

VILLAGE OF ISLAND PARK  
LOCAL LAW NO. 3 OF THE YEAR 1977

A Local Law entitled "Minimum land use and control measures adopted pursuant to the flood plain management requirements of the National Flood insurance Program regulations."

BE IT ENACTED by the Board of Trustees of the Village of Island Park as Follows:

1.1 FINDING OF FACT

1. The flood hazard areas of the Village of Island Park are subject to periodic inundation which results in loss of live, property, health and safety hazards disruption of commerce and governmental services, extraordinary public expenditures For flood protection and relief<sup>1</sup> and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise protected from flood damages.

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 to:

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, streets and bridges located flood plains;

6. To help maintain a stable tax base by providing for the sound use and development of flood—prone areas in such a manner as to minimize future flood-prone areas; and,

7. To insure that potential home buyers are notified that property is in a flood area.

### 1.3 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this local law uses the following methods:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities.

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

3. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.

4. Control filling, grading, dredging and other development which may increase erosion flood damage.

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

### 2.0 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 local law its most reasonable application.

“Appeal” means a request for a review of the building inspector’s interpretation of any provision of this local law or a request for a variance.

“Area of shallow flooding” means a designated AQ or VO Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths of from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“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, excavation or drilling operations located within the area of special flood hazard.

“Existing mobile home park or mobile home subdivision” means e parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this local law.

“Expansion to an existing mobile home park or mobile home subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters
2. The unusual and rapid accumulation or runoff or surface waters from any source,

“Flood Insurance Rate Map” (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the

risk premium zones applicable to the community.

“Flood Insurance Study” means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the flood Boundary—Floodway Map and the water surface elevation of the base flood.

“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, “Habitable floor”<sup>1</sup> means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a “habitable floor”.

“Mobile 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. It does not include recreational vehicles or travel trailers,

“New construction” means structures for which the “start of construction” commenced on or after the effective date of this local law.

“New Mobile home park or mobile home subdivision” means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this local law.

“Start of construction” means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, 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 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the “start of construction” includes the first permanent

framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

"Structure" means a walled and roofed building that is principally above ground, as well as a mobile home,

"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 the alteration affects the external dimensions of the structure.

This 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" is a grant of relief to a person from the requirements of this local law which permits construction in a manner otherwise prohibited by this local law where specific enforcement would result in unnecessary hardship.

### 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 the Village of Island Park.

### 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal insurance Administration, through a scientific and engineering report entitled "The Flood Insurance Study for the Village of island Park", dated December , 1974, with accompanying Flood Insurance Rate Maps and Flood Boundary—Floodway Maps and any revision thereto are hereby adopted by reference and declared to be a part of this local law.

### 3.3 COMPLIANCE

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this local law and other applicable regulations.

### 3.4 ABROGATION AND GREATER RESTRICTIONS

This local law is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where- this local law and another ordinance, easement, covenant, or deed restriction conflict or overlap whichever imposes the more stringent restrictions shall prevail.

### 3.5 I NTERPRETAT ION

In the interpretation and application of this local law, all provisions shall be:

- t. Considered as minimum requirements
2. Liberally construed in favor of the governing body.
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

### 3.6 WARNING AND DISCL4IMR OF LIABILITY

The degree of Flood protection required by this local law considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Island Park or by any officer or employee thereof for any flood damages that result from reliance or. this ordinance or any administrative decision lawfully made thereunder.

### 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 to the Building inspector on forms furnished by him 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. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

2. Elevation in relation to mean sea level to which any non-residential structure has been flood proofed.

3. Plans showing how any nonresidential flood proofed structure will meet the floodproofing criteria of Section 5,2—2 and after the structure is built, a certification by a registered professional engineer or architect that the structure as built meets the criteria of Section 5.2—2.

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development

### 4,2 DESIGNATION OF 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:

##### 3.3—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 require 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 proposed development adversely affects the flood carrying capacity of the area of special flood hazard, For purposes of this local law, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point,

##### 4.3—2 USE OF OTHER BASE FLOOD DATA

When base flood elevation data has not been provided in accordance with

Section 32, Basis for Establishing the AREAS OF SPECIAL FLOOD HAZARD, then the Building Inspector 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. Verify and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially



improved structures

2. For all new or substantially improved flood proofed structures
  - a. verify and record the actual elevation (in relation to mean sea level), and
  - b. maintain the flood proofing certifications required in Section 4,1 (3)

#### 4.3-4 ALTERATION OF WATERCOURSES

1. Notify adjacent communities and the State Coordinating. Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

2. Require that 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 FIRM 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), The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

#### 4.4 VARIANCE PROCEDURE

##### 4,4—I APPEAL BOARD

1. The Board of Appeals as established by the Board of Trustees shall hear and decide appeals and requests for variances from the requirements of this local law,

2, The 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. Any person aggrieved by the decision of the Board of Appeals or any taxpayer may appeal such decision to the appropriate court as provided in the Civil Practice Laws & Rules;

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

- 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 to the facility of a waterfront location, where applicable;
- 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 flood plain 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<sup>1</sup> 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;

I. generally, variances may be issued for new construction find substantial improvements to be erected on a lot of one—half acre or lees in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items a-k have been fully considered. As the lot size increases beyond the one—half acre, the technical justification required for issuing the variance increases.

5. Upon consideration of the factors listed above end the purposes of this local law, the Board of Appeals may attach such conditions 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 and report any variance to the Federal Insurance Administration upon request.

#### 4.4-2 CONDITIONS FOR VARIANCES

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

2.. Variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result

3. Variances shall only he issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variance shall only be issued upon:

a. a showing of good and sufficient cause.

b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

c. 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 4.1-4(4) or conflict with

existing local laws or ordinances.

5. 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 the particular number of feet permitted below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## 5.1 GENERAL STANDARDS

In all areas of special flood hazards the following provisions 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 shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame tiers to ground anchors. Specific requirements shall be:

a. over-the-top ties be provided at each of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side.

b. frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side.

c. all components of the anchoring system be capable of carrying a force of 4,800 pounds; and

d. and additions to the mobile home be similarly anchored.

### 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 or substantial improvements shall be constructed by 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 into the systems and discharges

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.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or 5 acres.

#### 5.1-5 ENCROACHMENTS

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation

of Lie base flood more than one foot at any point.

## 5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.32

USE OF OTHER BASE FLOOD DATA, the following provisions are required:

### 5.2-1 RESIDENTIAL CONSTRUCTION

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

### 5.2-2 NON RESIDENTIAL CONSTRUCTION

New Construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base floor elevation, or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 13—3 (z)

### 5.2-3 MOBILE HOMES

1. Mobile homes shall be anchored in accordance with Section 51—1 (2).

2. For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision require:

a. stands or lots are elevated on compacted fill or pilings so that the lowest floor of the mobile will be at or above the base Flood level;

b. adequate surface drainage and access for a hauler are provided; and,

c in the instance of elevation of pilings, that;

-lots are large enough to permit steps

-piling foundations are placed in stable soil no more than ten feet apart, and

-reinforcement is provided for pilings more than six feet above the ground level.

6. The foregoing local law shall take effect in accordance with the law.