Agenda of the October End-of-the-Month Meeting of the Wilmington Town Board

Wednesday, October 28, 6 p.m.

1. Announcements & Reports
— Logo
— Comprehensive Plan Working Group
— Town Assessor ballot line
— Transfer station shed

2. Discussion / resolution: A resolution introducing proposed Local Law 6 of the Year 2026, titled "A Local Law for Flood Damage Prevention as Authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Section 36"

3. Discussion / resolution: A resolution declaring the Wilmington town board's intent to serve as the lead agency for the coordinated environmental review of proposed Local Law 6 of the Year 2026, A Local Law for Flood Damage Prevention (Type I action)

4. Discussion / resolution: A resolution setting a Public Hearing on proposed Local Law 6

5. Discussion / resolution: Truck purchase

6. Discussion / resolution: A resolution declaring the Wilmington town board's intent to serve as the lead agency for the coordinated environmental review of proposed Local Law 7 of the Year 2026: A Local Law Amending the Regulation of Short-Term Rentals in the Town of Wilmington

7. Discussion: Increasing the Senior Citizens' Property Tax Exemption

8. Public comments

Please note: This agenda is in draft form and may change.

RESOLUTION _____ OF 2026: A Resolution Introducing Proposed Local Law 6 of the Year 2026, titled "A Local Law for Flood Damage Prevention as Authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Section 36"

ON MOTION BY _____, and seconded by _____ the Wilmington Town Board hereby introduces proposed Local Law Number 6 of 2026, titled "Local Law for Flood Damage Prevention as Authorized by the New York State Constitution Article IX, Section 2, and Environmental Conservation Law, Article 36," reading as follows:

Proposed Local Law 6 of the Year 2026, titled "A Local Law for Flood Damage Prevention as Authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Section 36"

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Wilmington finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Wilmington and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

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) regulate 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;

(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 floodplains, 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 or flood damages;

(5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;

(6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

(l) 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, sewer lines, streets and bridges located in areas of special flood hazard;

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

(7) to provide that developers are notified that property is in an area of special flood hazard; and,

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

SECTION 2.0 DEFINITIONS

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

“Accessory Structure” is a structure used solely for parking (two-car detached garages or smaller) or limited storage, representing a minimal investment of not more than 10 percent of the value of the primary structure, and may not be used for human habitation.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, AR, A99. It is also commonly referred to as the base floodplain or l00-year floodplain. For purposes of this Local Law, the term “special flood hazard area (SFHA)” is synonymous in meaning with the phrase “area of special flood hazard.”

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

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

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

(l) the overflow of inland or tidal waters;

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

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means 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" see "flood elevation study".

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

(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 historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic 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 either:

(i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured 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. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of l929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"New York State Special Flood Hazard Area (NYS SFHA)" is the greater of the following two areas:

1. The area within a floodplain subject to a 0.2-percent or greater chance of flooding in any year.

2. The area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

Note: Locations defined as "AREA WITH REDUCED FLOOD RISK DUE OT LEVEE ZONE X" are excluded from the NYS SFHA.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Principally above ground" means that at least 5l percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

(1) built on a single chassis;
(2) 400 square feet or less when measured at the largest horizontal projections;
(3) designed to be self-propelled or permanently towable by a light duty truck; and
(4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory 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 a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"**Required Flood Elevation (RFE)"** The elevation requirement for the lowest floor of all new or substantial improvements within flood hazard areas in New York State. At a minimum, the RFE shall be the higher of the following:

1. The base flood elevation at the depth of peak elevation of flooding, including wave height, that has a 1-percent or greater chance of being equaled or exceeded in any given year

1. plus 2 feet of freeboard, and
2. plus a sea level rise of 18 inches in flood hazard areas adjacent to tidal areas.

2. The elevation of the design flood associated with the area designated on a flood hazard map adopted by the community.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

"Substantial damage" means 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 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not 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.

"Tidal Areas": According to NYCRR Title 6 Part 490, New York State tidal areas are defined to include the marine coasts of Nassau, Suffolk, and Westchester counties and the five boroughs of New York City, and the main stem of the Hudson River, north from New York City to the federal dam at Troy.

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

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Wilmington.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Wilmington, Community Number 361161, are identified and defined on the following documents prepared by the Federal Emergency Management Agency.

1. Flood Insurance Rate Map (FIRM) Panels:

36031C0115E, 36031C0120E, 36031C0135E, 36031C0137E, 36031C0138E, 36031C0139E, 36031C0141E, 36031C0142E, 36031C0143E, 36031C0144E, 36031C0155E, 36031C0161E, 36031C0305E, 36031C0310E, 36031C0327E, 36031C0330E, 36031C0331E, 36031C0332E, 36031C0333E, 36031C0340E, 36031C0341E,

whose effective date is December 10, 2026, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Essex County, New York, All Jurisdictions" dated December 10, 2026.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at Town Hall in the Office of the Code Enforcer.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention. Local Law No. 1 of 1995, entitled Flood Damage Prevention and all subsequent amendments thereto, is hereby repealed in its entirety.

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

3.4 SEVERABILITY

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

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or imprisoned for not more than l5 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Wilmington from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law 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 local law does not imply that land outside the area 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 Town of Wilmington, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and 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.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of $400.00. In addition, the applicant shall be responsible for reimbursing the Town of Wilmington for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than $500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

(1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved residential structure to be located in the NYS SFHA. Upon completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

(2) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved non-residential structure to be located in the NYS SFHA. Upon

completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

(3) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permitee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

(4) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.

(5) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.

(6) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

(7) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

(8) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.

(2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A on the FIRM) nor identified a floodway, the Local Administrator 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 paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

(2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

(3) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in Section 3.2, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

4.4-3 ALTERATION OF WATERCOURSES

(l) Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

(1) Within the NYS SFHA, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

(1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

(2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

(l) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

(2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance;

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;

(4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,

(5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(l) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,

(3)Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

(1) Within Zones A1-A30, AE, and AH on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(i) the applicant demonstrates 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 location, or,

(ii) the Town of Wilmington agrees to apply to the Federal Emergency Management Agency (FEMA)for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Wilmington for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Wilmington for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such an encroachment shall not result in <u>any</u> increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Wilmington agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Wilmington for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Wilmington for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

(l) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within the NYS SFHA new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(i) a minimum of two openings of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade and;

(iii) openings not less than three inches in any direction.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located above the Required Flood Elevation (RFE), or be designed to prevent water from entering and accumulating

within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

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

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,

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

5.2-4 STORAGE TANKS

1. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood.

2. Above-ground tanks shall be:

    1. anchored to prevent floatation, collapse or lateral movement during conditions of the base flood, and;

    2. installed at or above the Required Flood Elevation (RFE).

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

1. Within Special Flood Hazard Areas, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the Required Flood

Elevation (RFE).

2. Within Zone A, if the Base flood elevation is not specified, a base flood elevation shall be determined by either of the following:

    1. Obtain and reasonably use data available from a federal, state or other source or:

    2. Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a registered design professional who shall be documented that the technical methods used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.

(3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 plus one foot of freeboard, or not less than 3 feet if a depth number is not specified.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

(1) Within the NYS SFHA, new construction and substantial improvements of any non-residential structure shall either:

(i) have the lowest floor, including basement or cellar, elevated to or above the Required Flood Elevation (RFE); or

(ii) be floodproofed so that the structure is watertight below the Required Flood Elevation (RFE), including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the Required Flood Elevation (RFE) must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus one foot (at least three feet if no depth number is specified), or

(ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)

(3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

(5) Within Zone A, if the base flood elevation is not specified, a base flood elevation shall be determined by either of the following:

a. Obtain and reasonably use data available from a federal, state or other source or:

b. Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a registered design professional who shall be documented that the technical methods used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

(i) be on site fewer than 180 consecutive days,

(ii) be fully licensed and ready for highway use, or

(iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

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.

(2) A manufactured home that is placed or substantially improved in the NYS SFHA shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above the Required Flood Elevation (RFE) and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(3) Within Zone AO, the bottom of the frame of the manufactured home chassis shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood

Insurance Rate Map enumerated in Section 3.2 plus one foot (at least three feet if no depth number is specified).

(4) The foundation and anchorage of manufactured homes to be located in identified floodways shall be designed and constructed in accordance with Section 5.2-1, ANCHORING.

5.6 ACCESSORY STRUCTURES INCLUDING DETACHED GARAGES

The following standards apply to new and substantially improved accessory structures, including detached garages, in the NYS SFHA.

1. The accessory structure must meet the definition of structure, for floodplain management purposes, provided in 44 CFR § 59.1, where walled and roofed shall be interpreted as having two outside rigid walls and a fully secured roof.

2. The accessory structure should be small, as defined by the community and approved by FEMA, and represent a minimal investment. Accessory structures of any size may be considered for a variance; however, FEMA considers accessory structures that meet the following criteria to be small and therefore not necessarily in need of a variance, if the community chooses to allow it:

    1. Located in an area of special flood hazard area and less than or equal to the size of a one-story, two-car garage.

3. Accessory structures must meet the standards of Section 5.2-1, ANCHORING,

4. The portions of the accessory structure located below RFE must be constructed with flood-resistant materials.

5. Mechanical and utility equipment for the accessory structure must be elevated or dry floodproofed to or above RFE.

6. Within Zone AO if no depth number is specified, areas below three feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.

7. The accessory structure must comply with the floodway encroachment provisions of the NFIP.

8. The accessory structure must be wet floodproofed to protect the structure from hydrostatic pressure. The design must meet the NFIP design and performance standards for openings per 44 CFR § 60.3(c)(5) and must allow for the automatic entry and exit of floodwaters without manual operation or the presence of a person (or persons).

SECTION 6.0
VARIANCE PROCEDURE

6.1 APPEALS BOARD

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

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

(3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

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

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

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

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

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

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

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

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

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

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

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 6.l(4) and the purposes of this local law, the Zoning 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 Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

(l) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.l(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and

(ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(i) the criteria of subparagraphs l, 4, 5, and 6 of this Section are met; and

(ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

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

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

(6) Variances shall only be issued upon receiving written justification of:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

APPLICATION #_____

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (**APPLICANT** to read and sign):_____

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance, and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.

7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.

8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE)_____ DATE

SECTION 2: PROPOSED DEVELOPMENT (To be completed by **APPLICANT)**

	NAME	ADDRESS	TELEPHONE
APPLICANT			
BUILDER			
ENGINEER			

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

RESOLUTION DECLARING THE TOWN OF WILMINGTON BOARD'S INTENT TO SERVE AS LEAD AGENCY FOR THE COORDINATED ENVIRONMENTAL REVIEW OF THE PROPOSED LOCAL LAW FOR FLOOD DAMAGE PREVENTION (TYPE I ACTION)

The following resolution was offered by Councilperson _____ who moved its adoption, and seconded by Councilperson _____, to wit:

WHEREAS, the Town Board is considering the adoption of a proposed Local Law for Flood Damage Prevention applicable to all areas of special flood hazard within the Town of Wilmington (the Proposed Action); and

WHEREAS, the adoption of a local law is an action subject to environmental review under the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law, and its implementing regulations at Title 6 of the New York Codes, Rules and Regulations, Part 617 (SEQRA); and

WHEREAS, the New York State Department of Environmental Conservation (DEC) has advised, and the Town Board concurs, that the Proposed Action constitutes a Type I action under 6 NYCRR 617.4; and

WHEREAS, a Type I action requires coordinated review among all involved agencies and the establishment of a single lead agency prior to any determination of significance, in accordance with 6 NYCRR 617.6; and

WHEREAS, the Town Board is the agency principally responsible for undertaking and approving the Proposed Action and desires to serve as lead agency for the coordinated environmental review of the Proposed Action; and

WHEREAS, Part 1 of a Full Environmental Assessment Form (Full EAF) has been prepared for the Proposed Action and is available for circulation to involved and interested agencies;

NOW, THEREFORE, IT IS RESOLVED by the Town Board of the Town of Wilmington as follows:

1. Classification. The Town Board hereby determines, subject to completion of coordinated review, that the Proposed Action is a Type I action under 6 NYCRR 617.4.

2. Intent to Serve as Lead Agency. The Town Board hereby declares its intent to serve as lead agency

for the coordinated environmental review of the Proposed Action under SEQRA.

3. Circulation of Notice. The Town Supervisor and/or Town Clerk is hereby authorized and directed to circulate a Notice of Intent to Serve as Lead Agency, together with a copy of Part 1 of the Full EAF and the text of the Proposed Action, to all involved and interested agencies, including without limitation the following:
• New York State Department of Environmental Conservation, Region 5 Office;
• New York State Health Department
• Adirondack Park Agency

4. Thirty-Day Coordination Period. The Notice shall advise each involved agency that any objection to the Town Board serving as lead agency must be received by the Town Board within thirty (30) calendar days from the date the Notice and Full EAF Part 1 are transmitted, and that if no objection is received within that period, the Town Board shall be deemed to have been established as lead agency for the Proposed Action.

5. Resolution of Lead Agency Disputes. In the event any involved agency objects to the Town Board serving as lead agency, the Town Supervisor is authorized to seek agreement among the involved agencies as to lead agency designation and, if agreement cannot be reached, to request that the Commissioner of the DEC designate the lead agency in accordance with 6 NYCRR Part 617.

6. Subsequent SEQRA Review. Upon its establishment as lead agency, the Town Board shall proceed to complete Parts 2 and 3 of the Full EAF, review the criteria set forth in 6 NYCRR 617.7(c), and make and issue a written determination of significance in accordance with 6 NYCRR 617.7, prior to taking any final action to adopt the Proposed Action.

7. Further Actions. The Town Supervisor and Town Clerk are authorized and directed to take such further actions and to execute and file such documents as may be necessary or appropriate to carry out the intent of this Resolution, including the filing, publication, and distribution of SEQRA documents in accordance with 6 NYCRR 617.12.

8. Effective Date. This Resolution shall take effect immediately.

This resolution was duly adopted after a roll call vote:
Cromie:
Follos:
Forbes:
Hooker:
Winch:

By order of the Wilmington Town Board

Dated:

_____

Dawn Stevens, Town Clerk

Town of Wilmington

TOWN OF WILMINGTON
NOTICE OF PUBLIC HEARING
PROPOSED LOCAL LAW 6 OF 2026

PLEASE TAKE NOTICE that the Town Board of the Town of Wilmington, Essex County, New York, will meet at the Town Hall, located at 7 Community Circle, Wilmington, New York 12997, on the ___ day of _____, 2026, at ___ p.m. for the purposes of conducting a Public Hearing on Local Law 6 of 2026, titled "A Local Law for Flood Damage Prevention as Authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36."

The purpose of this Local Law is 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:
(i) regulate 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;
(ii) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time or initial construction;
(iii) control the alteration of nature floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
(iv) control filling, grading, dredging, and other development which may increase erosion or flood damages;
(v) regulate construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
(vi) qualify and maintain for participation in the National Flood Insurance Program.

PLEASE TAKE FURTHER NOTICE that at said Public Hearing to be held at the time and place set forth above, the Town Board will consider this Local Law and hear all parties interested therein concerning the same.

PLEASE TAKE FURTHER NOTICE that a copy of the full text proposed Local Law 6 of 2026 may be obtained upon request from the Town Clerk of the Town of Wilmington.

Dated:

_____

Dawn Stevens, Town Clerk
Town of Wilmington
7 Community Center Circle
Wilmington, New York 12997

Resolution _____-2026

WHEREAS the Town Council of the Town of Wilmington, New York, has received Local Law #7 of the year 2026: A Local Law Amending the Regulation of Short-Term Rentals in the Town of Wilmington; and

WHEREAS Local Law #7 of the year 2026 requires review under the New York State Environmental Quality Review Act (SEQRA), per 6 NYCRR Part 617; and

WHEREAS 6 NYCRR Part 617.2(u) defines "Lead Agency" as "an involved agency principally responsible for undertaking funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required";

BE IT RESOLVED that the Town Council of the Town of Wilmington, New York, hereby declares its intent to serve as the Lead Agency with regard to Local Law #7 of the year 2026 under the requirements of the State Environmental Quality Review Act; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Wilmington, New York, hereby declares Local Law #7 of the year 2026 a **Type 2 Action** for the purposes of the State Environmental Quality Review Act.

Local Law 7 of the Year 2026

A Local Law Amending the Regulation of Short-Term Rentals in the Town of Wilmington

Be it enacted by the Town Board of the Town of Wilmington as follows:

Section 1. Legislative Intent.

The Town Council (hereinafter "town board") has recognized that it would be beneficial for the Town to control and regulate the use of short-term rentals within the Town of Wilmington. These amendments to the Town of Wilmington's Zoning Ordinance are intended, by placing amended limits on the number of short-term rentals allowed at any given time in the Town, to preserve and protect the health, character, safety, and general welfare of the residential neighborhoods and rural areas where short-term rentals are operated, and to mitigate the adverse effects of short-term rentals on the community. They are also intended to allow for temporary or intermittent relief from the limits on the number of short-term rentals provided herein to residents of the Town of Wilmington to avoid economic impacts on those property owners based upon unique circumstances.

Section 2. Definitions.

The Town's existing definition of "Short-Term Rental" ("A dwelling unit that is rented, in whole or in part, to any person or entity for a period of less than 30 consecutive nights, including any residential building or apartment, single- or two-family dwelling, condominium, townhouse, guest house, cottage, cabin, or accessory dwelling which is rented as a living quarters for any period of less than 30 consecutive nights. This definition excludes hotels, bed and breakfast establishments, boarding houses, and school and non-profit dormitories; also excluded are owner-occupied homes. ...") shall remain in place.

In addition, the following definitions shall be added to the town's Short-Term Rental Law:

> **Hosted short-term rental:** An accessory dwelling unit, as defined in the Zoning Ordinance of the Town of Wilmington, that is:
>
> a) Operated as a short-term rental, and;
>
> b) Located on a property that is the primary residence of an owner of the property, at which an owner of the property resides for at least 184 days per calendar year.
>
> Applicants for Hosted short-term rental permits shall provide a sworn statement that the applicant resides at the property for at least 184 days per calendar year and satisfactory evidence, such as a driver's license, that the property is the applicant's primary residence.
>
> **Unhosted short-term rental:** All other short-term rentals in the Town of Wilmington.

Section 3. Amending Article VI (8) of Town's STR Regulations

Article VI(8) of the Town of Wilmington's Local Law Regulating Short-Term Rentals is hereby amended to read as follows:

The following limits and exceptions shall apply to short-term rentals:

a) There shall be a limit of 125 unhosted short-term rental permits and 50 hosted short-term rental permits issued and in effect at any given time by the Town of Wilmington.
b) This restriction shall not apply to timely renewals of existing permits or exceptions as provided herein.
c) Exceptions to the limits of short-term rental permits authorized by subparagraphs a and b above may be granted by the Zoning Board of Appeals upon a showing of special circumstances by the applicant. Any exemptions so granted shall only be granted after a public hearing.
d) Special circumstances for an exemption from the limits provided in subparagraphs a and b above may only be found to exist where an applicant demonstrates a unique short-term or intermittent (i.e., seasonal) need for a short-term rental permit.
e) Special conditions may be imposed as part of the grant of an exemption to the limits provided in subparagraphs a and b above, including but not limited to: by limiting the duration of any permits so issued, and/or by requiring the periodic renewal of any permits so issued by the Zoning Board of Appeals after a subsequent demonstration of continuing special circumstances and a public hearing.

Section 4.

The terms of this Local Law shall supersede any other ordinances or Local Laws in the Town of Wilmington to the extent applicable.

Section 5.

This Local Law shall take effect immediately upon filing in the Office of the New York Secretary of State.