

Revised Flood Damage Prevention Ordinance

Be it ordained by the legal voters of the Town of Sterling and those property owners qualified to vote in Town Meetings pursuant to Section 7-6 of the Connecticut General Statutes that the Flood Damage Prevention Ordinance of the Town of Sterling, as previously amended, is hereby repealed and the following is substituted in lieu thereof:

FLOOD DAMAGE PREVENTION ORDINANCE AS AMENDED EFFECTIVE AUGUST 31, 2023

SECTION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND OBJECTIVES.

1.1 STATUTORY AUTHORIZATION

THE LEGISLATURE OF THE STATE OF CONNECTICUT HAS IN SECTION 7-148(c)(7) OF THE GENERAL STATUTES DELEGATED THE RESPONSIBILITY TO LOCAL GOVERNMENTAL UNITS TO ADOPT REGULATIONS DESIGNED TO PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF ITS CITIZENRY. THEREFORE, THE TOWN MEETING OF THE TOWN OF STERLING, CONNECTICUT DOES ORDAIN AS FOLLOWS:

1.2 FINDING OF FACT

1.2.1 THE FLOOD HAZARD AREAS OF THE TOWN OF STERLING ARE SUBJECT TO PERIODIC INUNDATION WHICH RESULTS IN LOSS OF LIFE AND PROPERTY, HEALTH AND SAFETY HAZARDS, DISRUPTION OF COMMERCE AND GOVERNMENTAL SERVICES, EXTRAORDINARY PUBLIC EXPENDITURES FOR FLOOD PROTECTION AND RELIEF, AND IMPAIRMENT OF THE TAX BASE, ALL OF WHICH ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE.

1.2.2 THESE FLOOD LOSSES ARE CAUSED BY THE CUMULATIVE EFFECT OF OBSTRUCTIONS IN FLOODPLAINS CAUSING INCREASES IN FLOOD HEIGHTS AND VELOCITIES, AND BY THE OCCUPANCY IN FLOOD HAZARD AREA BY USES VULNERABLE TO FLOOD OR HAZARDOUS TO OTHER LANDS WHICH ARE INADEQUATELY ELEVATED, FLOOD-PROOFED, OR OTHERWISE UNPROTECTED FROM FLOOD DAMAGES.

1.3 STATEMENT OF PURPOSE

1.3.1 RESTRICT OR PROHIBIT 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;

1.3.2 REQUIRE THAT USES VULNERABLE TO FLOODS, INCLUDING FACILITIES WHICH SERVE SUCH USES, BE PROTECTED AGAINST FLOOD DAMAGE AT THE TIME OF INITIAL CONSTRUCTION.

1.3.3. CONTROL THE ALTERATION OF NATURAL FLOODPLAINS, STREAM CHANNELS AND NATURAL PROTECTIVE BARRIERS WHICH ARE INVOLVED IN THE ACCOMMODATION OF FLOOD WATERS.

1.3.4 CONTROL FILLING, FADING, DREDGING AND OTHER DEVELOPMENT WHICH MAY INCREASE EROSION OR FLOOD DAMAGE, AND:

1.3.5 PREVENT OR REGULATE THE CONSTRUCTION OF FLOOD BARRIERS WHICH MAY INCREASE FLOOD HAZARDS TO OTHER LANDS.

1.4 OBJECTIVES

1.4.1 TO PROTECT HUMAN LIFE AND HEALTH;

1.4.2 TO MINIMIZE EXPENDITURES OF PUBLIC MONEY FOR COSTLY FLOOD CONTROL PROJECTS;

1.4.3 TO MINIMIZE THE NEED FOR RESCUE AND RELIEF EFFORTS ASSOCIATED WITH FLOODING AND GENERALLY UNDERTAKEN AT THE EXPENSE OF THE GENERAL PUBLIC;

1.4.4 TO MINIMIZE PROLONGED BUSINESS INTERRUPTIONS;

1.4.5 TO MINIMIZE DAMAGE TO PUBLIC FACILITIES AND UTILITIES SUCH AS WATER AND GAS MAINS, ELECTRIC, TELEPHONE AND SEWER LINES, STREETS AND BRIDGES LOCATED IN FLOODPLAINS;

1.4.6 TO HELP MAINTAIN A STABLE TAX BASE BY PROVIDING FOR THE SOUND USE AND DEVELOPMENT OF FLOOD PRONE AREAS IN SUCH MANNER AS TO MINIMIZE BLIGHT AREAS, AND;

1.4.7 TO INSURE THAT POTENTIAL HOME BUYERS ARE NOTIFIED THAT PROPERTY IS IN THE FLOOD AREA.

SECTION 2. DEFINITIONS

UNLESS SPECIFICALLY DEFINED BELOW, WORDS OR PHRASES USED IN THIS ORDINANCE SHALL BE INTERPRETED SO AS TO GIVE THEM THE MEANING THEY HAVE IN COMMON USAGE AND TO GIVE THIS ORDINANCE ITS MOST REASONABLE APPLICATION.

“APPEAL” MEANS A REQUEST FOR A REVIEW OF THE BUILDING INSPECTOR’S INTERPRETATION OF ANY PROVISION OF THIS ORDINANCE OR A REQUEST FOR A VARIANCE.

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

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

“BASE FLOOD ELEVATION (BFE)” 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 THAT PORTION OF A BUILDING HAVING ITS FLOOR SUBGRADE (BELOW GROUND LEVEL) ON ALL SIDES.

“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.

“BUILDING” MEANS ANY STRUCTURE BUILT FOR SUPPORT, SHELTER OR ENCLOSURE FOR ANY OCCUPANCY OR STORAGE.

“COST” means, as related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure. Cost shall be established by a detailed written contractor’s estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as 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 the construction of buildings or other structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining; dredging; filling; grading; paving; excavating; drilling operations; storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities located within the area of special flood hazard.

“ELEVATED BUILDING” MEANS A NON-BASEMENT BUILDING BUILT TO HAVE THE LOWEST FLOOR ELEVATED ABOVE THE GROUND LEVEL BY MEANS OF FILL, SOLID FOUNDATION PERIMETER WALLS, PILINGS, COLUMNS (POST AND PIERS), SHEAR WALLS OR BREAKAWAY WALLS.

“EXISTING 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, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before March 4, 1985.

“EXPANSION TO 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).

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

“FINISHED LIVING SPACE” means, as related to fully enclosed areas below the base flood elevation (BFE), a space that, without limitation, is heated and/or cooled, contains finished floors, has sheetrock walls that may or may not be painted or wallpapered, or has other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace. Unfinished enclosed areas below the BFE should comply with FEMA Technical Bulletin 2, Flood-Damage Resistant Materials Requirements.

“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 WATER;
2. THE UNUSUAL AND RAPID ACCUMULATION OR RUNOFF TO SURFACE WATERS FROM ANY SOURCE.

“FLOOD INSURANCE RATE MAP (FIRM)” MEANS AN OFFICIAL MAP OF A COMMUNITY, ON WHICH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) HAS DELINEATED BOTH THE AREAS OF SPECIAL FLOOD HAZARD AND THE RISK PREMIUM ZONES APPLICABLE TO THE COMMUNITY.

“FLOOD INSURANCE STUDY (FIS)” means the official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

“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 (1.0) foot. For the purposes of these regulations, the term “Regulatory Floodway” is synonymous in meaning with the term “Floodway”.

“FLOOR” MEANS THE TOP SURFACE OF AN ENCLOSED AREA IN A BUILDING (INCLUDING BASEMENT), I.E., TOP OF A 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 VEHICLES.

“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” 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 INTERIOR) OR PRELIMINARY DETERMINED BY THE SECRETARY OF THE INTERIOR AS MEETING THE REQUIREMENTS OF INDIVIDUAL LISTING ON THE NATIONAL REGISTER; (b) CERTIFIED OR PRELIMINARILY DETERMINED BY THE SECRETARY OF THE INTERIOR AS CONTRIBUTING TO THE HISTORICAL 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 COMMUNITIES WITH HISTORIC PRESERVATION THAT HAVE BEEN CERTIFIED EITHER: (1) BY AN APPROVED STATE PROGRAM AS DETERMINED BY THE SECRETARY OF THE INTERIOR OR (2) DIRECTLY BY THE SECRETARY OF THE INTERIOR IN STATES WITHOUT APPROVED PROGRAMS.

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). 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 an area meets the design requirements specified in Section 5.2.3 of this ordinance.

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

“MANUFACTURED HOME PARK OR SUBDIVISION” MEANS A PARCEL, OR CONTIGUOUS PARCELS, OF LAND DIVIDED INTO TWO (2) OR MORE MANUFACTURED HOME LOTS FOR RENT OR SALE.

“MARKET VALUE” means, as related to substantial improvement and substantial damage, the market value of the structure as shall be determined by the tax assessor’s appraised value minus land value prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

“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 March 4, 1985, and includes any subsequent improvements to such structures.

“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 March 4, 1985.

“RECREATIONAL VEHICLE” MEANS A VEHICLE WHICH IS: (a) BUILT ON A SINGLE CHASSIS; (b) 400 SQUARE FEET OR LESS WHEN MEASURED AT THE LARGEST HORIZONTAL PROJECTIONS; (c) DESIGNED TO BE SELF-PROPELLED OR PERMANENTLY TOWABLE BY A LIGHT DUTY TRUCK; AND (d) DESIGNED PRIMARILY NOT FOR USE AS A PERMANENT DWELLING BUT AS A TEMPORARY LIVING QUARTERS FOR RECREATIONAL, CAMPING, TRAVEL OR SEASONAL USE.

“START OF CONSTRUCTION”, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“STRUCTURE” MEANS A WALLED AND ROOFED BUILDING THAT IS PRINCIPALLY ABOVE GROUND, A HOME, A GAS OR LIQUID STORAGE TANK, OR any 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 condition before such damage WOULD EQUAL OR EXCEED 50% OF THE MARKET VALUE OF THE STRUCTURE BEFORE THE DAMAGE OCCURRED.

“SUBSTANTIAL IMPROVEMENT” means any combination of repairs, reconstruction, alteration, rehabilitation, additions or other improvements of a structure taking place within a one (1) year period, where the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. The market value of the structure should be (1) the tax assessor’s appraised value of the structure, minus land value, 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 purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

“VARIANCE” IS A GRANT OF RELIEF FROM THE REQUIREMENTS OF THIS ORDINANCE WHICH PERMITS CONSTRUCTION IN A MANNER OTHERWISE PROHIBITED BY THIS ORDINANCE and WHERE SPECIFIC ENFORCEMENT WOULD RESULT IN UNNECESSARY HARDSHIP.

“VIOLATION” means a failure of a structure or other development to be fully compliant with this floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

“WATER SURFACE ELEVATION” means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

SECTION 3. GENERAL PROVISIONS

3.1 LAND TO WHICH THIS ORDINANCE APPLIES

THIS ORDINANCE SHALL APPLY TO ALL AREAS OF SPECIAL FLOOD HAZARD WITHIN THE JURISDICTION OF THE TOWN OF STERLING

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its scientific and engineering report entitled Flood Insurance Study (FIS) for Windham County, Connecticut, dated September 7, 2023, and accompanying Flood Insurance Rate Maps (FIRM), dated September 7, 2023, and other supporting data applicable to the Town of Sterling, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this ordinance. Since mapping is legally adopted by reference into this ordinance it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA.

The areas of special flood hazard include any area shown on the FIRM as Zones A, AE, AO, and AH, including areas designated as a floodway on a FIRM. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. Also included are areas of potential, demonstrable or historical flooding, including any area contiguous with but outside the areas of special flood hazard identified by FEMA, and where the land surface elevation is lower than the base flood elevation (BFE) as shown in the FIS, and the area is not protected from flooding by a natural or man-made feature. The FIRM and FIS are on file at the Town Hall, Town of Sterling, 1183 Plainfield Pike, Oneco, Connecticut.

3.3 ESTABLISHMENT OF FLOODPLAIN MANAGEMENT ADMINISTRATION

A DEVELOPMENT PERMIT SHALL BE REQUIRED IN CONFORMANCE WITH THE PROVISIONS OF THIS ORDINANCE PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT ACTIVITIES.

3.4 COMPLIANCE

NO STRUCTURE OR LAND SHALL HEREFTER BE LOCATED, EXTENDED, CONVERTED OR STRUCTURALLY ALTERED WITHOUT FULL COMPLIANCE WITH THE TERMS OF THIS ORDINANCE AND OTHER APPLICABLE REGULATIONS.

3.5 ABROGATION AND GREATER RESTRICTIONS

THIS ORDINANCE IS NOT INTENDED TO REPEAL, ABROGATE OR IMPAIR ANY EXISTING EASEMENTS, COVENANTS OR DEED RESTRICTIONS. HOWEVER, WHERE THIS ORDINANCE AND ANOTHER Town ordinance or regulation CONFLICT OR OVERLAP, WHICHEVER IMPOSES THE MORE STRINGENT RESTRICTIONS SHALL PREVAIL.

3.6 INTERPRETATION

IN THE INTERPRETATION AND APPLICATION OF THIS ORDINANCE ALL PROVISIONS SHALL BE: 1) CONSIDERED AS MINIMUM REQUIREMENTS; 2) LIBERALLY CONSTRUED IN FAVOR OF THE

GOVERNING BODY, AND 3) DEEMED NEITHER TO LIMIT NOR REPEAL ANY OTHER POWERS GRANTED UNDER STATE STATUTES.

3.7 WARNING AND DISCLAIMER OF LIABILITY

THE DEGREE OF FLOOD PROTECTION REQUIRED BY THIS ORDINANCE IS CONSIDERED REASONABLE FOR REGULATORY PURPOSES AND IS BASED ON SCIENTIFIC AND ENGINEERING CONSIDERATION. LARGER FLOODS CAN AND WILL OCCUR ON some OCCASIONS. FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS ORDINANCE DOES NOT IMPLY THAT LAND OUTSIDE THE AREAS OF SPECIAL FLOOD HAZARD OR USES PERMITTED WITHIN SUCH AREAS WILL BE FREE FROM FLOODING OR FLOOD DAMAGES. THIS ORDINANCE SHALL NOT CREATE LIABILITY ON THE PART OF THE TOWN OF STERLING OR BY ANY OFFICER OR EMPLOYEE THEREOF FOR ANY FLOOD DAMAGES THAT RESULT FROM RELIANCE ON THIS ORDINANCE OR ANY ADMINISTRATIVE DECISION LAWFULLY MADE THEREUNDER.

3.8 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect; and to this end the provisions of this ordinance are hereby declared to be severable.

SECTION 4. ADMINISTRATION

4.1 THE DESIGNATION OF THE ORDINANCE ADMINISTRATOR

THE BUILDING INSPECTOR IS HEREBY APPOINTED TO ADMINISTER AND IMPLEMENT THE PROVISIONS OF THIS ORDINANCE.

4.2 PERMIT PROCEDURES

APPLICATION FOR A DEVELOPMENT PERMIT SHALL BE MADE TO THE BUILDING INSPECTOR ON FORMS FURNISHED BY HIM OR HER PRIOR TO ANY DEVELOPMENT ACTIVITIES, AND MAY INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING: PLANS IN DUPLICATE DRAWN TO SCALE 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. THE FOLLOWING SPECIFIC INFORMATION, AT A MINIMUM, SHALL BE REQUIRED:

4.2.1 APPLICATION STAGE

- (a) ELEVATION IN RELATION TO MEAN SEA LEVEL OF THE PROPOSED LOWEST FLOOR (INCLUDING BASEMENT) OF ALL STRUCTURES.
- (b) ELEVATION IN RELATION TO MEAN SEA LEVEL TO WHICH ANY NON-RESIDENTIAL STRUCTURE WILL BE FLOOD-PROOFED.
- (c) DESCRIPTION OF THE EXTENT TO WHICH ANY WATERCOURSE WILL BE ALTERED OR RELOCATED AS A RESULT OF PROPOSED DEVELOPMENT,
- (d) A STATEMENT AS TO WHETHER OR NOT THE PROPOSED ALTERATIONS TO AN EXISTING STRUCTURE MEET THE CRITERIA OF THE definition of "SUBSTANTIAL IMPROVEMENT."
- (e) A STATEMENT AS TO WHETHER THERE WILL BE A DRY ACCESS TO THE STRUCTURE DURING THE 100 YEAR STORM EVENT.

(f) WHERE APPLICABLE THE FOLLOWING CERTIFICATIONS BY A Connecticut-licensed ENGINEER OR ARCHITECT ARE REQUIRED, AND MUST BE PROVIDED TO THE BUILDING INSPECTOR. THE DESIGN AND METHODS OF CONSTRUCTION MUST BE CERTIFIED TO BE IN ACCORDANCE WITH ACCEPTED STANDARDS OF PRACTICE.

1. NON-RESIDENTIAL FLOOD PROOFING - MUST MEET THE PROVISIONS OF SECTION 5.2.3.
2. ENCLOSED AREAS BELOW THE BASE FLOOD ELEVATION - IF THE MINIMUM DESIGN CRITERIA IN SECTION 5.2.3 ARE NOT USED, THEN THE DESIGN AND CONSTRUCTION METHODS MUST BE CERTIFIED AS EXPLAINED IN that SECTION.
3. NO INCREASE IN FLOODWAY HEIGHTS MAY BE ALLOWED. ANY DEVELOPMENT IN A FLOODWAY MUST MEET THE PROVISIONS OF SECTION 5.3.
4. BREAKAWAY WALLS - NON-SUPPORTING BREAKAWAY WALL, LATTICE WORK OR MESH SCREENING SHALL BE ALLOWED BELOW THE BASE FLOOD ELEVATION PROVIDED IT IS DESIGNED SO AS TO BREAK AWAY, UNDER ABNORMALLY HIGH TIDES OR WAVE ACTION, WITHOUT DAMAGE TO THE STRUCTURAL INTEGRITY OF THE BUILDING ON WHICH IT IS TO BE USED AND PROVIDED THE FOLLOWING DESIGN SPECIFICATIONS ARE MET:

(i) DESIGN SAFE LOADING RESISTANCE OF EACH WALL SHALL NOT BE LESS THAN 10 NOR MORE THAN 20 POUNDS PER SQUARE FOOT; OR, IF MORE THAN 20 POUNDS PER SQUARE FOOT, A Connecticut-licensed PROFESSIONAL ENGINEER OR ARCHITECT SHALL CERTIFY THAT THE DESIGN WALL COLLAPSE WOULD RESULT FROM A WATER LOAD LESS THAN THAT WHICH WOULD OCCUR DURING THE BASE FLOOD EVENT, AND THE ELEVATED PORTION OF THE BUILDING AND SUPPORTING FOUNDATION SYSTEM SHALL NOT BE SUBJECT TO COLLAPSE, DISPLACEMENT, OR OTHER STRUCTURAL DAMAGE DUE TO THE EFFECTS OF WIND AND WATER LOADS ACTING SIMULTANEOUSLY ON ALL BUILDING COMPONENTS DURING THE BASE FLOOD EVENT. MAXIMUM WIND AND WATER LOADING VALUES TO BE USED IN THIS DETERMINATION SHALL EACH HAVE ONE PERCENT (1%) CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR (100-YEAR MEAN RECURRENCE INTERVAL).

(ii) IF BREAKAWAY WALLS, LATTICE WORK OR SCREENING ARE UTILIZED THE RESULTING ENCLOSED SPACE SHALL NOT BE DESIGNED TO BE USED FOR HUMAN HABITATION, BUT SHALL BE DESIGNED TO BE USED ONLY FOR PARKING OF VEHICLES, BUILDING ACCESS, OR LIMITED STORAGE OF MAINTENANCE EQUIPMENT USED IN CONNECTION WITH THE PREMISES.

(iii) PRIOR TO CONSTRUCTION, PLANS FOR ANY STRUCTURES THAT WILL HAVE BREAKAWAY WALLS, LATTICE WORK OR SCREENING MUST BE SUBMITTED TO THE BUILDING INSPECTOR FOR APPROVAL. ANY ALTERATION, REPAIR, RECONSTRUCTION OR IMPROVEMENT TO A STRUCTURE SHALL NOT ENCLOSE THE SPACE BELOW THE LOWEST FLOOR EXCEPT WITH BREAKAWAY WALLS, LATTICE WORK OR SCREENING.

(g) STRUCTURAL ANCHORING - ALL CONSTRUCTION OR SUBSTANTIAL IMPROVEMENT SHALL BE SECURELY ANCHORED ON PILINGS OR COLUMNS.

(h) ALL PILINGS AND COLUMNS AND THE ATTACHED STRUCTURES SHALL BE ANCHORED TO RESIST FLOTATION, COLLAPSE, AND LATERAL MOVEMENT DUE TO THE EFFECT OF WIND AND WATER LOADS ACTING SIMULTANEOUSLY ON ALL BUILDING COMPONENTS. THE ANCHORING AND SUPPORT SYSTEM SHALL BE DESIGNED WITH WIND AND WATER LOADING VALUES WHICH EQUAL OR EXCEED THE 100-YEAR MEAN RECURRENCE INTERVAL (ONE PERCENT (1%)) ANNUAL CHANCE FLOODS AND WINDS).

(i) A Connecticut-licensed PROFESSIONAL ENGINEER OR ARCHITECT SHALL REVIEW AND/OR DEVELOP STRUCTURAL DESIGN SPECIFICATIONS AND PLANS FOR THE CONSTRUCTION AND SHALL CERTIFY THAT THE DESIGN, SPECIFICATIONS AND PLANS FOR CONSTRUCTION ARE IN ACCORDANCE WITH ACCEPTABLE STANDARDS.

4.2.2 CONSTRUCTION STAGE

UPON COMPLETION OF THE APPLICABLE PORTION OF CONSTRUCTION THE APPLICANT SHALL PROVIDE VERIFICATION TO THE BUILDING INSPECTOR OF THE LOWEST FLOOR ELEVATION OF THE CONSTRUCTION, AS DEFINED IN THIS ORDINANCE.

4.3 DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTOR

4.3.1 DUTIES OF THE BUILDING INSPECTOR SHALL INCLUDE, BUT NOT BE LIMITED TO:

(a) REVIEW OF ALL PERMIT APPLICATIONS TO DETERMINE WHETHER PROPOSED BUILDING SITES WILL BE REASONABLY SAFE FROM FLOODING;

(b) REVIEW of ALL DEVELOPMENT PERMITS TO ASSURE THAT THE PERMIT REQUIREMENTS OF THIS ORDINANCE HAVE BEEN SATISFIED;

(c) Review of all development permits to determine if the proposed development would adversely affect the flood carrying capacity of the area of special flood hazard. When base flood elevations have been determined within Zone AE on the community's flood insurance rate map but a regulatory floodway has not been designated, the Building Inspector must require that no new construction, substantial improvements, repair to structures which have sustained substantial damage, or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

(d) ADVISE the 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 DEVELOPMENT PERMIT. POSSIBLE REQUIRED PERMITS INCLUDE, BUT ARE NOT LIMITED TO, COASTAL AREA MANAGEMENT PERMIT, WATER DIVERSION, DAM SAFETY AND federal wetlands and watercourse permits;

(e) IF ANY CHANGE OF REGULATION OR USE OF A FLOOD ZONE WILL AFFECT AN AREA WITHIN 500 FEET OF ANOTHER MUNICIPALITY, NOTIFY THE COUNCIL OF GOVERNMENTS/REGIONAL

PLANNING AGENCY AND THE AFFECTED MUNICIPALITY AT LEAST 35 DAYS PRIOR TO THE PUBLIC HEARING;

(f) NOTIFY ADJACENT COMMUNITIES AND THE Department of Energy and Environmental Protection, Land and Water Resources Division PRIOR TO ANY ALTERATION OR RELOCATION OF A WATERCOURSE, AND SUBMIT EVIDENCE OF SUCH NOTIFICATION TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY;

(g) ASSURE THAT MAINTENANCE IS PROVIDED WITHIN THE ALTERED OR RELOCATED PORTION OF SAID WATERCOURSE SO THAT THE FLOOD CARRYING CAPACITY IS NOT DIMINISHED;

(h) RECORD THE ELEVATION (IN RELATION TO MEAN SEA LEVEL) OF THE LOWEST FLOOR (INCLUDING BASEMENT) OR ALL NEW OR SUBSTANTIALLY IMPROVED STRUCTURES;

(i) RECORD THE ELEVATION (IN RELATION TO MEAN SEA LEVEL) TO WHICH THE NEW OR SUBSTANTIALLY IMPROVED STRUCTURES HAVE BEEN FLOOD-PROOFED;

(j) WHEN FLOOD-PROOFING IS UTILIZED FOR A PARTICULAR STRUCTURE THE BUILDING INSPECTOR SHALL OBTAIN CERTIFICATION FROM A Connecticut-licensed PROFESSIONAL ENGINEER OR ARCHITECT that all applicable requirements of this ordinance have been satisfied;

(k) WHERE INTERPRETATION IS NEEDED AS TO THE EXACT LOCATION OF BOUNDARIES OF THE AREAS OF SPECIAL FLOOD HAZARD (FOR EXAMPLE, WHERE THERE APPEARS TO BE A CONFLICT BETWEEN A MAPPED BOUNDARY AND ACTUAL FIELD CONDITIONS) THE BUILDING INSPECTOR SHALL MAKE THE NECESSARY INTERPRETATION. THE PERSON CONTESTING THE LOCATION OF THE BOUNDARY SHALL BE GIVEN A REASONABLE OPPORTUNITY TO APPEAL THE INTERPRETATION AS PROVIDED IN THIS ARTICLE;

(l) WHEN BASE FLOOD ELEVATION DATA OR FLOODWAY DATA HAVE NOT BEEN PROVIDED THEN THE BUILDING INSPECTOR SHALL OBTAIN, REVIEW AND REASONABLY UTILIZE ANY BASE FLOOD ELEVATION AND FLOODWAY DATA AVAILABLE FROM A FEDERAL, STATE OR OTHER SOURCE IN ORDER TO ADMINISTER THE PROVISIONS OF SECTION 5; AND

(m) ALL RECORDS PERTAINING TO THE PROVISIONS OF THIS ORDINANCE SHALL BE MAINTAINED IN THE OFFICE OF THE BUILDING INSPECTOR.

SECTION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

IN ALL AREAS OF SPECIAL FLOOD HAZARD THE FOLLOWING PROVISIONS ARE REQUIRED:

5.1.1 Anchoring

All new construction, substantial improvements, and repair to structures that have sustained substantial damage shall be anchored to prevent flotation, collapse or lateral movement of the structure, resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

5.1.2 Construction Materials and Methods

New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage and shall be constructed with

materials and utility equipment that are flood-damage resistant and conform to the provisions of FEMA Technical Bulletin 2, Flood Damage-Resistant Material Requirements. This includes, but is not limited to, flooring, interior and exterior walls, wall coverings and other materials installed below the base flood elevation plus one (1.0) foot.

5.1.3 Utilities

The bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, appliances, fixtures and components, HVAC duct work and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure shall be elevated at least one foot (1.0 ft) above the base flood elevation (BFE). This includes, but is not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation duct work, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes. Connections or other equipment that must be located below the BFE plus one foot (1.0 ft) elevation are permitted only when no other elevation alternative is available and provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood event. Electrical wiring systems that must be located below the BFE plus one foot (1.0 ft) shall conform to the standards for wet locations.

5.1.4 Subdivision Proposals

Base flood elevation (BFE) data shall be provided for all subdivision proposals, including manufactured home parks and subdivisions. In all special flood hazard areas where base flood elevation (BFE) data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a Connecticut-licensed professional engineer that generates BFEs for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions.

5.1.5 Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. The bottom of above-ground storage tanks which are located outside or inside of a structure must be elevated one (1.0) foot above the base flood elevation or shall be securely anchored to prevent flotation, collapse or lateral movement under conditions of the base flood. Where elevated on platforms, the platforms shall be cantilevered from or knee-braced to the building or shall be supported on elevated foundations that conform to the standards for the particular flood zone as described in Sections 5.2 and 5.3. Anchored tanks must have the top of the fill pipe located at least one (1.0) foot above the BFE and have a screw fill cap that does not allow for the infiltration of flood water.

5.1.6 New construction, substantial improvements and repairs to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless they are a functionally dependent use or facility.

5.1.7 If any portion of a structure lies within the area of special flood hazard, the entire structure is considered to be located within the area of special flood hazard and must meet the construction requirements of the flood zone. The structure includes any structurally attached additions, garages, decks, porches, sunrooms, patios or any other structure attached to the main structure.

5.1.8 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., structure must be built to the highest base flood elevation). The structure includes any structurally attached additions, garages, decks, porches, patios, sunrooms, or any other structure attached to the main structure.

5.1.9 Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, 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 on-site, 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 flood 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 off-site if approved by the municipality.

5.1.10 Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, 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 Connecticut-licensed professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, 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 as to cause an increase in flood stage or flood velocity.

5.2 Specific Standards

5.2.1 Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation plus one (1.0) foot.

5.2.2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation plus one (1.0) foot; or together with attendant utility and sanitary facilities, shall be dry floodproofed so that below the base flood elevation plus one (1.0) foot level the structure is watertight with walls substantially impermeable to the passage of water.

5.2.3 Elevated Buildings

All new construction, substantial improvements, or repairs to structures that have sustained substantial damage, whether residential or non-residential, that include fully enclosed areas formed by a foundation and other exterior walls shall have the lowest floor elevated to one (1.0) foot above the base flood elevation (BFE). The elevated building shall be designed to preclude finished living space below the lowest floor and be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls (wet flood-proofing). Designs for complying with this requirement must either be certified by a Connecticut-licensed professional engineer or architect as meeting the requirements of ASCE 24 Section 2.6.2.2, or meet the following minimum criteria listed in subsections a - h below:

- (a) Provide a minimum of two (2) openings (hydraulic flood vents) having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding. The enclosed area is measured on the exterior of the enclosure walls. These hydraulic openings must be located on at least two different exterior walls of each enclosed area. If the structure has more than one enclosed area, openings must be installed in the exterior walls of each enclosed area so that flood waters can enter directly from the outside;

(b) The bottom of all openings shall be no higher than one (1.0) foot above the higher of either the final interior grade or floor elevation, or the finished exterior grade adjacent to the outside of the foundation wall. At least one side of the structure's fully enclosed area must be at or above grade. Fill placed around the foundation walls must be graded so that the elevation inside the enclosed area is equal to or higher than the adjacent outside elevation on at least one side of the building. The finished floor of the enclosed area shall be no lower than the bottom of the foundation openings. The foundation slab of a residential structure, including the slab or a crawlspace, must be set equal to the outside finished grade on at least one side of the building;

(c) The openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters in both directions without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means. These coverings must not block or impede the automatic flow of floodwaters into and out of the enclosed area. Other coverings may be designed and certified by a Connecticut-licensed professional engineer or approved by the Building Official;

(d) Openings shall not be less than three (3) inches in any direction in the plane of the wall;

(e) The area cannot be used as finished living space. Use of the enclosed area shall be the minimum necessary and shall only be used for the parking of vehicles, building access or limited storage. Access to the enclosed area shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The enclosed area shall not be used for human habitation;

(f) All interior walls, floor, and ceiling materials located below the base flood elevation plus one (1.0) foot elevation shall be unfinished and resistant to flood damage-resistant in accordance with FEMA Technical Bulletin 2, Flood Damage-Resistant Requirements.

(g) Electrical, plumbing, HVAC ductwork, machinery or other utility equipment and connections that service the structure (including, but not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation, washers and dryer hook-ups, electrical junction boxes, circuit breaker boxes and food freezers) are prohibited in the fully enclosed area below the base flood elevation plus one (1.0) foot elevation. Utilities or service equipment located in this enclosed area, even if elevated one (1.0) foot above the base flood elevation in the space, will subject the structure to increased flood insurance rates.

(h) A residential building with a structurally attached garage having the floor slab below the base flood elevation is considered an enclosed area below the base flood elevation and must meet the standards of Sections 5.2.3.a-g. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of floodwaters in both directions. Flood openings or vents are required in the exterior walls of the garage or in the garage doors. Garage doors that must be manually opened do not meet the flood vent opening requirements in Section 5.2.3.a-c. In addition to the automatic entry of floodwaters, the areas of the garage below the base flood elevation plus one (1.0) foot must be constructed with flood damage-resistant materials per the requirements of FEMA Technical Bulletin 2. Garages attached to non-residential structures must also meet the aforementioned requirements or be dry floodproofed as per the requirements of Section 5.2.2.

5.2.4 Manufactured Homes and Recreational Vehicles

(a) In areas of special flood hazard, all manufactured (mobile) homes to be newly placed, undergoing a substantial improvement or repaired as a result of substantial damage, shall be elevated so that the bottom of the frame is located one (1.0) foot above the base flood elevation (BFE). This includes areas of special

flood hazard outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing park in which a manufactured home has incurred substantial damage as a result of a flood. The manufactured home must also meet all the construction standards per Section 5.1. The foundation and anchorage of manufactured homes to be located in floodways shall be designed and constructed in accordance with ASCE24. All manufactured (mobile) homes within areas of special flood hazard shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors. All manufactured (mobile) homes within an area of special flood hazard shall be installed using methods and practices which minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement must be provided for piers more than six (6) feet above ground level.

(b) Recreational Vehicles placed on sites within areas of special flood hazard shall either (a) be on site for fewer than 180 consecutive days, and (b) fully licensed and ready for highway use, or (c) meet all the general standards of subsection 5.1 and the elevation and anchoring requirements of subsection 5.2.4.a. 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.

5.3 Floodways

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters with debris and potential projectiles and to erosion potential, the following provisions apply:

(a) Encroachments including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments are prohibited, unless certification, with supporting technical data, by a Connecticut-licensed professional engineer ~~or architect~~ is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge published by FEMA.

(b) Buildings and structures meeting the standard above and located in whole or in part in the floodway shall be designed and constructed in accordance with ASCE 24. Fences 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 Town of Sterling first obtains a conditional floodway revision by meeting the requirements of C.F.R. 44, Chapter 1, Subsection 65.12.

(c) The placement of any manufactured (mobile) home, as temporary living facilities or on site construction offices, facilities or quarters is prohibited in any floodway.

(d) The Building Official may request floodway data from 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 municipality's request or not), the Town of Sterling 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 (1.0) foot at any point within the community.

SECTION 6 STANDARDS FOR SUBDIVISION PROPOSALS

IN ALL SPECIAL FLOOD HAZARD AREAS THE FOLLOWING REQUIREMENTS SHALL APPLY:

6.1 ALL SUBDIVISION PROPOSALS SHALL BE CONSISTENT WITH THE NEED TO MINIMIZE FLOOD DAMAGE.

6.2 ALL SUBDIVISION PROPOSALS SHALL HAVE PUBLIC UTILITIES AND FACILITIES SUCH AS SEWER, GAS, ELECTRICAL AND WATER SYSTEMS LOCATED AND CONSTRUCTED TO MINIMIZE FLOOD DAMAGE.

6.3 ALL SUBDIVISION PROPOSALS SHALL HAVE ADEQUATE DRAINAGE PROVIDED TO REDUCE EXPOSURE TO FLOOD HAZARDS.

6.4 IN ZONE A, BASE FLOOD ELEVATION DATA SHALL BE PROVIDED FOR SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENT (INCLUDING MANUFACTURED HOME PARKS AND SUBDIVISIONS) WHICH involve a cumulative area of FIVE ACRES OR a cumulative total of FIFTY LOTS, WHICHEVER OCCURS FIRST.

SECTION 7 VARIANCE PROCEDURES

7.1 INLAND WETLANDS COMMISSION

THE INLAND WETLANDS COMMISSION AS ESTABLISHED BY THE TOWN OF STERLING SHALL HEAR AND DECIDE APPEALS AND REQUESTS FOR VARIANCES FROM THE REQUIREMENTS OF THIS ORDINANCE.

7.2 THE INLAND WETLANDS COMMISSION SHALL HEAR AND DECIDE APPEALS WHEN IT ALLEGED THERE IS AN ERROR IN ANY REQUIREMENT, DECISION, OR DETERMINATION MADE BY THE BUILDING INSPECTOR IN THE ENFORCEMENT OR ADMINISTRATION OF THIS ORDINANCE.

7.3 ANY PERSON AGGRIEVED BY THE DECISION OF THE INLAND WETLANDS COMMISSION OR ANY PERSON OWNING LAND WHICH ABUTS OR IS WITHIN A RADIUS OF ONE HUNDRED FEET (100) OF THE LAND IN QUESTION MAY APPEAL WITHIN 15 DAYS AFTER SUCH DECISION TO THE STATE SUPERIOR COURT AS PROVIDED IN SECTION 8-8 OF THE GENERAL STATUTES.

7.4 SPECIFIC VARIANCES

7.4.1 BUILDINGS ON A HISTORIC REGISTER

VARIANCES MAY BE ISSUED FOR THE REPAIR OR REHABILITATION OF HISTORIC STRUCTURES UPON A DETERMINATION THAT (i) THE PROPOSED REPAIR OR REHABILITATION WILL NOT PRECLUDE THE STRUCTURE'S CONTINUED DESIGNATION AS A HISTORIC STRUCTURE AND (ii) THE VARIANCE IS THE MINIMUM NECESSARY TO PRESERVE THE HISTORIC CHARACTER AND DESIGN OF THE STRUCTURE.

7.4.2 PRE-EXISTING, SMALL LOT LOCATION

VARIANCES MAY BE ISSUED BY A COMMUNITY FOR NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS TO BE ERECTED ON A LOT OF ONE-HALF ACRE OR LESS IN SIZE CONTIGUOUS

TO AND SURROUNDED BY LOTS WITH EXISTING STRUCTURES CONSTRUCTED BELOW THE BASE FLOOD LEVEL, IN CONFORMANCE WITH SECTION 7.5.3(a) - 7.5.3(d).

7.4.3 FUNCTIONALLY DEPENDENT USES

VARIANCES MAY BE ISSUED FOR NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS AND OTHER DEVELOPMENT NECESSARY FOR THE CONDUCT OF A FUNCTIONALLY DEPENDENT USE PROVIDED THE STRUCTURE OR OTHER DEVELOPMENT IS PROTECTED BY METHODS THAT MINIMIZE FLOOD DAMAGE, CREATE NO ADDITIONAL THREAT TO PUBLIC SAFETY AND MEET THE REQUIREMENTS OF SECTION 7.5.3(a) - 7.5.3(d).

7.4.4 FLOODWAY PROHIBITION VARIANCES SHALL NOT BE ISSUED WITHIN ANY DESIGNATED FLOODWAY IF ANY INCREASE IN FLOOD LEVELS DURING THE BASE FLOOD DISCHARGE WOULD RESULT.

7.5 CONSIDERATIONS FOR GRANTING OF VARIANCES

7.5.1 IN PASSING UPON SUCH APPLICATIONS, THE INLAND WETLANDS COMMISSION SHALL CONSIDER ALL TECHNICAL EVALUATIONS, ALL RELEVANT FACTORS, ALL STANDARDS SPECIFIED IN OTHER SECTIONS OF THIS ORDINANCE, AND:

- (a) THE DANGER THAT MATERIALS MAY BE SWEEPED ONTO AND CREATE INJURY TO OTHER LANDS;
- (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 HAVE A 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 THE 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 OF 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 COST 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.

7.5.2 UPON CONSIDERATION OF THE FACTORS LISTED ABOVE, AND THE PURPOSES OF THE ORDINANCE, THE INLAND WETLAND COMMISSION SHALL ATTACH SUCH CONDITIONS TO THE GRANTING OF VARIANCES AS IT DEEMS NECESSARY TO FURTHER THE PURPOSES OF THIS ORDINANCE.

7.5.3 CONDITIONS FOR VARIANCES

(a) VARIANCES SHALL ONLY BE ISSUED UPON A DETERMINATION THAT THE VARIANCE IS THE MINIMUM NECESSARY, CONSIDERING THE FLOOD HAZARD, TO AFFORD RELIEF; AND IN THE INSTANCE OF A HISTORICAL BUILDING, A DETERMINATION THAT THE VARIANCE IS THE MINIMUM NECESSARY SO AS NOT TO DESTROY THE HISTORIC CHARACTER OF THE BUILDING.

(b) VARIANCES SHALL ONLY BE ISSUED 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 a NUISANCE, CAUSE FRAUD OR A VICTIMIZATION OF THE PUBLIC, OR CONFLICT WITH EXISTING LOCAL LAWS OR ORDINANCES.

(c) ANY APPLICANT TO WHOM A VARIANCE IS GRANTED SHALL BE GIVEN WRITTEN NOTICE SPECIFYING THE DIFFERENCE BETWEEN THE BASE FLOOD ELEVATION AND THE ELEVATION TO WHICH THE STRUCTURE IS TO BE BUILT AND STATING THAT THE COST OF FLOOD INSURANCE WILL BE COMMENSURATE WITH THE INCREASED RISK RESULTING FROM THE REDUCED LOWEST FLOOR ELEVATION

(d) THE BUILDING INSPECTOR SHALL MAINTAIN THE RECORDS OF ALL APPEAL ACTIONS AND REPORT ANY VARIANCES TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY UPON REQUEST.

SECTION 8. ENFORCEMENT AND PENALTIES

8.1 Each Building Permit shall authorize, as a condition of approval, the Building Inspector or designated agents to make regular inspections of the subject property. The Building Inspector or designated agents are also authorized to inspect any property in a Special Flood Hazard Area (SFHA) where it appears that violations of these regulations may be taking place.

If the Building Inspector finds that any person is undertaking any construction, substantial improvement, filling, or any other activity or maintaining a condition which is in violation of these regulations, the Building Inspector shall:

1. Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the prohibited activity cease and ordering the property owner to either seek to obtain a Building 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 (SFHA) immediately.
2. Notify the Planning and Zoning Commission and request that any zoning permit(s) in force be revoked or suspended and that a stop work order be issued.
 - i. The Building Inspector may suspend or revoke a Building 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 Building Inspector 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.
 - ii. 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 8.2.
 - iii. In the event violations or obstructions are not promptly removed from the Special Flood Hazard Area (SFHA), the Building Inspector may cause such removal and remediation work to be performed utilizing bond money held in escrow pursuant to this ordinance, or may direct the director of public works to cause such work to be done and to place a lien against the property.
 - iv. Any person subject to enforcement action pursuant to this ordinance may appeal any requirement, decision, or determination of the Building Inspector to the Inland Wetlands Commission, in accordance with this ordinance. Such person shall provide such information as necessary including appropriate certifications from a Connecticut-licensed professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the Building Inspector was in error or unwarranted.

8.2 PENALTIES FOR VIOLATION

Any violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of variances or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined a penalty of \$250.00 per day or imprisoned for not more than ten (10) days for each day of violation, or both, and in addition shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the Town of Sterling from taking such lawful action as is necessary to prevent or remedy any violation.

SECTION 9 EFFECTIVE DATE

9.1 THIS ORDINANCE SHALL BECOME EFFECTIVE 15 DAYS AFTER PUBLICATION, AS PROVIDED BY LAW.