

## Appendix D: Action Items

### D.2. Model Floodplain Protection Overlay District Intermunicipal Agreement

#### MODEL

Intermunicipal Floodplain Overlay District Agreement  
Town of Greece, Town of Parma and Village of Hilton

THIS FLOODPLAIN OVERLAY DISTRICT AGREEMENT (the “Agreement”) is made effective as of this \_\_ day of \_\_\_\_\_, 201\_, by and among the Town of Greece, a New York municipality, with offices located 1 Vince Tofany Boulevard, Greece, New York 14612; the Town of Parma, a New York municipality, with offices located 1300 Hilton Parma Corners Road, Hilton, New York 14468; and the Village of Hilton, a New York municipality, with offices located at 59 Henry Street, Hilton, New York 14468 (collectively “the Municipalities”).

WHEREAS, the Municipalities have experienced severe flooding in the past, causing excessive damage to property, erosion, and putting the life and safety of residents in jeopardy;

WHEREAS, the Municipalities have adopted Flood Damage Prevention laws intended to 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; require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters; control filling, grading, dredging and other development which may increase erosion or flood damages; regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and qualify for and maintain participation in the National Flood Insurance Program;

WHEREAS, the Municipalities desire to further strengthen flood mitigation efforts by creating a Floodplain Overlay District (FOD);

WHEREAS, New York Town Law §284 (4)(e) permits municipalities to enter into agreement to create an intermunicipal overlay district for the purpose of protecting, enhancing or developing community resources that encompass two or more municipalities;

WHEREAS, the FOD modifies the traditional form of zoning and encourages development in the Municipalities that takes into account proximity to floodplains and encourages efficient use of land and natural resources, while ensuring compatibility with surrounding land uses;

WHEREAS, an FOD authorized pursuant to Town Law §284 (4)(e) is intended to provide a better and more desirable living and physical environment than what would be possible under zoning regulations that apply to the development of a traditional zoning district;

WHEREAS, the Municipalities enacted FOD Ordinances (***to be done concurrently with signing of this Agreement - list here***), which, *inter alia*, amended the zoning map of each municipality and provided for such rules, conditions, and instructions for the development of certain real property located in the Municipalities and designated as the FOD.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereby agree as follows:

**1. Purposes.**

The purposes of the FOD are as follows:

- i. To promote and protect the general health, welfare and/or safety of the community.
- ii. To encourage the use of appropriate construction practices in order to prevent or minimize flood damage in the future.
- iii. To reduce the financial burdens and costs imposed on the community, governmental or municipal units, and its residents, by preventing excessive development in areas subject to flooding.
- iv. To reduce damage to public and private property resulting from flooding waters.
- v. To minimize danger to public health by protecting water supply and natural drainage.
- vi. To require all those uses, activities and development that do occur in flood-prone areas to be protected and or flood-proofed against flooding and flood damage.
- vii. To comply with federal and state floodplain management requirements.
- viii. To eliminate hazards to emergency management officials.
- ix. To prevent the occurrence of public emergencies resulting from a reduction in water quality, contamination, and/or pollution due to flooding
- x. To implement the recommendations concerning natural features, conservation management and land use, as endorsed by comprehensive plans of the Municipalities (?)

**2. Delineation of FOD boundaries.**

The FOD shall be a conservation overlay to the underlying zoning districts of the Municipalities. The FOD boundaries are described in Annex A to this Agreement.

**3. Regulated Activities.**

A. A FOD permit is required to:

- i. Construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.
- ii. Construct a fence if specified in a schedule to this overlay.
- iii. Construct bicycle pathways and trails.
- iv. Subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.
- v. Remove, destroy or lop any vegetation, including dead vegetation. This does not apply if a schedule to this overlay specifically states that a permit is not required.

**4. Standards for FOD permit review (*these are options for municipalities to consider and negotiate*).**

- A. As a condition of receiving a FOD permit, the applicant must prepare a site plan that (i) accounts for street flooding and local drainage from and onto adjoining properties; and (ii) protects the building from local drainage flows.
- B. Any applicant for a permit to undertake a regulated activity within the FOD must show that the proposed activity will not adversely affect the following:
  - i. Water quality
  - ii. Watercourse flood-carrying capacities
  - iii. Rate of sedimentation
  - iv. Velocity of surface water runoff
  - v. Natural characteristics of the watercourse or floodplain
  - vi. Soil stability
  - vii. Fish and wildlife habitat
- C. Any applicant for a permit to undertake a regulated activity within the FOD must show that the proposed activity:
  - i. Prohibits fill or requires compensatory storage;
  - ii. Protects new buildings, facilities and/or substantial improvements from local drainage flooding;
  - iii. Demonstrates that new buildings, facilities and/or substantial improvements are well above the street level or otherwise protected from shallow drainage flooding;
  - iv. Demonstrates that foundations are protected from erosion and scour;
  - v. Prohibits any building enclosures, including solid breakaway walls, below the base flood elevation;
  - vi. Prohibits hazardous materials;
  - vii. Requires freeboard;
  - viii. Prohibits the installation of new septic systems;
  - ix. Requires all new multi-family and commercial buildings to provide access to dry land;
  - x. Requires an evacuation plan for new residential subdivisions (that exceed a certain number of units);

- xi. Requires that the developer provide detailed flood data needed in approximate A Zones for all developments, regardless of size, and in X Zones to map the floodplains for all drainage areas over a certain size (e.g., 40 acres);
- xii. Complies with green infrastructure practices;
- xiii. Delineates and places into permanent conservation undisturbed forests, native vegetated areas, riparian corridors, wetlands, and natural terrain;
- xiv. Defines, delineates and preserves naturally vegetated buffers along perennial streams, rivers, shorelines and wetlands;
- xv. Limits clearing and grading to the minimum amount needed for roads, driveways, foundations, utilities and stormwater management facilities;
- xvi. Uses clustering, conservation design or open space design to reduce impervious cover, preserve more open space and protect water resources;
- xvii. Restores the original properties and porosity of the soil by deep till and amendment with compost to reduce the generation of runoff and enhance the runoff reduction performance of post construction practices;
- xviii. Minimizes roadway widths and lengths to reduce site impervious area;
- xix. Minimizes sidewalk lengths and widths to reduce site impervious area;
- xx. Minimizes driveway lengths and widths to reduce site impervious area;
- xxi. Minimizes the number of cul-de-sacs and incorporate landscaped areas to reduce their impervious cover;
- xxii. Reduces the impervious footprint of residences and commercial buildings by using alternate or taller buildings while maintaining the same floor to area ratio;
- xxiii. Reduces imperviousness on parking lots by eliminating unneeded spaces, providing compact car spaces and efficient parking lanes, minimizing stall dimensions, using porous pavement surfaces in overflow parking areas, and using multi-storied parking decks where appropriate;  
Uses natural drainage paths, or properly designed vegetated channels, instead of constructing underground storm sewers or concrete open channels;
- xxiv. Plants or conserves trees to reduce stormwater runoff, increase nutrient uptake, and provide bank stabilization;
- xxv. Directs runoff from residential rooftop areas and upland overland runoff flow to designated pervious areas to reduce runoff volumes and rates;
- xxvi. Manages and treats small volumes of stormwater runoff using a conditioned planting soil bed and planting materials to filter runoff stored within a shallow depression;
- xxvii. Captures runoff by a layer of vegetation and soil installed on top of a conventional flat or sloped roof; Installs small landscaped stormwater treatment devices that can be designed as infiltration or filtering practices;
- xxviii. Captures and stores stormwater runoff in cisterns or rail barrels to be used for irrigation systems or filtered and reused for non-contact activities; or
- xxix. Installs pervious types of pavements that provide an alternative to conventional paved surfaces.

## 5. Administration.

- A. The Municipalities shall appoint a Floodplain Administrator to administer and implement this Agreement. The duties and responsibilities of the Floodplain Administrator include but are not limited to the following:
- i. Review an application for a building permit to determine if the proposed activity lies within the FOD;
  - ii. Review an application for a building permit to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of appropriate regulations;
  - iii. Review an application for a building permit to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- B. All proposed development projects in the FOD and all final inspections and project approvals must be reviewed and approved by a CFM. Additionally, the community *may* conduct at least three inspections for each permitted development project in the FOD according to the Community Rating System's regulations administration (RA3).

## 6. Compliance and Liability.

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered in the FOD except in full compliance with the terms and provisions of this Agreement and any other applicable ordinances and regulations that may apply to the FOD.
- B. The degree of flood protection sought by the provisions of this Agreement is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. This Agreement does not imply that districts outside the FOD or land uses permitted within such district will be free from flooding or flood damages.
- C. This Agreement 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 Agreement or any administrative decision lawfully made thereunder.

## 7. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Agreement shall be declared invalid for any reason whatever, such decision shall not affect the remaining

portions of this Agreement. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this Agreement are hereby declared to be severable.

**8. Duration.**

That the duration of this Agreement shall be in perpetuity, unless sooner terminated and dissolved by operation of law or by mutual agreement of the Municipalities.

**9. Modification of Agreement.**

This Agreement may be modified or amended only in writing duly executed by all parties, which shall be attached to and become part of this Agreement.

**10. Indemnification.**

Each party shall indemnify and hold harmless the other, its officers, agents and assigns for all liability arising out of activities under his Agreement.

**11. Entire Agreement.**

This Agreement constitutes the entire Agreement between the parties and supersedes any and all prior agreements between the parties hereto for the services herein to be provided. This Agreement shall be governed by and construed in accordance with the laws of New York State without regard to its conflict of laws or principles.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date referenced above.

TOWN OF GREECE

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VILLAGE OF HILTON

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TOWN OF PARMA

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Annex A  
FOD Boundaries

Schedule A