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Town of West Greenwich

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TOWN OF WEST GREENWICH **STATE OF RHODE ISLAND**
COUNTY OF KENT

CERTIFICATE

I, Janet E. Olsson, Town Clerk of the Town of West Greenwich, County of Kent, State of Rhode Island, having by law the custody of the seal and all the records, books, documents and papers pertaining to said office, hereby certify the annexed to be a true copy of the following:

Ordinance No. 91
West Greenwich Floodplain Ordinance
"Special Flood Hazard Areas"

Adopted: November 17, 2010

IN WITNESS WHEREOF, I have hereunto set my hand and have affixed the seal of the said Town of West Greenwich, this 18th day of November, 2010.

Janet E. Olsson, CMC
Town Clerk

Ordinance No. 91

THE TOWN OF WEST GREENWICH
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

West Greenwich Floodplain Ordinance
"Special Flood Hazard Areas"

Adopted: November 17, 2010

IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEST GREENWICH, RHODE ISLAND, AS FOLLOWS:

Special Flood Hazard Areas

A. PURPOSE and AUTHORITY

The purpose of this section is to ensure public safety, minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. The Town of West Greenwich elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended), through its authority to adopt ordinances for the protection of public safety and general welfare of the community and together with its responsibility to enforce the State Building Code RIGL 23-27.3.

B. APPLICABILITY

The requirements of this ordinance shall apply to any construction or other development which lies wholly or partly within a Special Flood Hazard Area (SFHA).

1. Special Flood Hazard Areas

This ordinance shall apply to all special flood hazard areas within the Town of West Greenwich designated as "Zone A" on the Kent County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Kent County FIRM that are wholly or partially within the Town of West Greenwich are panel numbers 44003C70070G, 44003C70090G, 44003C70095G, 44003C70111G, 44003C70112G, 44003C70113G, 44003C70114G, 44003C70116G, 44003C70118G, 44003C70185G, 44003C70205G, 44003C70210G, 44003C70230G, and 44003C70231G, effective December 3, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Kent County Flood Insurance Study (FIS) report effective December 3, 2010. The FIRM and FIS report, and any revisions thereto, are incorporated herein by reference, and are so adopted. The FIRM panels and the FIS and are on file with the Town Clerk, Town Planner, Building Inspector, and Tax Assessor.

2. Other Development.

For purposes of this section, "other development," shall be defined as any action exclusive of that which requires the issuance of a building permit under the Rhode Island State Building Code. Such other development shall include, but not necessarily be limited to, the following:

1) Earth, gravel or mineral removal or extraction;
2) Alteration of the topography by cutting, filling or grading;
3) Storage of bulk materials outside of a structure;
4) Construction or placement of facilities or improvements not normally requiring a building permit.

3. Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable but does not imply total flood protection. Larger floods may occur on rare occasions or flood heights may be increased by man-made or natural causes. This section does not imply that areas outside SFHA's or land uses permitted within the SHFA's will be free from flooding or flood damage. This section does not create liability on the part of the Town or any officer or employee thereof for any flood damages that may result from reliance on this section or any administrative decision lawfully made hereunder.

4. Abrogation and Greater Restriction. This Section (Article VII, Section 20) shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this section imposes a greater restriction, the provisions of this section shall control.

C. DEFINITIONS

Unless specifically defined below, words and phrases used in this ordinance pertain to floodplain management, have the same meaning as they have in common usage and to give this ordinance it's most reasonable application.

Accessory Structure – A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of Special Flood Hazard – see definition for "Special Flood Hazard Area".

Base Flood – The flood having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

Base Flood Elevation (BFE) – The elevation of the crest of the base flood or 100-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement – Any area of the building having its floor subgrade (below ground level) on all sides.

Building – see definition for "Structure".

Cost – As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall *include*, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be *excluded* include: cost of plans and specifications, survey costs, permit fees, costs to correct code violations subsequent to a violation notice, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Development – Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Existing Manufactured Home Park or Manufactured Home Subdivision – A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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

Federal Emergency Management Agency (FEMA) - The federal agency that administers the National Flood Insurance Program (NFIP).

Flood or **Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) – The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community. FIRM published after January 1990 may also show the limits of the regulatory floodway.

Flood Insurance Study (FIS) – The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

Flood Proofing – 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 – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the term "Floodway".

Functionally Dependent Use or Facility – A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

Historic Structure – Any structure that is: (a) 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; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) 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 (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement).

Manufactured Home – A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

Manufactured Home Park or Manufactured Home Subdivision – A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

Market Value – Market value is the price of a structure that a willing buyer and seller agree upon. This can be determined by an independent appraisal by a professional appraiser; the property's tax assessment, minus land value; the replacement cost minus depreciation of the structure; the structure's Actual Cash Value.

New Construction – Structures for which the ''start of construction'' commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Manufactured Home Subdivision – A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by the community.

Recreational Vehicle – A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway – see definition for "Floodway".

Special Flood Hazard Area (SFHA) – The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, A1-30, AE, AO, AH, and the Coastal High Hazard Areas shown as Zones V, V1-30, and VE on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

Start of Construction – For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does in include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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 – A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Substantial Damage – Damage of <u>any</u> origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place within any twelve (12) month period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure (§ 23-27.3-106.1). This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (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".

Violation – Failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

D. PERMIT REQUIRED

1. All proposed construction, improvements, or other development, including but not limited the placement of mobile homes and manufactured homes, within a Special Flood Hazard Area shall require a permit.

2. If the construction or other development within a Special Flood Hazard Area is not covered by a Building Permit or a Planning Board approval process, a flood hazard development permit shall be required. The application for a flood hazard development permit shall be submitted to the Building Inspector, or designee, and shall include:

1) The name and address of the applicant;
2) An address or a map indicating the location of the construction site;
3) A site plan showing location of existing and proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot; and meeting all of the requirements for Development Plan Review as applicable
4) A statement of the intended use of the structure or land;
5) A statement as to the type of sewage system proposed;
6) Specification of dimensions of the proposed structures;
7) The specific datum used for all elevations;
8) the existing contours of the site and elevations of existing structures
9) The elevation (in relation to mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above;
10) Base flood elevation data for all new, relocated or substantially improved structures;
11) The elevation (in relation to mean sea level) to which the structure will be floodproofed;

12) The description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
13) The Building Inspector or designee may require a study to demonstrate that the proposed development will not cause a one foot rise or any change to the capacity of the floodplain.

3. Conformance with Existing State, Federal, and other local regulations

1) All development, located wholly or partly within the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- Rhode Island State Building Code (As established under Rhode Island General Law § 23-27.3);
- Coastal Resources Management Program, Coastal Resource Management Council (RIGL § 46-23)
- Freshwater Wetlands Act, Department of Environmental Management (RIGL § 46-23-6)
- Minimum Standards Related to Individual Sewage Disposal Systems, Department of Environmental Management (RIGL § 46-12)
- Rules and Regulations pertaining to drinking water wells, Department of Environmental Management (RIGL § 46-13.2)
- Rules and Regulations Pertaining to Public Drinking Water, Department of Health (RIGL § 46-13-18)
- West Greenwich Zoning Ordinance
- West Greenwich Land Development and Subdivision Regulations

2) Any variances from the provisions and requirements of the above referenced State regulations may only be granted in accordance with the required variance procedures of those State regulations.

4. Prior to the issuance of a building or flood hazard development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by federal or state law.

5. A permit fee (based on the cost of the construction) may be required to be paid to the Town of West Greenwich, and a copy of a receipt for the same shall accompany the application. An additional fee may be charged if the code enforcement officer and/or board of appeals needs the assistance of a professional engineer.

6. Review of Applications for Projects within the Special Flood Hazard Area

The building inspector or designee shall:

1) Review all applications for permits within the special flood hazard areas to determine that all pertinent requirements have been or will be met;

2) Utilize the base flood data contained in the "Kent County Flood Insurance Study (FIS)" report dated December 3, 2010;
3) Make interpretations of the location of boundaries of SFHA's shown on maps described in VII Section 20, B. 2 .;
4) In A zones, in absence of FEMA BFE and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the FPE, and for floodproofing or elevating non-residential structures to or above the FPE.
5 In Zone A, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
6) In review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state and local government agencies from which prior approval is required;
7) Notify adjacent municipalities, the RIDEM and the Rhode Island Emergency Management Agency prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA and
8) Maintain, as a permanent record, copies of all permits issued for development in the special flood hazard areas and data relevant thereto, including reports of the zoning board of review on variances.

7. Exemptions

The following structures and/or activities are exempt from the permit requirements of this section: mail boxes, planting a garden, farming, flag poles, or other minor projects that will not affect flood flows, such as reroofing or replacement of siding on an existing structure.

8. Appeals

Any party aggrieved by a decision of the Building Inspector or designee pertaining to enforcement of these provisions shall have the right to appeal that decision to the State of Rhode Island Building Code Standards Board of Review.

E. SPECIAL FLOOD HAZARD AREA REGULATIONS

1. Development shall be prohibited from regulatory floodways

2. No new lots shall be created which would constrict development to occur partly or wholly within a Special Flood Hazard Area.

3. No outdoor storage of materials or equipment which is likely to cause damage to property, create a potential obstruction to floodwaters, create a potential fire hazard or pollute the waters during flood periods shall be permitted in any SFHA. Such materials or equipment shall include but not necessarily be limited to: lumber and other buoyant materials, water-soluble materials, volatile or flammable materials, acids or poisons.

F. WATERCOURSE ALTERATION

1. In a riverine situation, the Building Inspector or designee shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States (optional)
- NFIP State Coordinator
  Rhode Island Emergency Management Agency
  645 New London Avenue
  Cranston, RI 02920
- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  99 High Street, 6th Floor
  Boston, MA 02110

2. The carrying capacity of the altered or relocated watercourse shall be maintained.

G. ADDITIONAL DEVELOPMENT STANDARDS AND REGULATIONS

1. Land Development and Subdivision Regulations

1) Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or 5 acres, whichever is the lesser, within unnumbered A zones.

2) All subdivision proposals must be designed to assure that:

a.) such proposals minimize flood damage;

b.) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

c.) adequate drainage is provided to reduce exposure to flood hazards.

d.) The Planning Board shall determine whether subdivision proposals and other proposed new development, including manufactured home parks, will be reasonably safe from flooding.

2. Building Code.

1) Base Flood Elevations in A Zones. In the absence of FEMA BFE data and floodway data, the best available Federal, State, local, or other BFE or floodway data shall be used as the basis for elevating residential and non-residential structures to or above the base flood level and for floodproofing non-residential structures to or above the base flood level.

2) Detached accessory structures in Zone A, (i.e., garages, sheds) do not have to meet the elevation or dry flood-proofing requirement if the following standards are met:

a) The structure is no more than 100 square feet in size and has a value less than $1000.
b) The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
c) The structure is used solely for parking of vehicles and/or limited storage.
d) The accessory must be wet floodproofed and designed to allow for the automatic entry and exit of flood water.
e) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
f) Service facilities such as electrical, mechanical and heating equipment must be elevated or floodproofed to or above the base flood elevation.
g) The structure must not increase the flood levels in the floodway.

H. SEVERABILITY

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.