

Section 15. FLOOD PROTECTION ZONE (FP) AND FLOOD PERIMETER
OVERLAY ZONE (FPO)

GENERAL

- A. STATEMENT OF PURPOSE. The purpose of this regulation is to promote public health, safety and general welfare within the Town of Farmington by minimizing flood losses in designated Flood Protection and Flood Perimeter Overlay areas in the Town by:
1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increase in erosion or in flood heights or velocities;
 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 3. Controlling the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;
 4. Controlling filling, grading, dredging and other development which may increase erosion or flood damage; and
 5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- B. DEFINITIONS. For the purpose of applying the provisions of Sections 15., 16. and 17. the terms below shall be defined as follows:

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) means the elevation of the crest of the base flood or 100-year flood. The height 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 means an area of the building having its floor sub-grade (below ground level) on all sides.

BUILDING (see definition for Structure)

COST means, 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 components, structural components, 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 profit; and grand total. Items to be excluded include: cost of plans and specification; survey costs; permit fees; 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 means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or permanent storage of materials.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) means the federal agency that administers the National Flood Insurance Program (NFIP).

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 water;
2. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY and FLOODWAY MAP means an official map of a community on which the Federal Emergency Management Agency has delineated the boundaries of the floodway.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the applicable risk premium zones. FIRMs published after January, 1990 may also show the boundaries of the floodway.

FLOOD INSURANCE STUDY is the official report by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood and other flood data.

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 one foot.

FLOOR means the top surface of an enclosed area in a building (including basement) i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.

FLOODPROOFING means any combination of structural and nonstructural additions, changes or adjustments to structures, which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FUNCTIONALLY DEPENDENT USE OR FACILITY means 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.

HIGHEST ADJACENT GRADE (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is: (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.

HYDRODYNAMIC LOAD is the force exerted on a structure by the impact of moving water. The magnitude of the force varies with the affected surface area of the structure, the water velocity and the angle of impact.

HYDROSTATIC LOAD is the force exerted on a structure by still water. The magnitude of the force varies with depth of water and affected surface area of structure.

LOWEST FLOOR means the lowest floor of the lowest enclosed (including basement).

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. Recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer shall be considered manufactured homes for the purpose of this regulation.

MEAN SEA LEVEL (MSL) means the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after August 15, 1977.

OBSTRUCTION is any structure, matter or earthen alteration including, but not limited to, dams, levees, dikes, berms, embankments, conduits, culverts, bridges, abutments, walls, buildings, wharves, docks, wire, fences, projections, piles, fill, gravel, rock, excavation, channel work or rectification and vegetative plantings, in, along, across or projecting into any channel,

watercourse or regulatory flood hazard area which may: impede, retard or otherwise change the direction of velocities of the flow of water, either in itself or by catching or collecting debris carried by such water; or be subject to being carried downstream and potentially threaten property or life.

RECREATIONAL VEHICLE means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOOD PROTECTION ELEVATION (sometimes referred to as Base Flood Level). The Regulatory Flood Protection Elevation for properties located north and south of Farmington Avenue easterly of the railroad overpass and westerly of the intersection of Farmington Avenue and Garden Street is as follows:

The area along Farmington Avenue between the railroad overpass and the intersection of Farmington Avenue and Garden Street is divided into two zones: Zone 1, consisting of the properties on the north and south sides of Farmington Avenue and properties lying immediately to the rear thereof, bounded on the west by the railroad overpass and bounded on the east by the easterly line the property referred to as the Comer Nursery property; and Zone 2, consisting of the properties on the north and south sides of Farmington Avenue and properties lying immediately to the rear thereof, bounded on the west by the easterly boundary of said Comer Nursery property and bounded on the east by an extension of a line forming the easterly boundary of Garden Street at its intersection with Farmington Avenue.

The Regulatory Flood Protection Elevation for properties located within Zone 1 is 180 feet.

The Regulatory Flood Protection Elevation for properties located within Zone 2 is 175 feet.

For areas within the Flood Protection or Flood Perimeter Overlay Zones but not located along Farmington Avenue between the railroad overpass and the intersection of Farmington Avenue and Garden Street as described above, the Regulatory Flood Protection Elevation is either that elevation determined by the Town Engineer to constitute the base flood level for such area or the elevation published in the Flood Insurance Study, Town of Farmington, Connecticut, dated July 17, 1986 (or subsequent revision thereto), whichever elevation is greater.

SPECIAL FLOOD HAZARD AREA is the area with a community subject to one percent or greater chance of flooding in any given year, as identified on the community's FIRM.

START OF CONSTRUCTION (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [P.L. 97-348]), includes substantial

improvements, and means the date the building permit is issued, provided the actual start of construction, repair, reconstruction or improvement was within 180 days of the permit date. Should the permittee fail to commence work within this time frame a new permit shall be required. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction columns, or any work beyond the stage of excavation or 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 it include excavation for a basement, footing, piers or foundations or the erection 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.

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

SUBSTANTIAL IMPROVEMENT means any combination of repairs, reconstruction, alteration or improvements to a structure taking place during the life of a structure in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure using the square foot method prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any improvement project required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

VARIANCE means a grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulation. 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.

WATER SURFACE ELEVATION means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of

floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

- C. Land to Which Regulations Applies; Rules for Interpretation of Zone Boundaries. This regulation shall apply to all lands within the Town of Farmington designated as either Flood Protection Zone or Flood Perimeter on the Official Zoning Map of the Town of Farmington. Additionally this regulation shall apply to all areas indicated by the: Flood Insurance Rate Map; *Flood Boundary and Floodway Map*; or flood profile data within the Flood Insurance Study; **both** published by the Federal Emergency Management Agency dated July 17, 1986 as amended or revised **to September 26,2008 and any subsequent revisions thereto** and adopted by reference. Where there is a conflict between all the aforementioned maps and sources, the more restrictive shall apply. The boundaries of the Flood Protection Zone and Flood Perimeter Zone shall be determined by: scaling distances on the official Zoning Map; or by utilizing flood elevation data from the flood profiles in conjunction with topographic contour intervals of at least two feet; whichever is more restrictive shall apply. Where interpretation is needed as to the exact location of the boundaries of the zones as shown on the Official Zoning Map, the Commission shall make the necessary interpretation. Any person requesting an interpretation as to the location of a zone boundary shall be given a reasonable opportunity to present his case to the Commission. Such request shall not require a public hearing.

- D. Rules for Interpretation of Uses Allowed. With the Flood Protection and Flood Perimeter Overlay Zones all uses not specifically allowed as a permitted use or as a use allowed by special permit shall be prohibited. The Flood Perimeter Overlay Zone is an overlay zone and all development within this zone shall meet all the minimum requirements of both the Flood Perimeter Overlay Zone and the underlying zone.
- E. Compliance. No structure within the Flood Protection and Flood Perimeter Overlay Zones shall be located, extended, converted or structurally altered without full compliance with the terms of Article II. Sections 15., 16. and 17. of this regulation.
- F. Nonconforming Uses. A structure or the use of a structure or premises which was lawful before the passage or amendment of this regulation, may be continued subject to the following conditions:
1. Repairs and maintenance of a nonconforming structure located in the Flood Protection Zone may be made, provided that no structural alterations are made. Repairs and maintenance of a nonconforming structure located in the Flood Perimeter Overlay Zone may be made except that no repair or reconstruction involving a structural alteration can be made unless the structure is brought into conformance with all the standards set forth in Article II. Sections 16. and 17. of this regulation.
 2. No nonconforming structure located in a Flood Protection Zone or Flood Perimeter Overlay Zone may be expanded unless said addition conforms with all the standards set forth in Article II. Sections 16. and 17. of this regulation.
 3. Nonconforming structures located within the Flood Protection or Flood Perimeter Overlay Zones which have been substantially damaged must meet all the standards set forth in Article II. Sections 16. and 17. of this regulation.
 4. See Article IV. Section 1. Subsection D. regarding discontinued or abandoned uses.
- G. Interpretation. The provisions of this regulation shall be held to be minimum requirements and shall be reasonably construed in accordance with the purpose of this regulation and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- H. Warning and Disclaimer of Liability. The degree of flood protection required by this regulation is considered reasonable for regulatory purposes in light of the dangers of flood hazards. Flood larger than those against which these regulations are designed may occur on rare occasions. Further, flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This regulation does not imply that areas outside the Flood Protection and Flood Perimeter Overlay Zones or land uses permitted within such zones will be free from flooding and flood damages. This regulation shall not create any liability on the part of the Town of Farmington for any flood damages that may result from reliance on this regulation or any administrative decision lawfully made thereunder.

- I. Establishment of Floodplain Development Permit. A Zoning Permit shall be required in conformance with the provisions of this regulation prior to the commencement of any development activities within the Flood Protection or Flood Perimeter Overlay Zones.
- J. Designation of Administrator. The Zoning Enforcement Officer shall administer and enforce the provisions of Article II. Sections 15., 16. and 17. of this regulation.
- K. Duties and Responsibilities of the Administrator. In the administration of this regulation the administrator shall perform the following duties, among others:
1. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
 2. Review all development permits to assure that the requirements of this regulation have been satisfied.
 3. Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with the Zoning Permit. Such additional permit requirements may include, but not be limited to: Stream Channel Encroachment Line Permit, Coastal Area Management Permit, Water Diversion Permit, Dam Safety Permit, Corps of Engineers 401 and 404 Permits.
 4. Notify adjacent communities and the Department of Environmental Protection, Inland Water Resources Management Division prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 5. Record the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction or substantially improved structures in accordance with Sections 16. and 17. Record the elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed in accordance with Sections 16. and 17.
 6. Maintain all records pertaining to the provisions of this regulation.
- L. Certification. Where required under Sections 16. and 17., a registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this regulation. Such certification must be provided to the administrator. Upon completion of the applicable portion of construction the applicant shall provide the administrator with verification of the as built lowest floor elevation, defined as the top of the lowest floor (including basement) or, in the case of floodproofed buildings, the elevation to which the floodproofing is effective.
- M. **Standards Applying to Land in Both the Flood Protection Zone and Flood Perimeter Overlay Zone**

1. The water holding capacity of the 100-year floodplain as designated on the Flood Insurance Rate Map shall not be reduced. Any reduction caused by filling, new construction, or substantial improvements involving an increase in footprint to the structure shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided onsite, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided offsite if approved by the Commission. The calculations for determining the appropriate compensatory volume shall utilize the models employed by FEMA.
2. Within the 100-year floodplain as designated on the Flood Insurance Rate Map, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analysis performed in accordance with engineering practices and models employed by FEMA, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

N. **Abrogation and Greater Restrictions.** This regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

O. **Variance Procedures.** A request for variance or an appeal to this regulation shall be submitted and heard in accordance with Article IV Section 4 of these regulations.

1. The Zoning Board of Appeals shall hear and decide requests for variances from the requirements of this regulation as well as hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by Town Planner in the enforcement or administration of this regulation.
2. Any person aggrieved by the decision of the Zoning Board of Appeals or any person owning land which abuts or is within a radius of one hundred feet of the land in question may appeal within fifteen days after such decision to the State Superior Court as provided in Section 8-8 of the General Statutes of Connecticut.

- 3. The Town Planner shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.**
- 4. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or any locally adopted historic district without regard to the procedures set forth in the remainder of this section and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.**
- 5. Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use or facility provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety.**
- 6. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.**
- 7. In passing upon applications for variances, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this regulation and the following provisions. Upon consideration of these factors and the purposes of this regulation, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this regulation.**
 - a. The danger that materials may be swept onto other lands to the injury of others;**
 - b. The danger to life and property due to flooding or erosion damage;**
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;**
 - d. The importance of the services provided by the proposed facility to the community;**
 - e. The necessity of the facility to waterfront location, in the case of a functionally dependent facility;**
 - f. The availability of alternative locations not subject to flooding or erosion damage for the proposed use;**
 - g. The compatibility of the proposed use with existing and anticipated development;**
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;**

- i. The safety access to the property in times of flood for ordinary and emergency vehicles;**
 - j. 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**
 - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.**
- 8. Variances shall only be used upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and design of the building and and result in the loss of historic designation of the building. Variances pertain to a piece of property and are not personal in nature. A properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the regulation would create an exceptional hardship to the applicant or the surrounding land owners. Those characteristics must be unique to that property and not be shared by adjacent parcels. For example, economic or financial hardship is not sufficient cause for a variance, nor are inconvenience, aesthetic considerations, physical handicaps, personal preferences or disapproval of one's neighbors.**
- 9. Variances shall only be used upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, damage the rights or property values of other persons in the area, cause fraud on or victimization of the public, or conflict with existing local laws, ordinances or regulations. Only hardships that are based on unusual or unique physical characteristics of the property in question, characteristics that are not shared by adjacent parcels, shall qualify to meet subsection (ii) above. Claims of hardship based on the structure, on economic gain or loss, or on personal or self-created circumstances are not sufficient cause for the granting of a variance.**
- 10. No variance may be issued within a regulatory floodway that will result in any increase in the 100-year flood levels. A variance may be issued for new construction, substantial improvements and other development necessary for the conduct of a "functionally dependent use" provided that there is good and sufficient cause for providing relief; and the variance does not cause a rise in the 100-year flood level within a regulatory floodway. The structure and other development must be protected by methods that minimize flood damages.**

11. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and the elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

P. **Enforcement.** – The following provisions shall govern with regard to the enforcement of this regulation.

1. Each Zoning Permit shall authorize, as a condition of approval, the Town Planner or designated agents to make regular inspections of the subject property. The Town Planner or designated agents are also authorized to inspect any property in a Special Flood Hazard Area where it appears that violations of these regulations may be taking place.
2. If the Town Planner finds that any person in undertaking any construction, substantial improvement, filling, or any other activity or maintaining a condition which in violation of these regulations, the Town Planner shall:
 - a. Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the activity cease and ordering the property owner to either seek to obtain a Zoning Permit prior to continuing with the activity or, if appropriate, ordering that all violations and/or obstructions be removed from the Special Flood Hazard Area immediately.
 - b. Notify the Building Inspector and request that any building permits in force be revoked or suspended and that a stop work order be issued.
 - c. The Town Planner may suspend or revoke a Floodplain Development Permit if it is found that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of work as set forth in the application including application plans. Prior to revoking any permit, the Town Planner shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.
 - d. Failure to comply with any written order issued under this section shall be considered a violation of these regulations and is subject to the penalties described in Section Q.
 - e. In the event violations or obstructions are not promptly removed from the Special Hazard Area, the Town Planner may cause such removal and remediation work to be performed utilizing any bond money held in escrow, or may direct the appropriate Town agent to cause such work to be done and to place a lien against the property.

- f. Any person subjected to enforcement action pursuant to this regulation, may appeal any requirement, decision, or determination of the Town Planner to the Zoning Board of Appeals. Such person shall provide such information as necessary including appropriate certifications from a registered professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the Town Planner was in error or unwarranted.**
- g. Nothing contained herein shall prevent the owner of a residential dwelling, commercial or industrial building existing at the time of the adoption of this regulation from repairing, replacing or restoring said building or the components thereof to substantially the same character and form as existed at the time of such adoption.**
- Q. Penalties For Violation. – Any violation of the provisions of this regulation or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grant of variances or special permits or exceptions shall be subject to a fine or any other penalty prescribed by Town Ordinance. Nothing herein contained shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation.**
- R. Effective Date. The effective date of Sections 15,16 and 17 of these regulations is September 26, 2008.**

Section 16. FLOOD PROTECTION ZONE (FP)

- A. GENERAL PROVISIONS. The configuration of the Flood Protection Zone was developed from data obtained from the 1955 flood event as presented by the U. S. Army Corps of Engineers as well as information provided in the *Farmington Flood Boundary and Floodway Map Flood Insurance Rate Map* prepared by the Federal Emergency Management Agency. The purpose of the zone is to restrict or prohibit the development of uses or structures which would endanger health and safety or property in times of flood or cause an increase in flood heights or velocities.
- B. LAND TO WHICH PROVISIONS OF THE FLOOD PROTECTION ZONE REGULATION APPLIES. All land within the Town of Farmington as indicated within the Flood Protection Zone as shown on the Official Zoning Map of the Town of Farmington. All land within the Town of Farmington which is designated as floodway on a map entitled "*Flood Boundary and Floodway Map, Town of Farmington, Connecticut, Hartford County.*" **Flood Insurance Rate Map Hartford County, Connecticut.**
- C. PERMITTED USES. The following uses which generally have a low flood damage potential shall be permitted within the Flood Protection Zone requiring only a Zoning Permit as specified in Article V. However the establishment, maintenance or improvement of such uses shall not involve the creation of any obstruction without the review and approval of the Zoning Enforcement Officer and in cases involving the placement of fill or the development of structures without the receipt of a special permit.
1. Agricultural Uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck Farmington, forestry, sod farming and wild crop harvesting.
 2. Private and Public Recreational Uses including golf courses, outdoor tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, fish hatcheries, fishing areas, hiking and horseback riding trails.
 3. Nonstructural Accessory Residential Uses such as lawns, gardens, parking areas and play areas.
 4. Railroads, Streets, Bridges, Utility Transmission Lines, Pipelines and Wells.
- D. Uses Allowed Only by Special Permit. In addition to specific requirements listed here, the standards provided in Article IV. Section 12. shall also apply to applications submitted under this section. Article IV. Section 12. shall also apply to application procedures, hearing and notice requirements and site plan information.
1. Sand and Gravel Excavation, Extraction and Processing Operations may be performed in areas having a zoning classification of EE at the time of the adoption of this regulation and may be performed in other areas within the Flood Protection Zone provided all requirements of Section 22. of this Article are met. Any expansion to a preexisting operation shall have to meet the requirements of Section 17.

2. Municipal Land Use and owned or leased buildings and structures used in connection with the governmental or proprietary functions of the Town of Farmington or of any other government, and such uses of land as may be made by the Town or any other government in connection with any of its governmental or proprietary needs and functions. Uses to be limited to nonresidential uses only.
 3. Accessory Structures and Fill for all permitted uses in Subsection C. above.
- E. Development Standards for Permitted Uses and Special Permit Uses. Obstructions created in the establishment, maintenance or improvement of those permitted uses listed in Subsection C. or the development of those special permit uses listed in Subsection D. shall conform to the standards set forth in Article II. Sections 17D., 17E. and 17F. Structures shall not be designed or used for human habitation (i.e. residential).
- F. *Development Within Designated Floodways. Located within special flood hazard areas are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and have erosion potential, no encroachments or obstructions including fill, new construction, substantial improvements and other developments shall be permitted unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge. Fences located in the floodway must be aligned with the flow and be of an open design.*
- A permit may be given which allows encroachments resulting in increases in base flood elevations provided the community first obtains a conditional floodway revision by meeting the requirements of C.F.R. 44, Chapter 1, Subsection 65.12.*
- G. Factors Upon Which Special Permit Decisions of the Commission Shall Be Based. In passing upon applications relating to the Flood Protection Zone, the Commission, in addition to the standards found in Article IV. Section 12., shall consider the following:
1. The danger to life and property due to increased flood heights or velocities caused by encroachments;
 2. The danger that materials may be swept onto other lands or downstream to the injury of others;
 3. The proposed and existing water supply and sanitation systems, the aquifer and the ability of existing and future systems to prevent disease, contamination and unsanitary conditions;
 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damages on the individual owner and others;
 5. The importance of the services provided by the proposed facility to the community;

6. The requirements of the facility for a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed use to the Plan of Development;
10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
11. The expected elevations, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
12. Such other factors which are relevant to the purposes of this regulation.

H. Conditions Attached to Special Permit. Upon consideration of the criteria listed above and the purposes of this section, the Commission may attach such conditions to the granting of the special permits as it deems necessary. Such conditions, among others, may include:

1. Modification of waste disposal and water supply facilities;
2. Limitations on periods of use and operation;
3. Imposition of operational controls, sureties and deed restrictions; and
4. The following floodproofing measures may be required:
 - a. Anchorage to resist flotation and lateral movement;
 - b. Installation of watertight doors, bulkheads and shutters, or similar methods of construction;
 - c. Reinforcement of walls to resist water pressures;
 - d. Use of paints, sealants, membranes or mortars to reduce seepage of water through walls;
 - e. Addition of mass or weight to structures to resist flotation;
 - f. Installation of pumps to lower water levels in structures;
 - g. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters;

- h. Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures;
- i. Construction to resist rupture or collapse caused by water pressure or floating debris;
- j. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures. In place of a basement drain which works by gravity, a sump pump may be used;
- k. Location of electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood; and
- l. Prohibition of storage or utilization of chemicals, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare.

Section 17. FLOOD PERIMETER OVERLAY ZONE (FPO)

- A. GENERAL PROVISIONS. The Flood Perimeter Overlay Zone overlays existing zoning designations. All uses permitted in the underlying zone shall continue to be allowed in the Flood Perimeter Overlay Zone provided the provisions of this section are complied with.
- B. Land to Which Provisions of the Flood Perimeter Overlay Zone Applies. All land within the Town of Farmington which is located either within the Flood Perimeter Overlay Zone as shown on the Official Zoning Map of the Town of Farmington or within the numbered or unnumbered A zones as indicated on a map entitled “Flood Insurance Rate Map, Town of Farmington, Connecticut, Hartford County,” however excluding those lands otherwise designated as Flood Protection Zone by this regulations (See Article II. Section 16.).
- C. Change of Underlying Zone. The existing zoning classification of any parcel of land within the Flood Perimeter Overlay Zone may be changed to a different zoning classification in which event the provisions, conditions and restrictions in the regulations pertaining to such changed zoning classification and the provisions, conditions and restrictions pertaining to the Flood Perimeter Overlay Zone shall apply.
- D. General Standards. In all of the Flood Perimeter Overlay Zone the following provisions shall apply:
 1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. New construction and substantial improvements shall be constructed with materials resistant to flood damage except where elevated above the Regulatory Flood Protection Elevation on fill;
3. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
4. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
5. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters;
7. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
8. In any portion of a watercourse which is altered or relocated the flood carrying capacity shall be maintained;
9. No development shall be undertaken which will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system;
10. Any fill proposed to be deposited shall be shown to be of hydrologically sound material and have some beneficial purpose; and the amount of fill used shall not be greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the applicant showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials;
11. Such fill or other materials shall be protected against erosion by riprap, vegetative cover or bulkheading;
12. Structures shall have a low potential for incurring flood damage and for causing flood damage;
13. Structures not elevated above the Regulatory Flood Protection Elevation shall be constructed and placed on the building site so as to offer minimum obstruction to the flow of floodwaters; (i) so far as practicable, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and (ii) so far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures;

14. Manufactured homes are prohibited within the Flood Perimeter Overlay Zone and Flood Protection Zone.
15. **For new construction or substantial improvements having fully enclosed areas below the lowest floor and subject to flooding and which are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Design for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following criteria: 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 shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.**
16. Subdivision proposals shall conform to the requirements and standards contained in Section 4.19 of the Farmington Subdivision Regulations.
17. Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the base flood elevation and have a screw fill cap that does not allow for the infiltration of flood water.
18. If any portion of a structure lies within the Special Flood Hazard Area, the entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
19. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e. V zone is more restrictive than A zone; structure must be built to the highest base flood elevation). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone)
20. New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water.

Standards for Watercourses Without Established Base Flood Elevations, Floodways and/or Flood Mapping.

- a. The Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from the Federal or State government or other source, including data developed pursuant to Article IV. Section 4.09 of the Farmington Subdivision Regulations, as criteria for requiring that new construction, substantial improvements or other development in Zone A on the Farmington Flood Insurance Rate Map meet the standards in Section 17F.
 - b. In A zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement or other development (including fill) shall be permitted which will increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
 - c. The Zoning Enforcement Officer may request floodway data of an applicant for watercourses without FEMA published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the Town's request or not), the Town shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1) foot at any point along the watercourse.
 - d. The Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, as criteria for requiring that new construction, substantial improvements or other development in any area of potential, demonstrable or historical flooding within the community meet the standards in Section 17F.
3. Standards for Development Within the Flood Perimeter Overlay Zone Where Flood Elevations Have Been Provided. In areas of the flood Perimeter Overlay Zone where flood elevation data has been provided the following provisions shall apply in addition to all of the general standards contained in Section 17D.
- a. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least to the regulatory flood protection elevation, except that in Zone 1 such structure shall be elevated to elevation 182 and in Zone 2 to elevation 177.
 - i. Recreational vehicles placed on sites within the Flood Perimeter Overlay Zone shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all the general standards of Section 17D. and E. and the elevation of and anchoring requirements of Section 17.F.1. 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 addition. (Other requirements are contained in Article IV. Section 9.)

- b. Nonresidential Construction. New construction or substantial improvement of any nonresidential structure located in the Flood Perimeter Overlay Zone shall have the lowest floor, including basement, elevated at least to the regulatory flood protection elevation; or nonresidential structures may be floodproofed in lieu of being elevated provided that together with all attendant utilities and sanitary facilities the areas of the structure below 1 foot above the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - i. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection. Such certification shall be provided to the Zoning Enforcement Officer.
- c. If fill is required so that the lowest floor as defined above is at or above the regulatory flood protection elevation, it shall extend at least 15 feet beyond the limits of any building erected thereon but may be graded to provide for adequate drainage.