

Chapter 1282  
Flood Damage Prevention Regulations

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**CROSS REFERENCES**

Flood control by soil conservation district supervisors - see Ohio R.C. 1515.08  
 Flood insurance - see Ohio R.C. 3925.34(C), 3941.02(A)(1)  
 Water supply, sanitation, ditches - see Ohio R.C. 6101.01 et seq.  
 Polluting and diverting watercourses - see GEN. OFF. 660.04

**1282.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**

(a) Statutory Authorization. ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Village Council of the Village of Yellow Springs, State of Ohio does ordain this chapter.

(b) Findings of Fact.

- (1) The flood hazard areas of the Village are subject to periodic inundation which may result in loss of life and property, health and safety 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.
- (2) Uses that are inadequately elevated, flood-proofed, or otherwise protected from flood damage also contribute to the flood loss.

(c) Statement of 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:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;

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- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(d) Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 2002-8. Passed 8-5-02.)

#### **1282.02 DEFINITIONS.**

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 application.

- (a) "Accessory structure" means a structure on the same lot width, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) "Appeal" means a request for review of the Zoning Administrator's interpretation of any provision of this chapter or a request for a variance.
- (c) "Area of special flood hazard" means the land in the floodplain subject to a 1% or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.
- (d) "Base flood" means the flood having a 1% chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 100-year flood.

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- (e) "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.
- (f) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (g) "Federal Emergency Management Agency" (FEMA) means the agency with the overall responsibility for administering the National Flood Insurance Program.
- (h) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters; and/or
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (i) "Flood Hazard Boundary Map" or "Flood Insurance Rate Map (FIRM)" means an official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.
- (j) "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.
- (k) "Historic structure" means any structure that is:
  - (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings 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 the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or
  - (4) Individually listed on the inventory of historic places maintained by Greene County Historical Society whose historic preservation program has been certified by the Ohio Historic Preservation Office.
- (l) "Lowest floor" means 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, provided that such enclosure is built in accordance with the applicable design requirements specified in this chapter for enclosures below the lowest floor.

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- (m) "Manufactured home" means 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 connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- (n) "Manufactured home park" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent. This definition shall exclude any manufactured home park as defined in Ohio R.C. 3733.01, for which the Ohio Public Health Council has exclusive rule making power.
- (o) "Manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale. This definition shall exclude any manufactured home park as defined in Ohio R.C. 3733.01, for which the Ohio Public Health Council has exclusive rule making power.
- (p) "New construction" means structures for which the "start of construction" commenced on or after the initial effective date of the Village's Flood Insurance Rate Map, and includes any subsequent improvements to such structures.
- (q) "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 projection, (3) designed to be self-propelled or permanently towable by a light-duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (r) "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the 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 a building.
- (s) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (t) "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% of the market value of the structure before the damage occurred. "Substantial damage" also means flood related damage

sustained by

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a structure on two separate occasions during a 10-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 damage occurred.

- (u) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which 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 term does not, however, include:
  - (1) 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 prior to the application for a development permit by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions;
  - (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure; or
  - (3) Any improvement to a structure which is considered new construction.
- (v) "Variance" means a grant of relief from the standards of this chapter consistent with the variance conditions herein.
- (w) "Violation" means the failure of a structure or other development to be fully compliant with this chapter.  
(Ord. 2002-8. Passed 8-5-02.)

### **1282.03 GENERAL PROVISIONS.**

(a) Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazard within the jurisdiction of Yellow Springs, as identified by the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development referenced in division (b) of this section, including any additional areas of special flood hazard annexed by the Village.

(b) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard have been identified by the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development in the Flood Hazard Boundary Map or Flood Insurance Rate Map No. 390640B, dated September 4, 1985. The map and any revisions thereto is hereby adopted by reference and declared to be a part of this chapter. The Flood Hazard Boundary Map is on file at 100 Dayton Street, Yellow Springs, Ohio, 45387.

(c) Compliance. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this chapter and all other applicable regulations which apply to uses within the jurisdiction of this chapter unless specifically exempted

from filing for a development permit as stated in Section 1282.04(b).

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(d) 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 ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(e) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of this chapter may be in conflict with a State law, such State law shall take precedence over this chapter.

(f) 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 damage. This chapter shall not create liability on the part of the Village, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(g) Violations and Penalties. Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Any person who violates this chapter or fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the Village of Yellow Springs. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation. The Village shall prosecute any violation of this chapter in accordance with the penalties stated herein.

(h) Severability. Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 2002-8. Passed 8-5-02.)

#### **1282.04 ADMINISTRATION.**

(a) Establishment of Development Permit. A development permit shall be obtained from the Zoning Administrator before construction or development begins within any area of special flood hazard established in Section 1282.03(b). Application

for a development

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permit shall be made on forms furnished by the Zoning Administrator and may include, but not be limited to site specific topographic plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in areas of special flood hazard where base flood elevation data are utilized from any source;
- (2) Elevation in relation to mean sea level to which any proposed nonresidential structure will be flood-proofed in accordance with Section 1282.05(b)(2) where base flood elevation data are utilized from any source;
- (3) Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 1282.05(b)(2) where base flood elevation data are utilized from any source;
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood-carrying capacity of the watercourse will not be diminished.
- (5) Certification by a registered professional engineer, architect, or surveyor of the structure's as-built lowest floor or flood-proofed elevation.

(b) Exemption from Filing a Development Permit. An application for a development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small non-structural development activities (except for filling and grading) valued at less than one thousand dollars (\$1,000.00). Any proposed action exempt from filing for a development permit is also exempt from the standards of this chapter.

(c) Designation of the Flood Damage Prevention Regulations Administrator. The Zoning Administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(d) Duties and Responsibilities of the Zoning Administrator. The duties and responsibilities of the Zoning Administrator shall include but are not limited to:

- (1) Permit review.
  - A. Review all development permit applications to determine that the permit requirements of this chapter have been satisfied.
  - B. Review all development permit applications to assure that all necessary permits have been received from those Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required

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- including permits issued by the Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.
- C. Review all development permit applications to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 1282.05(c) is met.
  - D. Inspect all development projects before, during, and after construction to ensure proper elevation of the structure and to ensure compliance with all provisions of this chapter.
- (2) Use of other base flood elevation and floodway data. Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 1282.03(b), are designated as Zone A on the Flood Insurance Rate Map. Within these areas, the Zoning Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data obtained under Section 1282.05(b)(6), in order to administer Sections 1282.05(b)(1), 1282.05(b)(2), and, where floodway data are available, administer Section 1282.05(c).
- (3) Information to be obtained and maintained by the Village. Where base flood elevation data are utilized within areas of special flood hazard on the Village's Flood Insurance Rate Map, regardless of the source of such data, the Zoning Administrator shall:
- A. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and record whether or not such structures contain an enclosure below the lowest floor;
  - B. For all new or substantially improved flood-proofed nonresidential structures:
    - 1. Verify and record the actual elevation (in relation to mean sea level) to which the structure was flood-proofed; and,
    - 2. Maintain the flood-proofing certifications required in division (a)(3) of this section.
  - C. Maintain for public inspection all records pertaining to the provisions of this chapter, including base flood elevation data, Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, variance documentation, Conditional Letters of Map Revision, Letters of Map Revision, Letters of Map Amendment, and as-built elevations.

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- (4) Alteration of watercourses.
  - A. Notify adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any change occurs within its banks.
  - B. Maintain engineering documentation required in division (a)(4) of this section that the flood-carrying capacity of the altered or relocated portion of said watercourse will not be diminished.
  - C. Require that necessary maintenance will be provided for the altered or relocated portion of said watercourse so that the flood-carrying capacity will not be diminished.
- (5) Interpretation of flood boundaries. Make interpretations, where needed, as to the exact location of the 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). Where a map boundary and field elevations disagree, the elevations delineated in the flood elevation profile from the Flood Insurance Study shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1282.06.
- (6) Alteration of community boundaries. Upon occurrence, notify FEMA in writing whenever the boundaries of the Village have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Village's Flood Insurance Rate Map accurately represent the Village's boundaries, include within such notification a copy of a map of the Village suitable for reproduction, clearly delineating the new corporate limits or the new area for which the Village has assumed or relinquished floodplain management regulatory authority.  
(Ord. 2002-8. Passed 8-5-02.)

#### **1282.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

(a) General Standards. The following standards apply in all areas of special flood hazard, including those where base flood elevation data have been provided. Where a structure, including its foundation members, is elevated on fill to or above the base flood level, the requirements for divisions (a)(1) and (2) of this section are satisfied.

- (1) Anchoring.
  - A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

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- B. All manufactured homes, not otherwise regulated under the Ohio Revised Code pertaining to manufactured home parks, shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (2) Construction materials and methods.
- A. All new construction and substantial improvements shall be constructed with materials resistant to flood damage;
  - B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and
  - C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) Utilities. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
  - B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
  - C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Subdivision proposals.
- A. All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage;
  - B. All subdivision proposals, including manufactured home subdivisions, 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, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and
  - D. All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of division (b)(6) of this section.
- (5) Standards in areas of special flood hazard without base flood elevation data. In all areas of special flood hazard identified as Zone A on the Flood

Insurance Rate Map where base flood elevation data are not available  
from

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any source, including Section 1282.04(d)(2), the following provisions apply: New construction and substantial improvement of any residential (including manufactured homes), commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to the flood of record or at least two feet above the highest adjacent natural grade, whichever is greater.

(b) Specific Standards. In all areas of special flood hazard where base flood elevation data have been provided as set forth in Sections 1282.03(b), 1282.04(d)(2) or division (b)(6) of this section, the following additional provisions are required:

- (1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- (2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - A. Be flood-proofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the base flood elevation. In order to be eligible for lower flood insurance rates, the structure should be flood-proofed at least one foot above the base flood elevation;
  - B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - C. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this division. Such certification shall be provided to the official as set forth in Section 1282.04(a)(3).
- (3) Accessory structures. A relief to the elevation or dry flood-proofing standards may be granted for accessory structures (e.g., sheds, detached garages) containing no more than 576 square feet and a value of no more than ten thousand dollars (\$10,000). Such structures must meet the encroachment provisions of division (c) of this section, and the following additional standards:
  - A. They shall not be used for human habitation;
  - B. They shall be constructed of flood-resistant materials;
  - C. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
  - D. They shall be firmly anchored to prevent flotation;
  - E. Service facilities such as electrical and heating equipment shall be elevated or flood-proofed to or above the level of the base flood elevation; and

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- F. They shall meet the opening requirements of division (b)(5) of this section.
- (4) Manufactured homes and recreational vehicles.
- A. The following standards shall apply to all new and substantially improved manufactured homes not subject to the manufactured home park requirements of Ohio R.C. 3733.01:
1. Manufactured homes shall be anchored in accordance with division (a)(1)A. of this section.
  2. Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation.
- B. These standards shall also apply to all recreational vehicles that are either located on sites for 180 days or more; or are not fully licensed and ready for highway use.
- (5) Enclosures below the lowest floor. The following standards apply to all new and substantially improved residential and nonresidential non-basement structures which are elevated to the base flood elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters. Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be 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:
- A. Be certified by a registered professional engineer or architect; or
- B. Meet or exceed the following criteria:
1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  2. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (6) Subdivisions and large developments. In all areas of special flood hazard where base flood elevation data have not been provided in accordance with Section 1282.03(b) or 1282.04(d)(2), the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or 5 acres (whichever is less):
- A. The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;

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- B. If division (b)(6)A. of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of divisions (a) and (b) of this section.

(c) Floodways; Areas with Floodways. The Flood Hazard Boundary Map (or Flood Insurance Rate Map) referenced in Section 1282.03(b) does not identify a segment within areas of special flood hazard known as a floodway. Floodways may be delineated in other sources of flood information as specified in Section 1282.04(d)(2). The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, projectiles, and cause erosion. The following provisions apply within all delineated floodway areas:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If division (c)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of division (b) of this section.
- (3) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval by the Federal Emergency Management Agency. Such requests must be submitted by the Zoning Administrator to the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program.  
(Ord. 2002-8. Passed 8-5-02.)

#### **1282.06 VARIANCE PROCEDURE.**

(a) Appeal Board.

- (1) The Board of Appeals, as established by the Village, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Board of Appeals or any taxpayer may appeal such decision to the Greene County Court of Common Pleas, as provided in Ohio R.C. Chapter 2506.
- (4) In passing upon such applications, the Board of Appeals shall consider and make findings of fact on all evaluations, all relevant factors, 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;

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- 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 availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - F. The necessity to the facility of a waterfront location, where applicable;
  - 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 flood waters and the effects of wave action, if applicable, expected at the site; and
  - K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of division (a)(4) of this section and the purposes of this chapter, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (6) The Board of Appeals shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(b) Conditions for Variances.

- (1) Variances may only be issued where due to physical characteristics of the property compliance with the requirements of this chapter creates an exceptional hardship. Increased cost or inconvenience of meeting the requirements of this chapter do not constitute an exceptional hardship.
- (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) 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, provided that the provisions of division (a)(4) of this section have been fully considered. As the lot size increases beyond

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one-half acre, the technical justification required for issuing the variance increases.

- (5) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (6) Variances shall only be issued upon:
  - A. A showing of good and sufficient cause;
  - B. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public as identified in division (a)(4) of this section, or conflict with existing local laws or ordinances; and
  - D. A determination that the structure or other development is protected by methods to minimize flood damages.
- (7) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 2002-8. Passed 8-5-02.)

2004 Replacement

