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RULES AND ORDINANCES COMMITTEE  
MINUTES OF MEETING – TUESDAY, March 19, 2019 @ 7:00 PM

BRANFORD TOWN CLERK

At approximately 7:00 PM, Chairman Leonard opened the meeting and took attendance. Present were Representatives Anderson, Everlith, Hentschel, Ingraham, Sullivan & Walker.

1. To consider and, if appropriate, approve changes to Branford's Floodplain Management Ordinance.

**Motion to approve the changes [attached] passed 5 -1 with 1 abstention.**

2. To review Branford's Town Dock ordinance and, if appropriate, revise relative to time limits and rights of appeal. Committee to review enforcement language (126-4, et al.). After discussion the committee voted to re-refer.

**Motion to re-refer the Review passed unanimously.**

3. To consider and, if appropriate, create an ordinance restricting the use of plastic bags for retail checkout. After discussion, committee agreed to continue to work with proponents refine details and definitions in the proposed ordinance.

**Motion to re-refer the proposed Ordinance passed unanimously.**

4. Pursuant to Town Meeting Rules [A236-4.1(1)(d)] re: R&O's assigned duties, to consider and, if appropriate, adopt a uniform procedure for ordinance enforcement.

**Motion to re-refer the Review passed unanimously.**

5. To consider and, if appropriate, approve a change in Town code to permit an extended tax abatement of real property taxes on properties located on 13-29 Rogers Street and 142-190 Ivy Street for an additional ten years effective for the October 1, 2019 Grand List as permitted by §169-2(4) of Branford Town Code. (Housing Development Corp. and Branford Interfaith Housing Corp.)

**Motion to approve the change [attached] to Town Code §169-2(4) passed unanimously.**

R&O's next regularly scheduled meeting: **Tuesday, April 16, 2019.**

Upon motion made and seconded, the meeting was adjourned.

Dated this 25<sup>th</sup> day of March, 2019.

John F. Leonard  
Chairman, R & O Committee

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# Chapter 161

## Floodplain Management

**[HISTORY: Adopted by the Representative Town Meeting of the Town of Branford 10-8-2014. Amendments noted where applicable.]**

### GENERAL REFERENCES

Flood and Erosion Control Board — See Ch. 50.

Subdivision of land — See Ch. 228.

Zoning — See Ch. 233.

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### § 161-1 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 Representative Town Meeting of Branford, Connecticut does ordain as follows.

### § 161-2 Findings of fact.

- A. The flood hazard areas of Branford are subject to periodic inundation which results in loss of life and property, health 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.
- B. These flood losses are caused by the cumulative effect of obstruction in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas caused by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

### § 161-3 Purpose.

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

- A. 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.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damage.
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Passed RTM R&O Committee  
3-19-2019

#### **§ 161-4 Objectives.**

The objectives of this chapter are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.
- F. 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 flood blight areas.
- G. To insure that potential home buyers are notified that property is in a flood area.

#### **§ 161-5 Word usage; definitions.**

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable applications.
- B. As used in this chapter, the following terms shall have the meanings indicated:

#### **ADDITION (TO AN EXISTING BUILDING)**

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

#### **APPEAL**

A request for a review of the Town Engineer's interpretation of any provision of this chapter or a request for a variance.

#### **AREA OF SHALLOW FLOODING**

A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths 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.

#### **AREA OF SPECIAL FLOOD HAZARD**

The land in the floodplain within a community subject to one-percent or greater chance of flooding in any given year.

#### **BASE FLOOD**

The flood having a one-percent chance of being equaled or exceeded in any given year.

#### **BASE FLOOD ELEVATION (BFE)**

The elevation of the crest of the base flood or one-hundred-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**

That portion of a building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL**

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**

Any structure built for support, shelter or enclosure for any occupancy or storage.

**COASTAL AE ZONE**

The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet during the base flood and seaward of the line labeled the "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

**COASTAL HIGH HAZARD AREA**

An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zones VE and Coastal AE on a Flood Insurance Rate Map (FIRM).

**COST**

As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to, the cost of materials (interior finishing 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 septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems and detached structures such as garages, sheds and gazebos.

**DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings or 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 or drilling operations or 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.

**ELEVATED BUILDING**

A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakaway walls.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION**

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) is completed before December 14, 1977, the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION**

The preparation of additional sites by the construction 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)**

The federal agency that administers the National Flood Insurance Program (NFIP).

**FLOOD INSURANCE RATE MAP (FIRM)**

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY**

The official report by the Federal Emergency Management Agency. The report contains flood profiles and the water surface elevation of the base flood.

**FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal water.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOODPROOFING**

Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents.

**FLOODWAY**

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.

**FLOOR**

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

**FUNCTIONALLY DEPENDENT USE OR FACILITY**

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**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HIGH-TIDE LINE**

- (1) A line or mark left upon tide flats, beaches or along shore objects that indicates the intersection of land with the water's surface at the maximum heights reached by a rising tide. The mark may be determined by:
  - (a) A line of oil or scum along shore objects;
  - (b) A more or less continuous deposit of fine shell or debris on the foreshore or berm;
  - (c) Physical markings or characteristics, vegetation lines, tidal gauge; or
  - (d) By any other suitable means delineating the general height reached by a rising tide.
- (2) The term includes spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

**HISTORIC STRUCTURE**

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either:
  - (a) An approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**LIMIT OF MODERATE WAVE ACTION (LiMWA)**

The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are seaward of the line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

**LOWEST FLOOR**

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.

**MANUFACTURED HOME**

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 attached 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**

A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE**

The market value of the structure shall be determined by the appraised value of the structure 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. If an appraisal is not available then the depreciated value of the structure only from the assessors field card will be utilized.

**MEAN SEA LEVEL**

For purposes of the National Flood Insurance Program, 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 are referenced.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)**

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after December 14, 1977, the effective date of this chapter (not the revision date), and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION**

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 December 14, 1977, the effective date of the floodplain management regulation adopted by this community.

**RECREATIONAL VEHICLE**

- (1) A vehicle which is:
  - (a) Built on a single chassis.
  - (b) Four hundred 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.
  - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- (2) Recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer shall be considered manufactured homes for the purpose of this chapter.

**SAND DUNES**

Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

## **SPECIAL FLOOD HAZARD AREA (SFHA)**

The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. 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 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, AE, and the Coastal High Hazard Areas shown as Zones VE and Coastal AE on a FIRM. The SFHA is also called the Area of Special Flood Hazard

## **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 that the actual start of construction, repair, reconstruction or improvement was within 180 days of the permit date. The "actual start" means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, 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 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**

A walled and roofed building that is principally above ground, a manufactured home, or gas or liquid storage tank.

## **SUBSTANTIAL DAMAGE**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. "Substantial damage" also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damaged occurred.

## **SUBSTANTIAL IMPROVEMENT**

- (1) Any combination of repairs, reconstruction, alteration or improvements to a structure, taking place during a five-year period beginning on January 1, 2013, in which the cumulative cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The market value of the structure should be:
  - (a) The market value of the structure prior to the start of the initial repair or improvement; or
  - (b) In the case of damage, the value of the structure prior to the damage occurring.
- (2) For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.



## **VARIANCE**

A grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

## **VIOLATION**

The failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

## **WATER SURFACE ELEVATION**

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 floodplains of coastal or riverine areas.

### **§ 161-6 Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Branford.

### **§ 161-7 Basis for establishing areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for New Haven County, Connecticut, dated May 16, 2017, and accompanying Flood Insurance Rate Map (FIRM), dated May 16, 2017 (Panels – 09009C0454J, 09009C0458J, 09009C0459J, 09009C0461J, 09009C0463K, 09009C0466K, 09009C0467K), July 8, 2013 (Panels – 09009C0464J, 09009C0468J, 09009C0469J, 09009C0488J, 09009C0576J, 09009C0577J, 09009C0581J, 09009C0582J, 09009C0601J), and December 17, 2010 (Panels -09009C0462H, 09009C0486H), and other supporting data applicable to the Town of Branford, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this chapter. Since mapping is legally adopted by reference into this chapter it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as Zones A, AE, Coastal AE and VE, including areas designated as a floodway on a FIRM. Zones VE and Coastal AE are also identified as Coastal High-Hazard Areas. 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 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.

### **§ 161-8 Development permit required.**

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

### **§ 161-9 Compliance required.**

A structure or development already in compliance with this chapter shall not be made non-compliant by any alteration, modification, repair, reconstruction or improvement and must also comply with other applicable local, state, and federal regulations. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

### **§ 161-10 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**§ 161-11 Interpretation.**

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

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

**§ 161-12 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter 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 chapter shall not create liability on the part of the Town of Branford or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 161-13 Designation of administrator.**

The Town Engineer is hereby appointed to administer and implement the provisions of this chapter.

**§ 161-14 Development permit procedures.**

Application for a development permit shall be made to the Town Engineer, 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, limit and extent of the 100-year floodplain, the limit of moderate wave action (LiMWA) boundary line, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- A. Application stage.
  - (1) The following application information is required:
    - (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures [§§ **161-18A(1)** and **161-19B**].
    - (b) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed [§ **161-18A(2)(b)**].
    - (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 "substantial improvement definition" (§ **161-5B**).
    - (e) A statement as to whether there will be dry access to the structure during the one-hundred-year storm event.
  - (2) Where applicable, the following certifications by a registered engineer or architect are required and must be provided to the Town Engineer. The design and methods of construction must be certified to be in accordance with accepted standards of practice and with the provisions of §§ **161-18** and **161-19**.
    - (a) Nonresidential floodproofing must meet the provisions of § **161-18A(2)(b)**.
    - (b) Enclosed areas below the base flood elevations. If the minimum design criteria in § **161-18A**

through **C** are not used, then the design and construction methods must be certified as explained in § **161-18B**.

- (c) No increase in floodway heights may be allowed. Any development in a floodway must meet the provisions of § **161-18C**.
  - (d) Breakaway walls. If the design criteria stated in § **161-19H** are not utilized, then the design and construction methods must be certified as explained in § **161-19H(1)** and **H(2)**.
  - (e) Structural anchorings must meet the provisions of § **161-19C** and **D**.
- B.** Construction stage. Upon completion of the applicable portion of construction, the applicant shall provide verification to the Town Engineer of the following as is applicable:
- (1) Lowest floor elevation. The elevation to be verified for:
    - (a) A structure in a numbered A Zone is the top of the lowest floor, including basement [§ **161-18A(1)**].
    - (b) A structure in the V Zone or Coastal AE Zone is the lowest point of the lowest structural member, excluding pilings or columns (§ **161-19B**).
    - (c) A structure which has been floodproofed is the elevation to which the floodproofing is effective [§ **161-18A(2)**].
- C.** Deficiencies detected by the review of the above listed shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey, or elevation certificate, or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

**§ 161-15 Powers and duties of administrator.**

The duties of the Town Engineer, or his/her designee, shall include, but not be limited to:

- A.** Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- B.** Review all development permits to assure that the permit requirements of this chapter have been satisfied.
- C.** 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, possibly including but not limited to Coastal Area Management Permit, Water Diversion, Dam Safety, Corps of Engineers 404.
- D.** Notify the Regional Planning Agency and the affected municipality at least 35 days prior to the public hearing if any change of regulation or use of a flood zone will affect an area within 500 feet of another municipality.
- E.** Notify adjacent communities and the Department of Environmental Protection, Water Resources Unit, prior to any alterations or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- F.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- G.** Record the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § **161-18A(1)**.

- H. Record the elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with § **161-18A(2)**.
- I. When floodproofing is utilized for a particular structure, the Town Engineer shall obtain certification from a registered professional engineer or architect, in accordance with § **161-18A(2)**.
- J. 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 Town Engineer 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 section.
- K. When base flood elevation data or floodway data have not been provided in accordance with § **161-7**, then the Town Engineer 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 §§ **161-16** through **161-19**.
- L. All records pertaining to the provisions of this chapter shall be maintained in the office of the Town Engineer.
- M. In coastal hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is designed to be securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, in accordance with § **161-19C** and **D**. N. In coastal high-hazard areas, the Town Engineer shall review plans for adequacy of breakaway walls in accordance with § **161-19**.
- O. Upon completion of the permitted development and prior to issuance of a Certificate of Occupancy (CO), necessary as-built surveys (prepared by a Connecticut Licensed Professional as per Connecticut State Statutes) and engineering and architectural certifications shall be provided to the Town Engineer demonstrating compliance with the approved plans and standards set forth in this section.

§ **161-16 General standards.**

In all areas of special flood hazard, the following provisions are required:

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- B. New construction and substantial improvements shall be constructed with materials resistant to flood damage 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.
- C. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- D. 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 one (1.0) foot above the base flood elevation (BFE). Systems, fixtures, equipment and components shall not be mounted on or penetrate through breakaway walls intended to fail under flood loads. Connections or other equipment that must be located below the BFE plus 1.0 foot 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 1.0 foot shall conform to the standards for wet locations.

- E. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters.
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- H. Manufactured homes.
  - (1) All manufactured homes to be placed or substantially improved shall be elevated so that the bottom of the frame is located one (1.0) foot above the base flood elevation. This includes, but is not limited to, manufactured homes located 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 manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood.
  - (2) A manufactured home 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 and hydrodynamic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.
  - (3) A manufactured home shall be installed using methods and practices which minimize flood damage.
    - (a) Adequate access and drainage should be provided.
    - (b) Elevation construction standards include piling foundations placed no more than 10 feet apart, and reinforcement is provided for piers more than six feet above ground level.
- I. Recreational vehicles placed on sites within Zones A and AE shall either:
  - (1) Be on the site for fewer than 180 consecutive days;
  - (2) Be fully licensed and ready for highway use (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.); or
  - (3) Meet all the general standards of § **161-16** and the elevation and anchoring requirements of § **161-16H** in particular.
- J. In any portion of a watercourse which is altered or relocated, the flood-carrying capacity shall be maintained.
- K. A structure already in compliance with the provisions of this chapter shall not be made noncompliant by any alteration, repair, reconstruction or improvement to the structure.
- L. 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 floodwater at each elevation, up to and including the one-hundred-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.

- M. 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 registered 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.
- N. Storage tanks. Aboveground storage tanks (oil, propane, etc.) which are located outside or inside of a structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of floodwater. In VE and Coastal AE zones, 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 (BFE). 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 § 161-18. In all flood zones, underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
- O. Portion of structure in flood zone. If any portion of a structure lies within the special flood hazard area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
- P. Structures in two flood zones. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V Zone is more restrictive than A Zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the requirements of the more restrictive zone.)
- Q. No structures entirely or partially over water. New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.

**§ 161-17 Standards for stream without established base flood elevations and/or floodway.**

- A. The Town Engineer shall require base flood elevation (BFE) data be provided with any application for new construction, substantial improvement, repair to structures which have sustained substantial damage or other development in Zone A without a FEMA-published BFE (un-numbered A Zone). A registered professional engineer must determine the BFE in accordance with accepted hydrologic and hydraulic engineering practices and document the technical methods used. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval. The Town Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 161-15K and § 161-20D of this chapter, as criteria for requiring that new construction, substantial improvements or other development in Zone A or V on the community's FIRM meet the standards in §§ 161-18, 161-19 and 161-20.

- B. In A and AE Zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement or other development (including fill) shall be permitted which will increase base flood elevations more than one foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
- C. The Town Engineer may request or accept floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or from any other source, the Town of Branford shall adopt a regulatory floodway. The floodway shall be based on only 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 foot at any point along the watercourse.
- D. Where no base flood elevation (BFE) or floodway data is available, the Town Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements or other development in any area of potential, demonstrable or historical flooding within the community meet the standards in § **161-18**.

§ **161-18 Specific standards.**

- A. In all areas of special flood hazard A and AE, where base flood elevation data has been provided, as set forth in § **161-7** or § **161-17**, the following provisions are required:
  - (1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least to the base flood elevation plus one foot.
  - (2) Nonresidential construction.
    - (a) New construction or substantial improvement of any commercial, industrial or nonresidential structure located in Zones A and AE shall have the lowest floor, including basement, elevated at least to the level of the base flood elevation plus one foot; or
    - (b) Nonresidential structures located in all A and AE Zones may be floodproofed to the base flood elevation plus one foot in lieu of being elevated, provided that, together with all attendant utilities and sanitary facilities, the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection. Such certification shall be provided to the official as set forth in § **161-14A(2)(a)**.
- B. Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation plus one foot shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
  - (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    - (a) Provide a minimum of two openings on more than one wall having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. 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) 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 entire 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 foundation slab of a residential structure, including the slab of a crawlspace, must be set equal to the outside finished grade on at least one side of the building; and

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic flow of floodwaters in both directions. Openings shall not be less than three (3) inches in any direction in the plane of the wall.

(2) Electrical, plumbing and other utility connections are prohibited below the base flood elevation.

(3) Use of the enclosed area shall be limited to parking of vehicles or limited storage of maintenance equipment used in connection with the premises or entry to the living area (stairway or elevator).

C. Floodways. Located within areas of special flood hazard established in § 161-7 are areas designated as floodways on the community's Flood Boundary and Floodway Map. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

(1) Encroachments, including fill, new construction, substantial improvements and other developments, shall be prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge.

(2) 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.

(3) Fences in the floodway must be aligned parallel with the flow and be of an open design.

**§ 161-19 Coastal high-hazard areas.**

Located within the areas of special flood hazard established in § 161-7 are areas designated as coastal high-hazard areas (Zone VE and Coastal AE). These areas have special flood hazards associated with wave wash, erosion scour, and high wind; therefore, the following provisions shall apply:

A. All new construction or substantial improvement shall be located landward of the reach of the Connecticut Coastal Jurisdiction Line as defined in C.G.S. § 22a-359, as amended by Public Act 12-101.

B. All new construction or substantial improvement shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than the base flood elevation level plus one foot, with all space below the lowest supporting member open so as not to impede the flow of water.

C. All new construction or substantial improvement shall be securely anchored on pilings or columns.

D. 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 one-hundred-year mean recurrence interval (one-percent-annual-chance floods and winds).

E. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction and shall certify that the design, specifications and plans for construction are in accordance with acceptable standards and are in compliance with the



provisions contained in Subsections **B** through **D** of this section.

- F. There shall be no fill used as structural support.
- G. There shall be no alteration of sand dunes which would increase potential flood damage.
- H. Prior to construction, plans for any structures that will have breakaway walls, lattice work or screening must be submitted to the Town Engineer for approval. Nonsupporting breakaway wall, lattice work or mesh screening shall be allowed below the base flood elevation, provided that it is not part of the structural support of the building and is designed as to break away, under abnormal high tides or wave action, without damage to the structural integrity of the building on which it is to be used, and provided that the following design specifications are met:
  - (1) Design safe loading resistance of each wall shall not be less than 10 nor more than 20 pounds per square foot; or
  - (2) If more than 20 pounds per square foot, a registered 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 active 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 chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
- I. 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. Areas enclosed by breakaway walls shall contain hydraulic flood vents per the requirements of § **161-18B**.
- J. The bottom of all electrical, plumbing, machinery or other utility equipment that service the structure must be elevated one (1.0) foot above the BFE and cannot be located below the structure. Any service equipment that must be located below the BFE must be floodproofed to prevent water from entering during conditions of flooding. Electrical, mechanical and plumbing system components are not to be mounted on or penetrate through walls designed to breakaway under flood loads.
- K. To protect the building envelope, an exterior door shall be installed at the top of the stairs that provides access to the lowest (habitable) floor of the structure.
- L. The base of a chimney or fireplace shall not extend below the BFE plus one foot. When vertical support is required, a chimney or fireplace shall be vertically supported on pile or column foundations embedded at least as deep as the rest of the structure foundation or deeper where needed to support the chimney against water and wind loads. The chimney and fireplace system shall be designed to minimize transfer of water and wind loads to the structure or structure foundation.
- M. 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 as provided for in § **161-19H** through **I**.
- N. Manufactured (mobile) homes placed, substantially damaged, or substantially improved within VE and Coastal AE Zones on sites outside of a manufactured home park or subdivision, inside a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as a result of a flood, must meet the standards of § **161-19A** through **M**.

- O. Manufactured (mobile) homes placed or substantially improved within VE and Coastal AE Zones on other sites within an existing manufactured home park or subdivision must meet the following standards:
- (1) The lowest floor of the manufactured home must be elevated to or above the base flood elevation; or
  - (2) The manufactured home chassis must be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- P. Recreational vehicles placed on sites within VE and Coastal AE Zones must meet the following standards:
- (1) Be on site for fewer than 180 consecutive days;
  - (2) Be fully licensed and ready for highway use (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.); or
  - (3) Meet the permitting requirements of § **161-16** and the coastal high-hazard area standards of § **161-19A** through **J**.

**§ 161-20 Subdivisions.**

In all special flood hazard areas, the following requirements shall apply:

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- D. In Zones A and AE, base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which are five acres or 50 lots, whichever occurs first.

**§ 161-21 Appeals.**

- A. The Flood and Erosion Control Board as established by the Town of Branford shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Flood and Erosion Control Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Town Engineer in the enforcement or administration of this chapter.
- C. Any person aggrieved by the decision of the Flood and Erosion Control Board or any person owning land which abuts or is within a radius of 100 feet of the land in question may appeal within 15 days after such decision to the State Superior Court of New Haven, as provided in Section 8-8 of the Connecticut General Statutes.

**§ 161-22 Variances.**

- A. Specific situation variances.
  - (1) Buildings on an historic register. 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, except for § 161-22B(3)(a) through B(3)(d) and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical character.

- (2) Preexisting, small lot location. Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with § 161-22B(3)(a) through B(3)(d).
- (3) Functional dependent uses. Variances may be issued for new construction and substantial improvement and other development necessary for the conduct of a functionally dependent use, provided that 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 § 161-22B(3)(a) through B(3)(d).
- (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.

B. Considerations for granting of variances.

- (1) In passing upon such applications, the Flood and Erosion Control Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter 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 of the facility to waterfront location, in the case of a functionally dependent facility.
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
  - (g) The compatibility of the proposed use with existing and anticipated development.
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
  - (i) The safety 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 floodwaters and the effects of wave action, if applicable, expected at the site.
  - (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.
- (2) Upon consideration of the factors listed above, and the purposes of this chapter, the Flood and Erosion Control Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

- (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 as not to destroy the historic character and design of the building.
  - (b) Variances shall only be issued upon:
    - [1] A showing of good and sufficient cause;
    - [2] A determination that failure to grant the variance would result in exceptional hardship; and
    - [3] A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisance; cause fraud on or 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, up to amounts as high as \$25 for \$100 of insurance coverage.
  - (d) The Town Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**§ 161-23 Penalties for offenses.**

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250 per day if proven done willfully and \$100 per day if not, or imprisoned for not more than 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 Branford from taking such other lawful action as is necessary to prevent or remedy any violation.

## 169-2(4) Affordable Housing

The term of such abatements may continue for a period deemed necessary to promote affordable housing in no more than 10 year increments. If extended opportunities for reimbursement by the state or by the United States were made available pursuant to law, the amount or percentage of abatement may be adjusted at that time.

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