.

Sending Municipality - the municipality that submits regulated actions/project referrals for review.

Special Flood Hazard Area - 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.

Stream - general term for a body of flowing water. In hydrology the term is generally applied to the water flowing in a natural channel as distinct from a canal. More generally as in the term stream gaging, it is applied to the water flowing in any channel, natural or artificial. Streams in natural channels may be classified as follows:

1. Perennial. One which flows continuously.
2. Intermittent or seasonal. One which flows only at certain times of the year when it receives water from springs or from some surface source such as melting snow in mountainous areas.
3. Ephemeral. One that flows only in direct response to precipitation, and whose channel is at all times above the water table.

Substantial Damage - 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 - 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:

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;
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Wetland - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, and is regulated by federal, state or local laws.

ARTICLE II ANNOTATIONS

There are several terms and acronyms used throughout this model local law that need to be clarified. Those listed above are summaries of technical terms that are officially defined in the NFIP regulations and are suggested for adoption or modification in a community's floodplain management ordinance.



Article III: Applicability/District Standards

1. Delineation of local floodplain boundaries/Intermunicipal Floodplain Overlay District.

A. Geospatial referenced data.

i. Fathom's United States Flood Hazard Maps.

Fathom has generated flood hazard maps using a proprietary modeling method. This high-resolution model simulates floods on all rivers across the entire continental United States. It uses a 30-meter digital elevation model to represent river networks, channel geometry, and land surface. It then uses rainfall data, hydrography data, and satellite imagery to model different frequency flood events. www.fathom.global

ii. New York Natural Heritage Program's (NHP) Variable Width Riparian Buffers.

Variable width riparian buffers were generated for NHP's Statewide Riparian Opportunity Assessment to support the identification and prioritization of riparian sites for restoration or protection. Riparian zones may include stream banks, floodplain, and wetlands as well as sub-irrigated sites forming a transitional zone between upland and aquatic habitat. These zones provide flood abatement and water quality improvement services. The model uses inputs that represent two primary factors that all riparian ecotones are dependent on: the watercourse and its associated floodplain. The model is an ArcGIS compatible tool that calculates the riparian boundary based on digital elevation data (10-meter), a streams layer (high-resolution National Hydrography Dataset), a wetland layer (National Wetlands Inventory), and an estimate of the 50-year flood height for the HUC12. www.nynhp.org/treesfortribsny

iii. The Nature Conservancy's (TNC) Eco-Hydrologically Active (EHAs) Areas.

To help prioritize areas for restoration or protection in the Chesapeake Bay Watershed, TNC developed a tool to identify areas that are ecohydrologically active (EHAs), places where shallow ground- and surface water occur in the biologically active plant rooting zone. These areas include headwater wetlands, riparian buffers, floodplains and shallow open waters—areas that could be providing flood abatement and water quality benefits. The tool identifies these areas based on the geomorphology of the stream corridor and the surrounding landscape. First, it uses a high resolution digital elevation model (LiDAR) to delineate land within 1.5 meters elevation of a stream. It then determines the relative slope of lands within this area. Results indicate whether an area is likely incised, inundated or has saturated soils, and whether these conditions are driven primarily by surface water inflow or groundwater discharge.

<http://www.dnrec.delaware.gov/Admin/DelawareWetlands/Documents/DE%20Wetlands%20Conf%202012/Presentations/Kathy%20Boomer.pdf>

iv. Flood Hazard Reports, Army Corps of Engineers

In July 1975, a study was undertaken by the Buffalo District Corps of Engineers at the request of officials from the Town of Greece under the Technical Assistances portion of the Floodplain Management Service Program to estimate the flood potential along streams and along the Lake Ontario shoreline. This study includes a stage-frequency curve for Lake Ontario and discharge-frequency curves for 13 streams in Greece. The profiles and flood maps can assist the community in identifying flood hazard areas and the depths to which flooding can be expected. Similar studies were completed for the



Genesee River and Black Creek, at the request of the Towns of Chili and Riga in Monroe County through the New York State Conservation Department, Division of Water Resources (September 1969); Irondequoit Creek Floodplain within the Towns of Brighton, Penfield, Pittsford, Perinton, and Mendon in Monroe County and the Town of Victor in Ontario County, in response to a request from the New York State Department of Environmental Conservation (February 1975); and Little Black Creek floodplain within the Towns of Chili, Gates, and Ogden in Monroe County, in response to a request from the New York State Department of Environmental Conservation (August 1975).

- B. Locational reference based on geographic information.
 - i. New York State Flood Risk Management Guidance (SFRMG).
To meet its obligation to develop guidance for the implementation of the Community Risk and Resiliency Act (CRRRA), the Department of Environmental Conservation (DEC) is developing new State Flood Risk Management Guidance (SFRMG). The SFRMG is intended to inform state agencies as they develop program-specific guidance to require that applicants demonstrate consideration of sea-level rise, storm surge, and flooding, as permitted by program-authorizing statutes and operating regulations. The SFRMG incorporates possible future conditions, including the greater risks of coastal flooding presented by sea-level rise and enhanced storm surge, and of inland flooding expected to result from increasingly frequent extreme-precipitation events. The SFRMG describes specific situations in which one or more of the following guideline elevations should be considered in project design:
 - a. The vertical flood elevation and corresponding horizontal floodplain that result for adding two feet (three feet for critical facilities) of freeboard to the BFE and extend this level to its intersection with the ground.
 - b. The vertical flood elevation and corresponding horizontal floodplain associated with the 0.2-percent annual chance flood.
 - c. The vertical flood elevation and corresponding horizontal floodplain determined by a climate-informed science approach in which adequate, actionable science is available.
 - ii. Stream protection setback.
 - a. U.S. Geological Survey topographical maps will be used to classify impermanent and permanent streams. Impermanent, also known as “seasonal,” streams require a minimum of 25 feet of setback on each side of the stream, extending from the stream bank toward the uplands. Permanent streams are required to have a minimum 50 feet of buffer on each side of the stream, extending from the stream bank toward the upland. *For more information, see Town of Ulysses, NY: Chapter 212. Zoning, Article XX. Design Standards, § 212-124. Standards for vegetated buffer areas.*
- C. Use of other flood data.
 - i. Flood information from any other authoritative source, such as historical data, can be used to establish floodprone areas for the purposes of this law. Historical flood information can include:
 - a. high-water marks,
 - b. benchmark/permanent monuments,



- c. windshield surveys,
- d. Post-disaster Building Damage Assessments (ATC-45), or
- e. other inventories of flood-damaged structures.

Up to 25 points are available for communities that participate in the Community Rating System for local laws or ordinances that require disclosure of a property's exposure to flooding. The objective of Other disclosure requirements (ODR) credit is to provide information to people before they are committed to owning or occupying a piece of property that is subject to a flood hazard. ODR credit is based on a legal requirement to disclose the flood hazard on a record or notice that will be seen by potential purchasers or occupants of a property. For example, a local flood hazard disclosure law could require one or more disclosure methods prior to the time of sale or rental of a property.

ARTICLE III ANNOTATIONS

Floodplain management ordinances are enacted by local government as a condition of NFIP participation. The NFIP has clear requirements for such ordinances, but they are minimum requirements that communities are free to enhance or exceed with stricter requirements of their own. Communities are free to undertake their own mapping and to use such techniques as future-conditions mapping to develop a more inclusive overlay district for the purpose. Additionally, the 2016 Uniform Code Supplement allows a community to adopt more restrictive mapping:

2015 International Building Code Section 1612.3. Establishment of flood hazard areas.

To establish flood hazard areas, each community regulated under Title 19, Part 1203 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

1. The accompanying Flood Insurance Rate Map (FIRM),
2. Flood Boundary and Floodway Map (FBFM), and
3. Related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

2015 International Residential Code Section R322.1.4. Establishing the design flood elevation.

The design flood elevation shall be used to define flood hazard areas. At a minimum, the design flood elevation shall be the higher of the following:

1. The base flood elevation at the depth of peak elevation of flooding, including wave height, that has a 1 percent (100-year flood) or greater chance of being equaled or exceeded in any given year; or
2. The elevation of the design flood associated with the area designated on a flood hazard map adopted by the community, or otherwise legally designated.

Select options are listed above for defining local floodplains.



2. Official maps.

Annotations

The legislative authority of a town, village, or city may establish an “official map” or “plan” of the municipality, showing streets, highways, and parks laid out and established by law. In addition, the official map may show drainage systems. The purpose of establishing such a map, according to the enabling statutes, is the conservation and promotion of the public health, safety, and general welfare. More specifically, Sections 277 and 278 of the Town Law, authorizing the planning board to require reservation of suitable land for a park or parks in approving subdivision plats, envision a plan whereby suitable open spaces are to be provided and to become part of the official map to ensure that they are not built upon.

The statutes that delegate to municipalities the power to adopt official maps have been upheld where they did not impose so great a burden upon private land as to take it without due process of law. It has been held that an official map that affects only one-fourth of a plaintiff's property does not effect a taking without due process of the law.

A planning board must review proposed changes in the municipality's official map. For a map to be official, it must be adopted by ordinance or resolution. The ordinance or resolution that establishes a city map must require that an appropriate official or employee of the city execute and file with the clerk or register of the county or counties in which the city is situated, a certificate showing that the city has adopted an official map. The state comptroller has ruled that the filing requirement is mandatory, but has disclaimed authority to determine the effect of failure to file. When a village map is adopted, the village clerk is required to file a certificate of such adoption with the county register or clerk. A similar obligation is imposed upon a town clerk where an official map is adopted by a town. A town has not properly adopted an official map where the town clerk has failed to file with the county clerk a certificate of the map's establishment as required by Section 270 of the Town Law.

With respect to amendments of the map, the legislative body of a municipality that has established an official map has the power to change or add to such map. Changes or additions may be made so as to lay out new streets, highways, parks, or drainage systems, and they may be made as frequently as is deemed necessary for the public interest. A municipal legislature is authorized to change the official map only after notice and hearing. The notice requirements are not the same for all municipalities. A city legislature is required to publish notice of a proposed map change at least once in an official newspaper or one of general circulation, at least five days prior to the hearing. Although, the publication requirement has been omitted in Section 7-724 of the Village Law, the Town Law requires that notice of a hearing on a change in the official map must be published in a newspaper of general circulation at least 10 days prior to hearing, but no posting requirement is imposed. The several enabling statutes require that a proposed change in an official map be referred to the planning board for a report before final action is taken by the legislative authority.



If the planning board does not make its report within 30 days after the referral, the legislative body is free to act upon the change without a report from the board. When a change is finally adopted by the legislative authority of a municipality, it becomes a part of the official map and has the same force and effect. Section 809 of the General Municipal Law requires that every application for a change in the official map “state the name, residence and nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request to the extent known to such applicant.”

An official map may be amended by the proper filing of an approved plat. When a plat has been approved and properly filed, subject to court review, the streets, highways, and parks shown on such plat become a part of the official map of the city, town, or village where the platted land is situated. However, the streets shown on an approved and filed plat remain private streets until they are formally dedicated and accepted by the municipality, or until the municipality has condemned the land for public use as a street. In fact, the enabling acts specifically provide that the owner of the platted land may add, as part of the plat, a notation to the effect that no offer of dedication of streets, highways, or parks shown on the plat is intended.



Article IV: Actions for Referral

1. Regulated Actions

- A. A Floodplain Development Permit Application and Site Development Plan Review Checklist for Floodprone Properties is hereby established for all construction and other development to be undertaken in floodprone areas in this community.

2. Minimum Standards for Intermunicipal Enforcement

- A. Require that all improvements or repairs are counted cumulatively toward the substantial improvement requirement. *This requirement, known as cumulative substantial improvement (CSI), ensures that owners do not evade flood protection measures by making many small improvements that eventually add up to a major or substantial improvement. By adopting the definition of "Repetitive Loss" and modifying the "Substantial Damage" definition, communities can ensure that the total value of all improvements permitted over the years does not exceed 50% of the value of the structure. There are two options for ordinance language that is consistent with the definition of "repetitive loss structure" under the NFIP.*

Option 1: i. Adopt the following definition: "Repetitive loss" means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

ii. And modify the "substantial improvement" definition as follows: "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage," regardless of the actual repair work performed.

Option 2: i. Modify the "substantial damage" definition as follows: "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

- B. Add a definition for "critical facilities" and require that, to the extent possible, critical facilities be located outside of the SFHA, preferably outside of the 0.2-percent chance floodplain. *This regulatory language addresses the protection of critical facilities that can include, but are not limited to:*
 - i. Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials;*
 - ii. Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;*
 - iii. Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and*



- iv. *Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.*

A community can prohibit new critical facilities from both the 1-percent chance (e.g., 100-year) and the 0.2-percent chance (e.g., 500-year) floodplains by adding a definition and provisions for enforcement.

- C. *Maintaining floodplain storage by prohibiting fill or by requiring compensatory storage. Although floodway regulations preserve flood conveyance, they allow the flood fringe to be filled in. The resulting loss of storage can have a significant effect on downstream flood heights, especially in flat areas. Floodplain storage capacity can be preserved in two ways. The first is to simply prohibit fill, the major cause for loss of storage. Prohibiting fill will also prevent most floodplain development and will help preserve the natural and beneficial functions of the floodplain. The other method is to require compensatory storage, e.g., the developer must compensate for each cubic foot of fill, building, or other item that is displacing flood water. Generally, this is done by removing an equal volume of fill from the lot, usually at the same elevation to maintain the same hydraulic conditions.*
- D. *Eliminate “walkout basements” adjacent to streams and wetlands. These are enclosed areas beneath buildings elevated on full-story foundation walls. The floor is at or above grade on at least one side, and is not considered a basement under the NFIP. Flood insurance coverage is typically limited.*



ARTICLE IV ANNOTATIONS

This section has been customized specifically for the Towns of Greece and Parma and Village of Hilton, Monroe County. The three municipalities participated on the Steering Committee for the Model Intermunicipal Floodplain Overlay District Local Law Project as an implementation item of their Flood Smart Action Plan (September 2016). Municipal representatives were asked to vote in a Minimum Standards Survey on what development standards are most important to be enforced across the jurisdictions in managing the upstream-downstream connection of communities. Out of sixteen choices developed from various sources such as CRS Credit for Higher Regulatory Standards, these four standards were most popular.

The other choices offered in the survey are as follows:

- Using a threshold lower than 50% of the building's value to determine when the substantial improvement requirement takes effect.
- Add a definition for "hazardous materials" (consistent with Building Code) and require that, to the extent possible, use, storage, and disposal of hazardous materials be located outside of the SFHA, preferably outside of the 0.2% annual chance floodplain. If located within SFHA, require that hazardous materials be located above the flood protection level or stored/used in a manner that prevents pollution during a base flood (e.g., is resistant to hydrostatic and hydrodynamic loads or is subject to removal based on a flood emergency plan).
- Prohibiting building enclosures below the Base Flood Elevation (BFE). *Communities can discourage subsequent alteration of enclosed areas by entering into nonconversion agreements whereby owners agree not to modify the enclosed area to make it more susceptible to flood damage. Regulatory language can give the community the right to enter the property and inspect the inside of the enclosure periodically through nonconversion agreements.*
- Limit impervious surfaces in new and redevelopment on sites more than 1 acre to ___% to maximize infiltration and reduce runoff.
- Adopt ___foot setback from impermanent and/or permanent streams to allow space for natural floodplains and to maintain existing riparian buffers.
- Require in-basin mitigation of non-jurisdictional wetland impact.
- Require floodway analysis for subdivisions and large developments (those that require determination of BFEs).
- Require road surfaces to be elevated to or above the BFE or allow only a nominal amount of water to flow over the road during the 1% annual chance flood event.
- Adopt V Zone design and construction standards for Coastal A Zones.
- Use the vertical flood elevation and corresponding horizontal floodplain that result for adding two feet (three feet for critical facilities) of freeboard to the BFE and extend this level to its intersection with the ground.
- Use the vertical flood elevation and corresponding horizontal floodplain associated with the 0.2-percent annual chance flood.
- Use the vertical flood elevation and corresponding horizontal floodplain determined by a climate-informed science approach in which adequate, actionable science is available.



Article V: Referral Process

1. Referring Authority. All municipalities participating in the Intermunicipal Floodplain Overlay District are required to submit Regulated Actions as project referrals. The purpose of these referrals is to identify inter-community and watershed-scale impacts of proposed projects and to communicate floodplain management concerns at an early stage of project development.

2. Applications. All project referrals must include a Cover Sheet that should be completed by the Sending Municipality with the following information:

- A. Name of Sending Municipality;
- B. Name of Applicant;
- C. Name of Project;
- D. Location of Project Site;
- E. Reason for Intermunicipal Review;
- F. List of all Receiving Municipalities
- G. Tax Map Number;
- H. Size of Project/Parcel; and
- I. Type of action being submitted.

A full application must also include a Floodplain Development Permit Application and the Site Development Plan Review Checklist for Floodprone Properties.

3. Authorization. Project referrals are assigned to the Planning Board Chair/Code Enforcement Officer of the Receiving Municipality(s).

4. Time limits. The Receiving Municipality(s) is allowed the following timeframes to review and reply after receipt of a full application:

- A. minimum of thirty (30) days, and
- B. maximum of up to two (2) days prior to a regularly scheduled meeting during which the local board will be taking action (e.g., voting) on the project.

5. Factors for consideration. Review letters from the Receiving Municipality(s) will include advisory comments that are meant to provide helpful insights or suggestions:

- A. Location of floodplain/floodway limits and relationship of proposed project to upstream and downstream properties and drainages,
- B. Potential downstream impact/effects of proposed project,
- C. Flow paths, and
- D. Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.



ARTICLE V ANNOTATIONS

This section references General Municipal Law §239. New York General Municipal Law (GML) requires that certain types of municipal planning, zoning, and subdivision projects be referred to County Planning for review prior to local action being taken. The requirement seeks to promote coordination of land use decision-making and to enhance consideration of potential intermunicipal and county-wide impacts. There are three sections of GML §239 which govern this process: §239-l describes the purpose for county review; §239-m describes planning, zoning and development review referral; and §239-n describes the referral of subdivision applications. Developing intermunicipal review of certain proposed actions promotes NAI floodplain management. NAI floodplain management represents a more effective way to tackle flood problems for local governments and mitigates both current and future adverse impacts on other properties throughout the watershed.



Article VI: Compliance and Liability

1. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered in the local floodplain except in full compliance with the terms and provisions of this Local Law and any other applicable ordinances and regulations that may apply to the Intermunicipal Floodplain Overlay District.
2. The degree of flood protection sought by the provisions of this Local Law is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. This Local Law does not imply that districts outside the Intermunicipal Floodplain Overlay District or land uses permitted within such district will be free from flooding or flood damages.
3. This Local Law shall not create liability on the part of the Municipalities or any officer or employee thereof for any flood damages that result from reliance on this Local Law or any administrative decision lawfully made thereunder.

Article VII: Severability and Effective Date

1. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

2. Effective Date

This Local Law shall be effective upon filing with the Office of the Secretary of State. Approved by:

_____ Date _____

Article VII: Appeals

Variances to the requirements of this Local Law shall be handled by the Board of Zoning Appeals as defined under _____.