(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town of CLAYTON
Village

Local Law No. 1 of the year 19 84

A local law FLOOD DAMAGE PREVENTION LOCAL LAW
(Insert title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City
Town of CLAYTON as follows:
Village

Section 1.0
Statutory Authorization and Purpose

1.1 STATUTORY AUTHORIZATION

The People of the State of New York have in the New York State Constitution, Article IX, Section 2, delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, be it enacted by the Town of Clayton, New York as follows:

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in areas of special flood hazard;

(6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7) To insure that potential buyers are notified that property is in an area of special flood hazard; and,

(8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(If additional space is needed, please attach sheets of the same size as this and number each)

SECTION 2.0
Definitions

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the interpretation of any provision of this law or a request for a variance.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Base flood elevation" means the elevation which has a one percent chance of being equalled or exceeded in any given year.

"Board of Appeals" is the board appointed by the municipality to hear and decide appeals to this local law.

"Building Inspector" The individual appointed and empowered by the municipality to enforce this local law.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving excavation or drilling operations located within the area of special flood hazard.

"Flood or Flooding" mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map" (FHBM) means the official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

"Lowest Floor" means lowest level including basement, crawlspace, or garage of lowest enclosed area.

"Mobile home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vechicles or travel trailers.

"Structure" means a walled and roofed building, a mobile home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(1) before the improvement or repair is started, or

(2) if the structure has been damaged and is being restored, before the damage occurred.

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 either:

(1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

(2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction in a manner that would otherwise be prohibited by this local law.

Section 3.0
General Provisions

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES
This local law shall apply to all areas of special flood hazards within the jurisdiction of Town of Clayton

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD
The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), No. H-01-07 dated December 12, 1975 and any revisions thereto, are adopted by reference and declared to be a part of this local law. The FHBM is on file at Town Clerk's office, 405 Riverside Drive, Clayton, New York, 13624.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS
In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

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

3.5 PENALTIES FOR NON-COMPLIANCE
No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this local law and other applicable regulations. Violation of the provisions of this local law by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $1000.00 or imprisoned for not more than 30 days or both for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town of Clayton from taking such other lawful action as necessary to prevent or remedy a violation.

Section 4.0
Administration

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT
A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a Development Permit, shall be made on forms furnished by the Town of Clayton and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in questions; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

4.2 DESIGNATION OF THE BUILDING INSPECTOR
The Building Inspector is hereby appointed to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTOR
Duties of the Building Inspector shall include, but not be limited to:

4.3-1 Permit Review
(1) Review all development permits to determine that the permit requirements of this local law have been satisfied.

(2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this local law, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

(i) If it is determined that there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.

(ii) If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

4.3-2 Use of Other Base Flood Data
When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHMENT THE AREAS OF SPECIAL FLOOD HAZARD, the Town of Clayton shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer Section 5.2, SPECIFIC STANDARDS.

4.3-3 Information to be Obtained and Maintained
(1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures:

(i) obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

(ii) maintain the floodproofing certifications required in Section 5.2-2(3).

(3) Maintain for public inspection all records pertaining to the provisions of this local law.

4.3-4 Alteration of Watercourses
(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(2) Require the maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 Interpretation of FHBM Boundaries
Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

Section 5.0
Provisions for Flood Hazard Reduction

5.1 GENERAL STANDARDS
In all areas of special flood hazards the following standards are required:

5.1-1 Anchoring
(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All mobile homes and any additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing an anchoring system designed to withstand a wind force of 90 miles per hour.

5.1-2 Construction Materials and Methods
(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 Utilities

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 Subdivision Proposals

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(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;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5.1-5 ENCROACHMENTS

Any proposed development shall be analyzed to determine effects on the flood carrying capacity of the area of special flood hazard as set forth in Section 4.3-1(3), Permit Review.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 Residental Construction

New construction and substantial improvements of any residental structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

5.2-2 Nonresidental Construction

New construction and substantial improvement of any commercial, industrial or other nonresidental structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of bouyancy; and

(3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).

5.3 Certification of Standards: A registered professional engineer or architect shall certify that the standards of Section 5.0 are satisfied. Such certification shall be provided to the official as set forth in Section 4.3-(2). The engineer or architect shall use the specifications found in the United States Army Corp of Engineer's book titled "Flood Proofing Regulations" (date June, 1972 or any more recent version), exclusive of the administration section, to verify that appropriate floodproofing standards are being met. Said book is hereby adopted by reference as part of this local law.

Section 6.0
Variance Procedure

6.1 APPEAL BOARD

(1) The Zoning Board of Appeals as established by Town of Clayton shall hear and decide appeals and requests for variances from the requirements of this local law.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this local law.

(3) Those aggrieved by the decision of the Zoning Board of Appeals, or any taxpayer, may appeal such decision to the supreme court as provided in the New York State Constitution, Article VI, Section 2.

(4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other section of this local law and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger of life and property due to flooding or erosion damage

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) 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

(xi) 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.

(5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such cinditions to the granting of variances as it deems necessary to further the purposes of this local law.

(6) The Building Inspector shall maintain the records of all appeal actions including technical information and report any variances to the Federal Insurance Administration upon request.

6.2 CONDITIONS FOR VARIANCES

(1) Generally, variances may be issued 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, providing item (i-xi) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, cinsidering the flood hazard, to afford relief.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) 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 to the applicant; 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 nuisances, cause fraud on or victimization of the public as identified in Section 6.1(4) or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base blood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation, and that the Town takes no responsibility for any damage resulting from flooding in this area.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. **(Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1984

of the ~~County~~ ~~City~~ Town ~~Village~~ of Clayton was duly passed by the Town Board (Name of Legislative Body)

on August 8 1984 in accordance with the applicable provisions of law.

2. **(Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)**

I hereby certify that the local law annexed hereto, designated as local law No. ..... of 19.....

of the County / City / Town / Village of ..... was duly passed by the ..... (Name of Legislative Body)

on ..... 19..... and was approved / not disapproved / repassed after disapproval by the ..... Elective Chief Executive Officer *

and was deemed duly adopted on ..... 19....., in accordance with the applicable provisions of law.

3. **(Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. ..... of 19.....

of the County / City / Town / Village of ..... was duly passed by the ..... (Name of Legislative Body)

on ..... 19..... and was approved / not disapproved / repassed after disapproval by the ..... Elective Chief Executive Officer *

on ..... 19..... Such local law was submitted to the people by reason of a mandatory / permissive referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the general / special / annual election held on ..... 19....., in accordance with the applicable provisions of law.

4. **(Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. ..... of 19.....

of the County / City / Town / Village of ..... was duly passed by the ..... (Name of Legislative Body) on

..... 19..... and was approved / not disapproved / repassed after disapproval by the ..... Elective Chief Executive Officer * on

..... 19..... Such local law being subject to a permissive referendum and no valid petition requesting such referendum having been filed, said local law was deemed duly adopted on ..... 19....., in accordance with the applicable provisions of law.

***Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.**

5. **(City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. ..... of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 / § 37 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special / general election held on .... 19 ..... became operative.

6. **(County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto. designated as Local Law No. ..... of 19..... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ..... above.

Lorna Flake

Clerk of the ~~County legislative body, City~~, Town ~~or Village Clerk or officer designated by local legislative body~~

Date: 8/14/84

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF Jefferson

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Edward Grain, Atty

Signature

Attorney

Title

Date: 8/13/84

~~County~~ ~~City~~ Town ~~Village~~ of Clayton