

<b>Topic:</b>	Floodplain Regulations; Zoning; Flood Prevention
<b>Resource Type:</b>	Regulations
<b>State:</b>	New York
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Town of Gardiner
<b>Year (adopted, written, etc.):</b>	Unknown
<b>Community Type - applicable to:</b>	Suburban; Rural
<b>Title:</b>	Town of Gardiner Development in Floodplains Ordinance
<b>Document Last Updated in Database:</b>	May 5, 2017

### ***Abstract***

The Development in Floodplains ordinance in the Town of Gardiner requires that land uses on floodplains be within the boundaries permitted by the Town of Gardiner Flood Insurance Study, with some exceptions. Development in floodplain areas is heavily regulated and variances are granted via permits. Variance permits are granted based on factors such as: alternative means to development, good sufficient cause, safety, and encroachments against property.

### ***Resource***

Town of Gardiner NY Development in Floodplains  
Code of the town of Gardiner NY  
Chapter 220: Zoning

§ 220-19. Development in floodplains.

A. Only uses identified as "uses permitted by right" may be permitted within the boundaries of any floodplain shown on the latest version of the Town of Gardiner Flood Insurance Study, except as provided in § 220-14 (Mobile Homes) and for any nonbuilding uses, by special permit, in other than a floodway.

B. The construction standards and administrative procedures for development in special flood hazard areas is regulated by Chapter 121, Flood Damage Prevention, which is incorporated by reference. A violation of those provisions shall also constitute a violation of this chapter and may be abated as provided in § 220-31.

C. Alteration of watercourses. Any altered or relocated watercourse shall be maintained so that the flood-carrying capacity is not diminished. Adjacent communities and the State Department of Environmental Conservation shall be notified prior to such alterations or

relocation of a watercourse, and evidence of such notification shall be submitted to the Federal Insurance Administration.

D. Variance conditions. The following conditions for variances shall be considered for a proposed development or use in special flood hazard areas:

(1) Variances may be issued for new construction and substantial improvements to be created 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, providing factors (1) through (12) of Subsection E of this section have been considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

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

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

(4) Variances shall 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 as identified in Subsection E of this section or conflict with existing local laws or ordinances.

(5) An applicant to whom a variance is granted to construct a structure below the base flood level will be notified of the consequent increase in premium rates for flood insurance and that such construction below the base flood level increases risks to life and property.

(6) The Building Inspector shall maintain the records of all appeal and variance actions, including justification for their issuance, and report any variance to the Federal Insurance Administrator upon request, or with the community's annual report to the Federal Insurance Administration.

E. Additional appeals considerations. In making a determination on an appeal or a variance from this section, the Zoning Board of Appeals shall consider all technical evaluations, standards specified in other sections of this chapter, and the following factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

- (2) The danger that materials may be swept onto other lands to the injury of others.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity to the facility of a waterfront location, where applicable.
- (6) The availability of alternative locations, not subject to flooding damage, for the proposed use.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the Comprehensive Plan, floodplain management program or the coastal management program for that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effect of wave action, if applicable, expected at the site.
- (11) 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.
- (12) The direct and significant impact or encroachment upon the floodplain as building sites or lots increase in size.