

CHAPTER 26

FLOOD DAMAGE PREVENTION

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ARTICLE I - STATUTORY AUTHORIZATION AND PURPOSE

Section 26-1. Findings

The Board or Trustees of the Village or Arcade finds that the potential and/or actual

damages from flooding and erosion may be a problem to the residents of the Village of Arcade 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.

Section 26-2. 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:

- A. 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;
- B. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- D. control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- F. qualify and maintain for participation in the National Flood Insurance Program

26-3. Objective

The objectives of this local law are:

- A. to protect human life and health;
- B. to minimize expenditure of public money for costly flood control projects.
- C. to minimize the need for rescue and relief efforts associated the flooding and generally undertaken at. the expense of the general public;
- D. to minimize prolonged business interruptions;
- E. 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;
- F. 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;

- G. to provide that developers are notified that property is in an area of special flood hazard; and,
- H. to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions .

ARTICLE II - DEFINITIONS

Section 26-4. 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.

- A. 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.
- B. 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.
- C. 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, AK, AH, AAO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.
- D. Base flood - means the flood having a one percent chance of being equaled or exceeded in any given Year.
- E. Basement - means that portion of a building having its floor sub-grade (below ground level) on all sides.
- F. Breakaway wall - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
- G. Building see "structure".
- H. Cellar has the same meaning as "Basement"
- I. Coastal high hazard area - means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO or V.
- J. Development - means any man-made change to improved or unimproved real

estate, including but not limited to buildings or other structures. mining, dredging, tilling, paving, excavation or drilling operations or storage of equipment or materials.

- K. 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 or "elevated building", even though the lower area is enclosed by means Or breakaway walls that meet the federal standards.
- L. Existing manufactured home park or subdivision means - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured 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).
- M. Expansion to an existing manufactured home park or subdivision - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured 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).
- N. Federal Emergency Management Agency means the Federal agency that administers the National Flood Insurance Program.
- O. 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 ace 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.

- P. 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.

- Q. 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.
- R. 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.
- S. 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.
- T. Flood Insurance Study see "flood elevation study".
- U. Floodplain or Flood-prone area - means any land area susceptible to being inundated by water from any source (see definition of "Flooding")
- V. 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.
- W. Floodway has the same meaning of "Regulatory Floodway".
- X. Functionally dependent use - means a use which cannot perform its intended purpose or unless it is located 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.
- Y. Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- Z. 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 the 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 or historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior or
 - b. directly by the Secretary of the Interior in states without approved programs.
- AA. 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 Code Enforcement Officer. Building Inspector or employee of an engineering department.
- BB. 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.
- CC. 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".
- DD. 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.
- EE. Mean sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum ((NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- FF. Mobile home has the same meaning as "Manufactured Home".
- GG. National Geodetic Vertical Datum ((NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.
- HH. New construction - means structures for which the "start or 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.
- II. New manufactured home park or subdivision - means a manufactured home park or 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 management regulations adopted by a community.
- JJ. One hundred year flood or 100-year flood has the same meaning as "Base Flood".

- KK. Primary frontal dune - means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
- LL. Principally Above Ground - means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.
- MM. 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.
- NN. 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 26-14B of this Law.
- OO. Sand dunes - means naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- PP. Start of construction - includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and tilling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms.
- QQ. Structure - means a walled and roved building, including a gas or liquid storage tank. that is principally above ground, as well as a manufactured home.
- RR. 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.
- SS. 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 or 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".
- TT. 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.

ARTICLE III - GENERAL PROVISIONS

Section 26.5. Lands to which this local law applies

This local law shall apply to all areas of special flood hazard within the Jurisdiction of the Village of Arcade.

Section 26-6. Basis for establishing the areas of Special Flood Hazard

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Village of Arcade, New York, Wyoming County" dated March 3, 1992 with Flood Insurance Rate Map No. 360939 005 dated March 3, 1992.

The above documents are hereby, adopted and declared to be a part of this Local Law and are filed at the Arcade Village Office, 17 Church Street, Arcade, New York.

Section 26-7. Interpretation and Conflict with other Laws

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 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.

Section 26-8. Severability

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

Section 26-9. 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 Village of Arcade 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 Article VI will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

Section 26-10. 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 Village of Arcade, 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 thereunder.

ARTICLE IV - ADMINISTRATION

Section 26-11. Designation of the Local Administrator

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

Section 26-12. The Floodplain Development Permit

A. 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 26-6, 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.

B. Fees.

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

Section 26-13. Application for a Permit

The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form.

- A. 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, AF 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.
- B. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V 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.
- C. 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.
- D. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 26-16C, UTILITIES.
- E. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 26-18, NON-RESIDENTIAL STRUCTURES (EXCEPT COASTAL HIGH HAZARD AREAS).
- F. 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 26-6, when notified by the Local Administrator, and must pay any fees or other costs assessed by FLMA for this purpose. The applicant must also provide

assurances that; the conveyance capacity of the altered or relocated stream segment will be maintained.

- G. 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.
- H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit application 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.

Section 26-14. Duties and responsibilities of the Local Administrator

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

A. Permit Application Review

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

1. Review all application for completeness, particularly with the requirements of subsection 26-13, 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 Article V, CONSTRUCTION STANDARDS and, in particular, subsection 26-15B, 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 Article V, CONSTRUCTION STANDARDS, no permits 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,

B. 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 26-13H, 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.

C. Alteration of Watercourses

1. Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, 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.

D. Construction State

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 lowest flood 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 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.

E. 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.

F. 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 26-9 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 or the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 26-9 of this local law.

G. Certificate of Compliance

1. In areas or special flood hazard, as determined by documents enumerated in Section 26-6, it shall be unlawful to occupy or to permit the use of 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 26-14E, INSPECTIONS, and/ any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. 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 26-14D-1 and 26-14D-2 of Section 26-14, CONSTRUCTION STAGE, and whether or not the structures contain a basement;
3. Floodproofing certificates required pursuant to sub-sections 26-14D-1 of Section 26-14, CONSTRUCTION STAGE, and whether or not the structures contain a basement;
4. Variances issued pursuant to Article VI, VARIANCE PROCEDURES; and,
5. Notices required under sub-section 26-14C, ALTERATION OF WATERCOURSES.

ARTICLE V - CONSTRUCTION STANDARDS

Section 26-15. 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 26-6.

A. 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 so as to minimize flood damage; and.
3. Adequate drainage shall be provided to reduce exposure to flood damage.

B. 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:
 - a. 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,
 - b. the Village of Arcade 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 Village of Arcade for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Arcade 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 26-6, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - a. a technical evaluation by a licensee professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood. or,
 - b. the Village of Arcade 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 Village or Arcade for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Arcade for all costs related to the final map revisions.

Section 56-16. Standards for all Structures

A. 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.

B. 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 or AH, and also Zone A if base flood elevation data are available, 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:
 - a. a minimum, of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - b. the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

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.

C. Utilities

1. Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator tilt machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
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,
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section 26-17. Residential Structure

A. Elevations.

The following standards, in addition to the standards in subsections 26-15A, SUBDIVISION PROPOSALS, AND 26-15B, ENCROACHMENTS, and Section 56-16, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

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 the base flood level.
2. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
3. Within Zone AO, new and substantially improved structures 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 26-6 (at least two 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.

Section 26-18. Non-Residential Structures

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 56-15A, SUBDIVISION PROPOSALS, and 56-15B, ENCROACHMENTS, and 56-16, STANDARDS FOR ALL STRUCTURES.

- A. Within Zone 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, together with attendant utility and sanitary facilities, shall either:
 - 1. have the lowest floor, including basement or cellar, elevated to or above the base flood elevations; or
 - 2. be floodproofed so that the structure is watertight below the base flood level 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.
- B. Within Zone AD, new construction and substantial improvements of non-residential structures shall:
 - 1. have the lowest flood (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - 2. together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub section 56-18A2.
- C. 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 56-18A2, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zone AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- E. 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.

Section 26-19. Manufactured Homes and Recreational Vehicles

- A. The following standards in addition to the standards in Section 26-15, GENERAL STANDARDS, and Section 26-16, STANDARDS FOR ALL STRUCTURES apply in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard. Recreational vehicles placed on sites within Zones A1-A30, AE, AH, VI-V30, V and VE shall either:

1. be on site fewer than 180 consecutive days,
2. be fully licensed and ready for highway use, or
3. meet the requirements for manufactured homes in paragraphs 56-15 B, D and E.

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.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30 or VE that is on a site either:

1. outside of an existing manufactured home park or subdivision;
2. in a new manufactured home park or subdivision as herein defined;
3. in an expansion to an existing manufactured home park or subdivision as herein defined; or
4. in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall within Zones A1-A30, AE, and AH, be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement; or, within Zones V1-V30 and VE be elevated on a pile foundation such that the bottom of the lowest structural member at the lowest floor (excluding pilings and columns) is elevated to or above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.

C. A manufactured home to be placed or substantially improved in Zone A1- A30, AE, AH, V1-V30 or VE, in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

1. elevated in a manner such as required in paragraph 56-19B, or
2. elevated such that the manufacture 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.

D. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall have the floor elevated at least three feet above the highest adjacent grade.

- E. Within Zone AO, the floor 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 26-6 (at least two feet if no depth number is specified).

Section 26-20. Floodways

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 26-4). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 26-6 and Section 26-13B all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

ARTICLE VI - VARIANCE PROCEDURE

Section 26-21. Appeals Board

- A. The Zoning Board of Appeals as established by the Village and Town or Arcade shall hear and decide appeals and requests for variances from the requirements of this local law.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of the local law.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - 1. the danger that materials may be swept onto other lands to the injury of others;
 - 2. the danger to life and property due to flooding or erosion damage;
 - 3. the susceptibility of the proposed facility and its contents or flood damage and the effect of such damage on the individual owner;
 - 4. the importance of the services provided by the proposed facility to the community;
 - 5. the necessity to the facility of a waterfront location, where applicable;
 - 6. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. the compatibility of the proposed use with existing and anticipated development;
 8. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 9. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. the costs of local governments and the dangers associated with conducting search and rescue operations during period or flooding;
 11. 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
 12. 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.
- E. Upon consideration of the factors of Section 26-20D and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granted to variances as it deems necessary to further the purposes of this local law.
- F. 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.

26-22. Conditions for Variances

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot or one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-12) in Section 26-20D have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
1. the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic Structure".
 2. the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. 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:

1. the criteria of subparagraphs A, D, E and F of this Section are met;
 2. 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.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variance shall only be issued upon receiving written justification of:
1. a showing of good and sufficient cause;
 2. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. 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.
- G. 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 the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 7th day of January, 1992 by the Board of Trustees of the Village of Arcade, Wyoming County, New York to be effective on March 3, 1992.

Original Law

Local Law No. 1-1983
Adopted: April 5, 1983
Filed: April 11, 1983

Amended
Local Law No. 3-1987
Adopted: June 2, 1987
Filed: June 12, 1987

Amended
Local Law No. 5-1988
Adopted: December 6, 1988
Filed: January 23, 1988
Amended

Local Law No. 4-1992
Adopted: January 7, 1992
Filed: January 15, 1992

Village of Arcade
Wyoming County
New York

PERMIT APPLICATION FOR DEVELOPMENT IN
FLOOD HAZARD AREAS

A. General Instructions:

1. Type or print in ink.
2. Submit 2 copies of all papers including detailed construction plans and specifications.
3. Furnish plans drawn to scale, showing nature, dimension and elevation of area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically the following is required: (a) NGVD (Mean Sea Level) elevation of lowest floor including basement of all structures; (b) description of alterations to any watercourse; (c) statement of techniques to be employed to meet requirements to anchor structures, use flood resistant materials and construction practices; (d) show new and replacement potable water supply and sewage systems will be reconstructed to minimize flood damage hazards; (e) plans for subdivision proposal with 50 lots or 5 acres (whichever is least) must provide base flood elevations if they are not available; and (f) additional information as may be necessary for administration to evaluate application.
4. Where a non-residential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction and certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of the local flood plain management regulations.
5. No work on the project shall be started until a permit therefor has been issued by the Village of Arcade Zoning Officer.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory compliance.
7. Applicant will provide all required elevation certifications and obtain a certificate of compliance prior to any use or occupancy of any structure or other development.
8. Prior to the issuance of the Certificate of Occupancy by the Wyoming County Building Department, an "As Build" certification must be received by the Arcade Zoning Enforcement Officer.

- B. For assistance in completing or submittal of this application, contact the Zoning Officer (see attached).

C. General Information

1. Name and Address of Applicant:

(First Name) (MI) (Last Name)

Street Address: _____

Post Office: _____ State: _____ Zip: _____

Telephone: (____) ____ - _____

2. Name and Address of Owner (If different)

(First Name) (MI) (Last Name)

Street Address : _____

Post Office: _____ State: _____ Zip: _____

Telephone: (____) ____ - _____

3. Engineer, Architect, Land Surveyor (If applicable)

(First Name) (MI) (Last Name)

Street Address: _____

Post Office: _____ State: _____ Zip: _____

Telephone: (____) ____ - _____

D. Project Information:

1. PROJECT LOCATION

Street Address: _____ Tax Map No. _____

State: _____ Zip: _____

Name of, distance and direction from nearest intersection or other landmark:

Name of Waterway: _____

2. PROJECT DESCRIPTION (Check all applicable boxes)

<u>Structures</u>	<u>Structure Type</u>
____ New Construction	____ Residential (1-4 Family)
____ Addition	____ Residential (more than 4 family)
____ Alteration	____ Commercial
____ Relocation	____ Industrial
____ Demolition	____ Mobile Home (single lot)
____ Replacement	____ Mobile Home (Park)
	____ Bridge or Culvert

Est. value of improvements if addition or alteration: _____

3. OTHER DEVELOPMENT ACTIVITIES

____ Fill ____ Excavation ____ Mining ____ Drilling ____ Grading
____ Watercourse alteration ____ Water System ____ Sewer System
____ Subdivision (New) ____ Subdivision (Expansion) ____ Other

Explain: _____

CERTIFICATION

Application is hereby made to the Village of Arcade for the issuance of a floodplain development permit under Chapter 26 of the Village Local Law. The applicant certifies that the above statements are true and agrees that the issuance of the permit is based on the accuracy thereof. False statements made herein are punishable under law. As a condition to the issuance of a permit, the applicant accepts full responsibility for all damage, direct or indirect, or whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless to the Village of Arcade from suits, actions, damages and costs of every name and description resulting from the said project. Further, the applicant agrees that the issuance of a permit is not to be interpreted as a guarantee of freedom from the risk of future flooding. The applicant certifies that the premises, structure, development, etc. will not be utilized or occupied until a Certificate of Compliance has been applied for and received.

Date: _____

Signature of Applicant

VILLAGE OF ARCADE
FLOOD HAZARD DEVELOPMENT PERMIT

ADMINISTRATIVE ACTION
COMPLETED BY ZONING OFFICER

Proposed project located in: _____ "A" zone with elevation
_____ "A" zone without elevation
_____ Floodway
_____ Coastal High Hazard Area

(V-Zone)

Base flood elevation at site is _____

Source documents: _____

PLAN REVIEW

Elevation to which lowest floor is to be elevated: _____ ft. (NGVD)
Elevation to which structure is to be floodproofed: _____ ft. (NGVD)
Elevation to which compacted fill is to be elevated: _____ ft. (NGVD)

ACTION

_____ Permit is approved, proposed development in compliance with applicable floodplain management standards.

_____ Additional information required for review. Specify: (I.E., encroachment analysis)

_____ Permit is conditionally granted, conditions attached.

_____ Permit is denied. Proposed development not in conformance with applicable floodplain management standards. Explanation attached. A variance, subject to Public Notice and Hearing, is required to continue project.

_____ Applicant advised that proposed development requires approval by Federal, State or other local Agencies.

Signature: _____
(Zoning Officer)

Date: _____

BUILDING CONSTRUCTION DOCUMENTATION

The certified "As Build" elevation of lowest floor (including basement) of structure is _____ feet NGVD.

Certification of registered professional engineer/architect, land surveyor or other recognized agent, documenting these elevations is attached.

CERTIFICATE OF OCCUPANCY/COMPLIANCE

Certificate of Occupancy or Compliance Issued:

Date: _____ Signature: _____

Village of Arcade Zoning Officer
17 Church Street
Arcade, New York 14009

(585)492-1111

Village of Arcade
Wyoming County, New York

CERTIFICATE OF COMPLIANCE
for FLOODPLAIN DEVELOPMENT

SECTION A

Project Location _____ Permit No. _____
_____ Variance No. _____
_____ Date _____

Applicant Name _____ CHECK ONE
Address _____ New Building _____
_____ Existing Building _____
Telephone No. _____ Other (List) _____

1. I certify that I have completed the above project in accordance with the Community's floodplain management regulations and have met all the requirements which were conditions of my permit. I now request completion of this Certificate of Compliance by the program administrator.

Signed: _____

Date: _____

2. I certify that I have completed the above project in accordance with conditions of variance number _____, dated _____ to the Community's floodplain management regulations and have met all requirements which were a condition of the variance. I now request completion of this certificate of compliance by the program administrator.

Signed: _____

Date: _____

SECTION B (Local Administrator will complete, file and return a copy to the applicant.)

Final Inspection Date: _____ By: _____

This certifies that the above described floodplain development complies with requirements of Chapter 26 Flood Damage Prevention of the Laws of the Village of Arcade, or has a duly granted variance.

Signed: _____
(Local Administrator)

Dated: _____

Supporting Certifications: Floodproofing, elevation, hydraulic analysis, etc.; (list).
