

CODIFIED ORDINANCES OF POWHATAN POINT
PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Subdivision Control

Chap. 1121. Subdivision Regulations.

TITLE THREE - Zoning Code

Chap. 1135. General Provisions and Definitions.

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CODIFIED ORDINANCES OF POWHATAN POINT
PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Subdivision Control
 Chap. 1121. Subdivision Regulations.

CHAPTER 1121
Subdivision Regulations

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CROSS REFERENCES

- Plat and subdivision defined - see Ohio R.C. 711.001
 Plat and contents - see Ohio R.C. 711.01 et seq.
 Lot numbering and revision - see Ohio R.C. 711.02, 711.06, 711.28 et seq.
 Cornerstones and permanent markers - see Ohio R.C. 711.03, 711.14
 Plat acknowledgement and recording - see Ohio R.C. 711.06
 Fee of designated public land to vest when plat recorded - see Ohio R.C.
 711.07, 711.11
 Engineer to approve plats; inspection of streets and acceptance - see Ohio
 R.C. 711.08, 711.09
 Plat approval by planning authority; minimum lot area - see Ohio R.C.
 711.09
 Public hearing on platting rules and regulations - see Ohio R.C. 711.09,
 711.101, 711.132.
 Violations of rules and regulations - see Ohio R.C. 711.102
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 Planning authority approval without plat - see Ohio R.C. 711.131
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1121.01 DEFINITIONS.

The following words and phrases when used in these Subdivision Regulations shall have the meanings herein described:

- (a) "Official Street, Thoroughfare and Park Plan" means the system of primary and secondary streets and parks to be adopted by Council on recommendation of the Planning Commission and to be placed on file in the office of the Mayor;
- (b) "Subdivision" means a division of a plot, tract or parcel of land into two or more lots or other divisions of land for the purpose, immediate or future, of transfer of ownership or development;
- (c) "Lot" means a portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or development;
- (d) "Improvements" means street pavement, with or without curbs and gutters, sidewalks, water mains, sanitary and storm sewers, street trees and other appropriate items;
- (e) "Right of way" means the width between property lines of a street, parkway, alley or easement; and
- (f) "Easement" means a grant by the property owner of the use of a strip of land by the public or by a public utility for access in constructing and maintaining utility services. (Ord. 519. Passed 5-20-61.)

1121.02 CONTENTS OF PRELIMINARY PLAT.

(a) The owner of land who desires to subdivide it shall submit four copies of a preliminary plat to the Mayor for the Planning Commission at least ten days prior to a regular meeting of the Commission. The plat shall contain:

- (1) The proposed name of the subdivision;
 - (2) Location within the Village;
 - (3) Names and addresses of owners, developers and surveyors who made the plat;
 - (4) Date; and,
 - (5) North point.
- (b) The scale of the plat shall be not less than 1 inch = 100 feet
- (c) The preliminary plat shall show the following existing conditions:
- (1) Boundary lines and total acreage included;
 - (2) Locations, widths and names of all existing or prior platted streets or alleys, railroad and utility rights of way, parks and public open spaces, permanent buildings and structures;
 - (3) Section and corporation lines within or adjacent to the tract;
 - (4) Existing sewers, water mains, culverts or other underground facilities within the tract indicating pipe sizes, grades and exact locations;
 - (5) Boundary lines of adjacent tracts of unsubdivided and subdivided land;
 - (6) Existing contours with intervals of not more than five feet where the slope is greater than ten percent, and not more than two feet where the slope is less than ten percent. Elevations shall be based on sea level datum.

Drainage channels, important trees, wooded areas, water courses and other significant physical features shall be shown.

- (d) The preliminary plat shall also show the following concerning proposed conditions:
- (1) Layout of streets, names and widths, including curbs and drainage structures;
 - (2) Easements;
 - (3) Layout, numbers and dimensions of lots and blocks;
 - (4) Parcels of land intended to be dedicated or temporarily reserved for public use, or reserved by deed covenant, and the conditions proposed for such covenants and for the dedication;
 - (5) Profile of each street with tentative grade, on a scale of 1 inch = 20 feet;
 - (6) Typical street cross sections on a scale of 3/8 inch = 1 foot;
 - (7) Plans and profiles of proposed sanitary and storm sewers with grades and pipe sizes;
 - (8) Plan of proposed water distribution system showing pipe sizes and locations of valves and fire hydrants;
 - (9) Street tree planting plan;
 - (10) Street lighting system;
 - (11) Building setback lines shown graphically with dimensions; and
 - (12) Indication of any lot for which a use other than residential is proposed by the owner. (Ord. 519. Passed 5-20-61.)

1121.03 PRELIMINARY PLAT APPROVAL.

Upon the filing of a plat with the Mayor, he shall examine it to determine whether or not it complies with requirements laid down in Section 1121.02. If it does not comply, he shall return it to the owner who shall revise and refile it. If it does comply, he shall present it to the Planning Commission at the next regular meeting of the Commission.

The Commission shall thereupon examine the plat and approve it within thirty days provided that the Commission is satisfied that it complies in all respects with this chapter and provided the owner agrees:

- (a) That he will make no conveyance of any lot smaller in width or area than indicated on the plat.
- (b) That all construction work and materials used in connection with public improvements in the area platted will conform to requirements of Council and will be installed under Council's supervision or under the Superintendent of the Department of Streets or Department of Water and Sewer; and
- (c) That Council will be notified three days before any construction is begun on such public improvements in order that the proper supervision and inspection may be provided.

The approval of the Planning Commission shall be indicated in writing on one copy of the preliminary plat which shall be returned to the owner. The remaining three copies, bearing the notation of approval, shall remain on file in the office of the Mayor and shall be available to the public. The approval of a preliminary plat shall be effective for a maximum period of twelve months, unless extended by the Planning Commission, during which time all public improvements shown on the preliminary plat shall have been completed and accepted.
(Ord. 519. Passed 5-20-61.)

1121.04 FINAL PLAT.

(a) Whenever the public improvements indicated on the approved preliminary plat have been completed and accepted by Council, the owner may submit a final plat of the subdivision on tracing cloth or negative, not less than sixteen inches by twenty-two inches and not more than twenty-four inches by thirty inches in size, to the Mayor for the final approval of the Planning Commission. Action shall be taken by the Commission within thirty days after filing.

(b) If the plat is approved, the owner shall file and record the plat with the County Recorder within three months. If not recorded within this time the approval of the Planning Commission shall become null and void.

(c) The final plat shall contain all information required for the preliminary plat and the following additions:

- (1) Boundary of plat, based on accurate traverse with angular and lineal dimensions;
- (2) True angles and distances to the nearest established street lines or official monuments, not less than three, accurately described on the plat;
- (3) Municipal, Township, County or section lines accurately tied to the lines of the subdivision by distances and angles;
- (4) Radii, internal angles, points of curvature, tangent bearings and lengths of all chord dimensions;
- (5) All lot numbers and lines with accurate dimensions in feet and hundredths;
- (6) Accurate location of all monuments, which shall be concrete six inches by six inches by thirty inches with iron pipe cast in center. One such monument shall be placed at each corner and at each change of direction of the boundary, at each street intersection and at the beginning and end of curves on one side of the street;
- (7) Exact location width and name of all streets and other public ways;
- (8) All easements; and
- (9) Accurate outlines and legal description of any area to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners.

(d) The final plat shall also contain:

- (1) A certificate by a registered surveyor that the plat represents a survey made by him and that the monuments shown exist as located and that all dimensional and other details are correct;
- (2) Notarized certification by the owner or owners of the adoption of the plat and the dedication by them to public use of streets and other public areas shown on plat;
- (3) Proper form for the approval of the Planning Commission with space for signatures; and
- (4) Space for approval by signature of the Clerk-Treasurer and Mayor as to the public improvement required.

(e) The original tracing shall become the permanent record with the County Recorder. Two copies, showing all approvals and the date and place of recording, shall be supplied by the owner to the Mayor as local public records. (Ord. 519. Passed 5-20-61.)

1121.05 REQUIRED IMPROVEMENTS.

The owner of land who desires to subdivide it shall provide improvements to such land as follows:

- (a) Streets, curbs and drainage structures graded full width with permanent curbs, drainage structures and surfacing of roadway;
- (b) Sanitary sewers and all appurtenances;
- (c) Water distribution system including mains, services and fire hydrants;
- (d) Sidewalks on both sides of a street in any subdivision adjacent to or joining with an area improved with sidewalks;
- (e) Storm sewers; and
- (f) Street signs designating the name of all intersections within the subdivision or created by new streets with existing streets.

All improvements shall be approved by Council and shall be constructed in accordance with Village specifications. (Ord. 519. Passed 5-20-61.)

1121.06 BOND FOR IMPROVEMENTS; INSPECTION AND ENGINEERING FEES.

In lieu of completing all or part of the improvements as specified before the approval of the final plat, the owner or developer may provide a bond acceptable to the Village, or a certified check, guaranteeing the completion of the improvements within one year or such additional time as may be agreed to by the Planning Commission. The bond or check shall be in an amount equal to the estimated cost of completing the improvements. The owner or developer shall pay to the Village a reasonable fee as prescribed by the Mayor to defray the cost of inspection and whatever engineering services may be involved in the installation of the improvements. (Ord. 519. Passed 5-20-61.)

1121.07 STREETS.

(a) Streets shall conform to the Official Street, Thoroughfare and Park Plan and shall be dedicated by the owner. Minor residential streets shall be so designed as to discourage their use by non-local traffic. Except where so necessitated by local conditions, alleys will not be approved in residential districts. Dead-end alleys are prohibited. Easements for utilities must be provided along side or rear lot lines where possible.

- (b) Streets shall have the following minimum widths:

| <u>Type of Street</u> | <u>Width (in feet)</u> |
|-----------------------|------------------------|
| Primary | 60 |
| Secondary | 50 |
| Minor | 40 |
| Alley | 20 |

Easements shall have a minimum width of five feet.

(c) Three-fifths of the minimum width provided for in subsection (b) hereof shall be reserved for street purposes and two-fifths of the minimum width shall be reserved for sidewalks, curbs and park lawns. The minimum width of street pavements shall be as follows:

| <u>Type of Street</u> | <u>Width of Pavement (in feet)</u> |
|-----------------------|------------------------------------|
| Primary | 36, exclusive of curbs |
| Secondary | 30, exclusive of curbs |
| Minor | 24, exclusive of curbs |
| Alley | 20 |

(d) The maximum grade shall be six percent for primary and secondary streets, and eight percent for minor streets and alleys. The minimum grade for any street shall be one-half of one percent at the gutter.

(e) At the intersection of two streets, street curbs or edges of streets, the pavement shall be rounded by radii of at least twenty feet.

(f) The determination of the classification of the various streets shall be made by reference to the Official Street, Thoroughfare and Park Plan. Any street that is a continuation of an existing street as shown on that Plan shall be placed in the same classification as the street of which it is a continuation. (Ord. 519. Passed 5-20-61.)

1121.08 LOTS AND BLOCKS

Every lot shall abut on a street. Double frontage lots shall be avoided. Size, shape and orientation of residential lots shall be appropriate to the location of the proposed subdivision and for the types of development contemplated. Lots for residence purposes shall have an area of not less than 4,800 square feet, shall be at least sixty feet wide on the building line and eighty feet deep. Excessive depth in relation to width shall be avoided. A proportion of 4 to 3 of depth to width shall be normal for lots having a width of sixty feet or more. Side lines of lots shall be approximately at right angles to the street line. Corner lots shall have extra width sufficient to permit maintenance of building lines on both front and sides. The maximum length of blocks may not exceed 1,200 feet. The width of the block shall normally be sufficient for two tiers of lots of appropriate depth. Where frontage on a primary street is involved, the long dimension of the block shall front thereon in order to minimize access intersections. (Ord. 519. Passed 5-20-61.)

1121.09 PUBLIC AREAS.

When a proposed subdivision contains an area described on the plat as a proposed public building site, park, playground or other public area, such area shall be dedicated on the plat to a public agency or reserved for acquisition by an agency within a period of five years by purchase or other means. From five to ten percent of the area of each residential subdivision, exclusive of streets, should be allocated for recreational uses. Due regard shall be shown for preserving outstanding natural or cultural features. (Ord. 519. Passed 5-20-61.)

1121.10 BOARD OF APPEALS; VARIANCES.

The Planning Commission and the Mayor and Council shall be a Board of Appeals. The Board of Appeals shall have authority to permit variations from the standards established herein in order to afford justice and avoid unreasonable hardship to property owners. (Ord. 519. Passed 5-20-61.)

TITLE THREE - Zoning Code

- Chap. 1135. General Provisions and Definitions.
 Chap. 1139. Administration and Enforcement.
 Chap. 1143. Board of Zoning Appeals.
 Chap. 1147. Zone Districts and Regulations.
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CHAPTER 1135
General Provisions and Definitions

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1135.01 PURPOSE.

This Comprehensive Plan is part of a long range general plan to guide and facilitate the orderly and beneficial growth of the community and to promote the public health, safety, convenience, prosperity and general welfare. More specifically, the purpose of this Zoning Ordinance is to encourage the social and economic stability of neighborhoods; to protect and conserve property values by minimizing conflicts in the use of neighboring property; to insure adequate open spaces between buildings; to act as a guide for the economical provision of public facilities and services; and to assist private land owners in the enjoyment and use of land and buildings. (Ord. 540. Passed 3-16-63.)

1135.02 INTERPRETATION OF DEFINITIONS.

For the purpose of this Zoning Ordinance, certain words and terms used herein shall be interpreted or defined as follows in this chapter.

Words used in the present tense include the future tense; the singular includes the plural and the plural includes the singular unless the natural construction of the wording indicates otherwise; the word "lot" includes the words "plot" and "parcel"; "shall" is mandatory and not directory; the words "occupied" or "used" as applied to any building or premises shall be considered to be followed by the words "or intended or arranged or designed to be occupied or used"; the word "approve" shall be considered to be followed by words "or disapprove"; any reference to this Ordinance includes all ordinances amending or supplementing the same; the word "Village" refers to the Village of Powhatan Point. All distances and areas refer to measurements in a horizontal plane. (Ord. 540. Passed 3-16-63.)

1135.03 ACCESSORY BUILDING OR ACCESSORY USE.

"Accessory building" or "accessory use" means a subordinate building or use located on the same lot with, and customarily incidental to, the main use of the main building. Accessory buildings and uses are considered to be a part of the primary use of a property. (Ord. 540. Passed 3-16-63.)

1135.04 ALLEY.

"Alley" means a permanent service way providing a secondary means of access to abutting properties. (Ord. 540. Passed 3-16-63.)

1135.05 ALTERATION.

"Alteration", as applied to a building, means a change in or replacement of walls, partitions, floors, roof, foundations or openings, or in corresponding parts of a structure other than a building. Redecorating, repair or replacement of windows, trim and similar small members does not constitute an alteration. (Ord. 540. Passed 3-16-63.)

1135.06 APARTMENT HOUSE.

"Apartment house" means any main building containing more than two dwelling units. (Ord. 540. Passed 3-16-63.)

1135.07 BOARDING HOUSE.

"Boarding house" means any dwelling in which more than three persons, either individually or as one or more families, are housed or lodged for hire, with or without meals. A rooming house or furnished room house shall be considered a boarding house. (Ord. 540. Passed 3-16-63.)

1135.08 BUILDING.

"Building" means a structure designed or used for the shelter of persons, animals or chattel. Structures such as stadiums, platforms, towers, sheds, signs and fences of any type over four feet in height shall be considered as buildings. (Ord. 540. Passed 3-16-63.)

1135.09 CERTIFICATE OF OCCUPANCY.

"Certificate of occupancy" means an authorization for the occupancy or use of any structure or property. Such certificate shall be issued by the Planning Commission in accordance with this Zoning Ordinance. (Ord. 540. Passed 3-16-63.)

1135.10 DWELLING.

"Dwelling" means a building designed or used exclusively for living quarters and containing single family, two family, three family and four family units, but not including apartments, boarding houses, rooming houses, hotels, motels, etc. No trailer, camp car or other portable vehicle, on or off wheels, shall be considered as a dwelling. (Ord. 540. Passed 3-16-63.)

1135.11 DWELLING GROUP.

"Dwelling group" means a group of two or more dwellings occupying a lot in one ownership, and having one or more yards in common. (Ord. 540. Passed 3-16-63.)

1135.12 DWELLING UNIT.

"Dwelling unit" means a main building, or part of a main building, with one or more rooms designed and intended for occupancy by one family for living, sleeping and cooking purposes (Ord. 540. Passed 3-16-63.)

1135.13 ENFORCING OFFICIALS.

"Enforcing officials" means the President of Council and two other members of Council, appointed by the Mayor, to enforce and administer the provisions of this Zoning Ordinance. The Council members shall be appointed for a period not to exceed two years. (Ord. 540. Passed 3-16-63.)

1135.14 FAMILY.

"Family" means one or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a boarding house, tourist home, club, fraternity or hotel. (Ord. 540. Passed 3-16-63.)

1135.15 GARAGE, PRIVATE.

"Private garage" means an accessory building for the storage of not more than three automobiles, including not more than one truck of greater than one-half ton capacity, and in which no business is carried on. (Ord. 540. Passed 3-16-63.)

1135.16 GARAGE, PUBLIC.

"Public garage" means a building or portion thereof, other than a private garage, designed or used for servicing, repairing, hiring, selling or storing motor driven vehicles. (Ord. 540. Passed 3-16-63.)

1135.17 HEIGHT OF BUILDING OR STRUCTURE.

"Height of building or structure" means the vertical distance, measured from the average elevation of the proposed finished grade at the front of the building, to the highest point of the roof for flat and shed roofs, to the deck line for mansard type roofs, to the mean height between the eaves and ridge for other pitched roofs, or to the highest point of a structure other than a building. (Ord. 540. Passed 3-16-63.)

1135.18 HOME OCCUPATION.

"Home occupation" means any use or service conducted for profit solely by the inhabitants of a dwelling and operated entirely within the dwelling, which use is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the appearance or character thereof. (Ord. 540. Passed 3-16-63.)

1135.19 HOSPITAL.

"Hospital" means an establishment for the care of human infirmities. (Ord. 540. Passed 3-16-63.)

1135.20 LOT.

"Lot" means a parcel of land occupied or to be occupied by a main building or group of main buildings or accessory buildings or to be occupied by a permitted use, together with such yards, open spaces, lot widths and lot area as are required by this Zoning Ordinance and having frontage upon a dedicated public street for group dwellings. Where more than one dwelling is placed on a lot, each dwelling structure shall be provided with the minimum lot frontage, lot area, front yard, rear and side yards as are required for one such dwelling on a lot in the same zone district. (Ord. 540. Passed 3-16-63.)

1135.21 LOT AREA.

"Lot area" means the total area of a lot within the property lines, excluding any portion of a street or alley. (Ord. 540. Passed 3-16-63.)

1135.22 LOT, CORNER.

"Corner lot" means a parcel of land at the junction of, and fronting on, two or more intersecting streets. (Ord. 540. Passed 3-16-63.)

1135.23 LOT LINE, FRONT.

"Front lot line" means the line of a property at the right of way of the street or easement that affords the principal means of access to the premises. In the case of a corner lot, it is that street line designated on the subdivision plat as the front lot line or if there is no such designation on the plat, the front lot line shall be deemed to be the shortest of the side lines facing on the dedicated streets. (Ord. 540. Passed 3-16-63.)

1135.24 LOT LINE, REAR.

"Rear lot line" means the lot line generally opposite the front lot line. If less than ten feet in length, or if the lot comes to a point in the rear, the rear lot line shall be considered to be a line parallel to the front lot line, not less than ten feet long, lying wholly within the lot and farthest from the front lot line. (Ord. 540. Passed 3-16-63.)

1135.25 LOT LINE, SIDE.

"Side lot line" means a lot line other than a front or rear lot line.
(Ord. 540. Passed 3-16-63.)

1135.26 LOT, REVERSE CORNER.

"Reverse corner lot" means a corner lot, the rear line of which is all or part of the side lot line of an abutting lot. (Ord 540. Passed 3-16-63.)

1135.27 LOT, WIDTH.

"Lot width" means the dimension of a lot, measured at right angles to the average bearing of the side lot lines, at the front lot line or at the front yard line. (Ord. 540. Passed 3-16-63.)

1135.28 MAIN BUILDING.

"Main building" means a building in which is conducted the principal use of the lot on which it is situated. In residential districts any dwelling shall be considered to be a main building on the lot on which it is located. (Ord. 540. Passed 3-16-63.)

1135.29 NONCONFORMING USE.

"Nonconforming use" means a lawful use of land or of a building which does not conform to the use standards of this Zoning Ordinance for the district in which it is located.
(Ord. 540. Passed 3-16-63.)

1135.30 PROPERTY LINE.

"Property line". See "Lot line". (Ord. 540. Passed 3-16-63.)

1135.31 PUBLIC PARKING LOT.

"Public parking lot" means any lot municipally or privately owned for off-street parking facilities providing for the transient storage of automobiles or motor driven vehicles. Such parking services may be provided as a free service or may be provided for a fee.
(Ord. 540. Passed 3-16-63.)

1135.32 RESIDENTIAL HOTEL.

"Residential hotel" means a dwelling occupied by permanent guests which may or may not have housekeeping facilities for each room or suite of rooms. (Ord. 540. Passed 3-16-63.)

1135.33 SIGN.

"Sign" means any advertising structure or display located outside a building, including signs attached to or painted on the wall or roof of a building. (Ord, 540. Passed 3-16-63.)

1135.34 STORY.

"Story" means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if the top story, that part between the surface of the floor and the ceiling above it. A basement shall be counted as a story if it is used as a separate dwelling.
(Ord. 540. Passed 3-16-63.)

1135.35 STORY, HALF.

"Half story" means a story with two or more opposite sides meeting a sloping roof not more than three feet above the floor of such story. (Ord. 540. Passed 3-16-63.)

1135.36 STREET.

"Street" means a public thoroughfare which affords the principal means of access to abutting property. (Ord. 540. Passed 3-16-63.)

1135.37 STRUCTURE.

"Structure". See "Building". (Ord. 540. Passed 3-16-63.)

1135.38 TOURIST HOME.

"Tourist home" means a dwelling in which overnight accommodations are provided for transient guests for compensation, and the outward appearance of which continues to be residential in character. (Ord. 540. Passed 3-16-63.)

1135.39 YARD.

"Yard" means an open space of uniform width or depth, and on the same lot with a building or group of buildings, lying between any part of the building(s) and the nearest lot line and which is unoccupied and unobstructed from the ground upward. The width or depth of a yard shall be parallel to and measured at right angles to the corresponding lot line. (Ord. 540. Passed 3-16-63.)

1135.40 YARD, FRONT.

"Front yard" means a yard extending across the full width of a lot and lying between the front lot line and the nearest part of a building. (Ord. 540. Passed 3-16-63.)

1135.41 YARD, REAR.

"Rear yard" means a yard extending across the full width of a lot and lying between the rear lot line and the nearest part of the building. (Ord. 540. Passed 3-16-63.)

1135.42 YARD, SIDE.

"Side yard" means a yard between each side lot line and the nearest part of a building and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front or rear lot line, as the case may be. (Ord. 540. Passed 3-16-63.)

1135.43 ZONE.

"Zone" means a classification of use, and the standards pertaining thereto, as described in this Zoning Ordinance and as applied to certain areas in the Village. (Ord. 540. Passed 3-16-63.)

1135.44 ZONING ORDINANCE.

"Zoning Ordinance" or "Ordinance" means Ordinance 540, passed March 16, 1963, as amended, which is codified as Title Three of this Part Eleven - Planning and Zoning Code. (Ord. 540. Passed 3-16-63.)

CHAPTER 1139
Administration and Enforcement

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| <p>1139.01 Variances.</p> <p>1139.02 Building permit; certificate of occupancy.</p> <p>1139.03 Permit valid for six months; renewal.</p> | <p>1139.04 Amendments.</p> <p>1139.05 Fee for legal notice,</p> <p>1139.99 Penalty.</p> |
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CROSS REFERENCES

Council may amend districts or zoning - see Ohio R. C. 713.10
 Public hearing - see Ohio R. C. 713.12
 Violation of zoning ordinance - see Ohio R. C. 713.13
 Planning Commission - see ADM. 143.01
 Appeal procedure - see P.& Z. 1143.04

1139.01 VARIANCES.

(a) In approving subdivisions the Planning Commission may approve front yard setback lines not in conformity with the required front yard setback lines of the zone in which the subdivision is located under the following conditions:

- (1) If the terrain is such that adherence to the required normal setback line would make building more than normally difficult, or,
- (2) If it would make attachment to sewer connection impossible except by the use of booster pumps.

(b) The Planning Commission may grant variances for front yard setbacks less than the normal front yard setback for lots in established subdivisions under the following conditions:

- (1) If a front yard setback line has been established within the block in which the lot is located of less than the required front yard setback line by more than fifty percent of the buildings within the block, or,
- (2) If it would be impossible due to terrain to make a sewer connection without the use of booster pumps, or,
- (3) If the terrain of the lot is of such a nature as to cause undue hardship by the owner in constructing a building on the premises through adhering to the normal front yard setback line.

(c) In the event that adjacent property owners protest the granting of a building permit with variances as provided for herein by the Planning Commission, the permit shall be denied. The owner may then appeal to the Board of Zoning Appeals, which shall have the right to hear evidence by the property owner requesting the variance, and may grant the same if the Board feels the variance is justified. (Ord. 540. Passed 3-16-63.)

1139.02 BUILDING PERMIT; CERTIFICATE OF OCCUPANCY.

(a) No construction, reconstruction, alteration, enlargement or moving of any building or excavation for any of these purposes shall be started without a permit approved by the Planning Commission certifying compliance with the provisions of this Zoning Ordinance.

(b) No use of land or buildings shall be started without obtaining a certificate of occupancy approving the use as to compliance with this Zoning Ordinance.

(c) Every application for a building permit or certificate of occupancy shall contain or be accompanied by such information, data, plot plans, building plans or sketches deemed necessary and shall be submitted to the Planning Commission for their approval or disapproval. Upon approval the Clerk-Treasurer shall be notified to issue a permit and collect all fees. (Ord. 540. Passed 3-16-63.)

1139.03 PERMIT VALID FOR SIX MONTHS; RENEWAL.

Any building permit or certificate of occupancy issued shall be void after six months from the date of such approval, unless in the case of new construction, work has been done above the foundation walls, and in cases of occupancy of land or reconstruction for occupancy of buildings, the operation called for by such permit is well under way by the end of the six months period. Application for renewal of all permits shall be subject to the same procedure as an original application. (Ord. 540. Passed 3-16-63.)

1139.04 AMENDMENTS.

Amendments to the text or map of this Zoning Ordinance may be made in the manner prescribed by law as follows:

- (a) The Planning Commission, Council or any property owner or a group of property owners may propose an amendment to this Zoning Ordinance. All such proposed amendments shall be submitted to the Commission for study and approval.
- (b) The Commission shall have a reasonable time, but not more than thirty days, to report its finding. For any proposed amendment submitted by Council or a property owner or a group of property owners, the Commission shall report its findings, whether favorable or unfavorable to Council.
- (c) No amendment that is reported unfavorably by the Commission shall be adopted by Council except by affirmative vote of not less than three-fourths of all Council members.
- (d) Following the receipt of the Commission report on any proposed amendment and prior to the third reading of the amending ordinance, Council shall hold a public hearing thereon and shall give thirty days' notice of the same by legal advertising and by any other means required by law.

- (e) During this thirty day period the amending ordinance, together with any maps that may be part of it and the report of the Commission shall be on file in the office of the Clerk-Treasurer. (Ord. 540. Passed 3-16-63.)

1139.05 FEE FOR LEGAL NOTICE.

(a) Whenever any property owner or group of property owners submits a petition for a proposed rezoning or amendment to this Zoning Ordinance, there shall accompany the petition a rezoning fee of ten dollars (\$10.00). The fee shall be used by the Clerk-Treasurer to defray the cost of legal notices, publication and advertising.

(b) Whenever a rezoning amendment to this Zoning Ordinance is initiated by Council, or the Planning Commission, advertising costs, legal notices and publication cost shall be charged to the General Advertising Fund of the Village. (Ord. 540. Passed 3-16-63.)

1139.99 PENALTY.

Any person or corporation, whether as owner, lessee, principal, agent, employee or otherwise, who violates any provision of this Zoning Ordinance or permits any such violation or fails to comply with any of the requirements thereof, or who erects, constructs, alters, enlarges, converts, moves or uses any building, or uses any land in violation of any detailed statement or plan submitted by him and approved under the provisions of this Zoning Ordinance, shall be fined not more than fifty dollars (\$50.00). A separate offense shall be deemed committed each day during which any violation is committed, continued or permitted by such person or corporation. (Ord. 540. Passed 3-16-63.)

CHAPTER 1143
Board of Zoning Appeals

| | | | |
|----------------|--------------------------|----------------|--------------------------------------|
| 1143.01 | Membership; term. | 1143.05 | Calendar of hearings; notice. |
| 1143.02 | Officers. | 1143.06 | Final disposition of appeal. |
| 1143.03 | Meetings. | 1143.07 | Rehearings. |
| 1143.04 | Appeal procedure. | 1143.08 | Powers and duties. |

CROSS REFERENCES

Appeals from zoning decisions - see Ohio R. C. 713.11
Notification of public meetings - see ADM. Ch. 105

1143.01 MEMBERSHIP; TERM.

An administrative Board is hereby created, and such board shall be known as the Board of Zoning Appeals, consisting of five members. Four of the members shall be residents of the Village appointed by the Mayor, and one shall be a resident member of the Planning Commission, appointed by the Commission. No person holding any other public office or position in the local government, except the member appointed from the Planning Commission, shall be eligible for appointment to the Board. The members of the first Board shall take office as of the date of their appointment. The member appointed from the Planning Commission shall serve on the Board during his period of service with the Commission. (Ord. 540. Passed 3-16-63.)

1143.02 OFFICERS.

The Board of Zoning Appeals shall organize by electing from its membership a chairman, vice-chairman and secretary, to serve for a one-year term with election of officers to take place the first meeting of each calendar year. (Ord. 540. Passed 3-16-63.)

1143.03 MEETINGS.

(a) Regular sessions designated as public hearings of the Board of Zoning Appeals shall be held on such date, time and place as the Board shall establish.

(b) Special sessions may be called by the chairman, or at the request of two members, provided that notice of the same has been mailed to each member at least twenty-four hours before the time set, except that the announcement of a special session at any meeting at which a quorum is present shall be sufficient notice of such meeting.

- (c) All hearing sessions shall be open to the public.
- (d) A quorum of the Board shall consist of three members.
- (e) The Board shall keep minutes of its proceedings showing the vote of each member on every question, or if absent or failing to vote, indicating such fact, and it shall also keep records of its examinations and other official actions.
- (f) The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Planning Commission, or to decide in favor of the appellant any matter upon which it is required to pass under the Zoning Ordinance, or to effect any variation therein. Such appeal shall be taken within thirty days after date of the decision of the Planning Commission by filing with the Board a notice of appeal specifying the grounds thereof. (Ord. 540. Passed 3-16-63.)

1143.04 APPEAL PROCEDURE.

Every appeal shall be made to the Board of Zoning Appeals in writing. The procedure of appeals shall be as follows:

- (a) A written appeal shall be filed with the secretary by the party aggrieved by any order or decision of the Planning Commission. The appeal shall be accompanied by accurate plans and specifications of the proposed work showing also the plot of land to be built upon, together with the placement of the proposed building and all other existing or proposed structures.
- (b) Every appeal shall be taken within thirty days from the date of any refusal by the Planning Commission to issue the permit.
- (c) Any communication purporting to be an appeal shall be regarded as mere notice to seek relief and shall not be considered by the Board until it is made on the form required.
- (d) Upon receipt of any such communication, the applicant shall be supplied with the proper forms before placing his appeal, and if he fails to file with the Board the form properly filled out and executed and to supply the required data within thirty days from the date of refusal of the permit, his case shall be dismissed for lack of prosecution.
- (e) The appeal shall be accompanied by ten dollars (\$10.00) either in cash or certified check payable to the Board, which amount shall be used to defray the cost of the required notices. Any unused balance shall be returned to the appellant after the final action of the Board in each case.
- (f) At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption by the other.
- (g) Every person before the rostrum shall abide by the order and direction of the chairman. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the chairman deems proper, (Ord. 540. Passed 3-16-63.)

1143.05 CALENDAR OF HEARINGS; NOTICE.

(a) Each appeal, filed in proper form with the required data, shall be numbered serially, and shall be placed upon the calendar of the Board of Zoning Appeals by the secretary. The calendar numbers shall begin anew on January 1 of each year, and shall be hyphenated with the number of the year in which the appeal is filed.

(b) Appeals shall be assigned for hearing in the order in which they appear on the calendar, except that an appeal may be advanced for hearing by order of the Board, upon good cause being shown.

(c) Five days' notice of the hearing of an appeal shall be sent by mail to the appellant and all directly affected property owners. The notice to the appellant shall be sent by registered mail to the address given in the appeal. The cost of publishing any legal notice and the postage for mailing the required notices to the appellant and affected property owners shall be deducted from the ten dollar (\$10.00) deposit made with the Board at the time of filing the appeal.

(Ord. 540. Passed 3-16-63.)

1143.06 FINAL DISPOSITION OF APPEAL.

(a) The final disposition of any appeal to the Board of Zoning Appeals shall be in the form of a resolution, which shall affirm, modify or reverse the refusal of a permit by, or any order or decision of the enforcing officer or the Planning Commission.

(b) The Board may set out in the resolution the condition or conditions upon which the permit may be issued in order to carry out the purpose and intent of this Zoning Ordinance. The concurring vote of three members shall be necessary to a decision. If a resolution presented at any meeting fails to receive three concurring votes, it shall be presented again at the next meeting.

(c) Any appellant may withdraw his appeal at any time prior to the decision of the Board. (Ord. 540. Passed 3-16-63.)

1143.07 REHEARINGS.

(a) No rehearing of the decision by the Board of Zoning Appeals shall be had except:

- (1) On motion to reconsider the vote, or
- (2) On written request for a rehearing.

(b) If the motion to reconsider receives three affirmative votes, the Board may vote on the motion to grant the request for a rehearing subject to such conditions as the Board may, by resolution in each case stipulate.

(c) No request to grant a rehearing will be entertained unless new evidence is submitted, which could not reasonably be presented at the previous hearing. If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for rehearing shall be in writing, citing the reason for the request and shall be duly verified, and accompanied by the necessary data and diagram. The person requesting the rehearing shall be notified to appear before the Board on a date to be set by the Board, of which he shall be notified. (Ord. 540. Passed 3-16-63.)

1143.08 POWERS AND DUTIES.

(a) The Board of Zoning Appeals shall have such duties and powers as are set forth in the various sections of this chapter. The Board shall adopt such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter. It shall hear and decide all questions brought before it by appeal from the refusal, granting or revocation of permits by the Planning Commission under the provisions of this chapter.

It shall also hear and decide all matters referred to it or upon which it is required to pass under this chapter. Within its powers, the Board may reverse or affirm wholly or in part or modify the order, requirement, decision or determination as in its opinion ought to be done under the circumstances, and to that end shall have all the powers of the officer from whom the appeal is taken, and it may issue or direct the issuance of a permit.

(b) The Board shall have power to permit exceptions to and variations from the regulations as follows:

- (1) Permit the extension of an existing or proposed building or use into a more restricted district under such conditions as will safeguard the character of the more restricted district.
- (2) Grant a permit in any Residence or Commercial District for a temporary building or use incidental to the residential or commercial development, such permit to be issued for a period of not more than two years.
- (3) Grant a permit in an Industrial District for a building or use otherwise excluded from such district, provided such building or use is distinctly incidental and essential to a use of a building or plant with a series of buildings permitted in such district, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.
- (4) Apply the provisions of this Zoning Ordinance in such a way as to carry out the true intent and purpose where the street and alley layout on the ground differs from the layout shown on the building Zone Map.
- (5) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this Zoning Ordinance, the Board of Zoning Appeals shall have the power in a specific case to vary the application of any such provision in harmony with the general purpose and intent of this Zoning Ordinance so that the public health, safety, morals and general welfare may be secured and substantial justice done.
- (6) Grant variances for side, front or rear yards, whenever the provisions of this Zoning Ordinance in respect to these requirements shall effect construction on any lot which is nonconforming as to size or area as a result of the adoption of this Zoning Ordinance. Owners of such property must show that the normal application of the standards for the zoning district in which the lot is located would deprive the owner of practicable use of the lot or would be contrary to established front, side or rear yard setbacks by a majority of the structures within the same block in which the lot is located. Such variance shall be to the minimum degree necessary to permit reasonable use of the lot. Such variance shall not be granted if a majority of the buildings on lots within the block in which the lot for which the variance is requested is not substandard in respect to the variance being requested.

- (7) Decide in case of question as to the exact location of a zone district boundary line of the Zone District Map or as to the interpretation of any of the provisions of this Zoning Ordinance.
- (8) Hear any appeal taken by a property owner as a result of the denial of a building permit or a certificate of occupancy, when the property owner holds that such a denial is unreasonable or unjust or would require him to adhere to standards not adhered to by at least fifty percent of the properties in the block in which the lot is located. (Ord. 540. Passed 3-16-63.)

CHAPTER 1147
Zone Districts and Regulations

| | | | |
|---------|--|---------|---|
| 1147.01 | Districts designated and Map established. | 1147.08 | Number Five District, Industry. |
| 1147.02 | Districts based on type of use. | 1147.09 | Prohibited uses. |
| 1147.03 | Number One District, Residence. | 1147.10 | Standards for Residence and Commercial Districts. |
| 1147.04 | Merchandising and intoxicants prohibited. | 1147.11 | Height; setback; yard and lot area. |
| 1147.05 | Number Two District, Residence. | 1147.12 | Front steps and porches. |
| 1147.06 | Number Three District, Residence and Limited Commercial. | 1147.13 | Off-street parking. |
| 1147.07 | Number Four District, Residence and Commercial. | 1147.14 | Standards for commercial buildings. |
| | | 1147.15 | Standards for industry |
| | | 1147.16 | Supplementary standards. |
| | | 1147.17 | Nonconforming uses. |

CROSS REFERENCES

Zoning of annexed areas - see Ohio R.C. 303.25, 519.18
Basis of districts - see Ohio R. C. 713.10
Nonconforming uses - see Ohio R. C. 713.15
Nonconforming use defined - see P.& Z. 1135.29

1147.01 DISTRICTS DESIGNATED AND MAP ESTABLISHED.

(a) In order to designate districts for the purpose of this Zoning Ordinance, the Village is hereby divided into the following districts:

- No. 1 District, Residence
- No. 2 District, Residence
- No. 3 District, Residence and Limited Commercial
- No. 4 District, Residence and Commercial
- No. 5 District, Industry
- No. 6 District, Public Property

(b) The boundaries of the districts are hereby established upon the Zone District Map which is so designated and is on file in the office of the Clerk-Treasurer. The Zone District Map and the legend attached to the Map are hereby made a part of this Zoning Ordinance. (Ord. 540. Passed 3-16-63.)

1147.02 DISTRICTS BASED ON TYPE OF USE.

The descriptions in this chapter of zone districts are intended to give clearly defined distinction as to the types of uses. The specific uses listed for each district are intended to include any other uses of similar nature but not other uses that are listed for another district. The Planning Commission shall decide as to the proper district for any type of use not specifically listed herein; any appeal from such a decision may be taken to the Board of Zoning Appeals. (Ord. 540. Passed 3-16-63.)

1147.03 NUMBER ONE DISTRICT, RESIDENCE.

The following uses are permitted in the No. 1 District, and within the district no building, structure or premises shall be used or designed to be used, except for one or more of the following uses:

- (a) Churches, lodges and social or recreation centers, not operated as a business.
- (b) Home occupations subject to approval by the Planning Commission.
- (c) Police, fire stations and professional offices.
- (d) Hospitals and nursing homes for the aged, indigents and orphans, but not establishments for the care of contagious diseases, epileptic, drug, liquor patients or for criminals.
- (e) Day nurseries and kindergartens.
- (f) Tourist homes which are operated as a part of residences.
- (g) Libraries.

(Ord. 540. Passed 3-16-63.)

1147.04 MERCHANDISING AND INTOXICANTS PROHIBITED.

There shall not be conducted upon the conveyed premises any business of selling or otherwise disposing of food, household goods, clothing or any type of tangible personal property whatsoever, because the intent of this Zoning Ordinance is that the premises shall not be used for merchandising of any nature. No wine, beer or intoxicating liquors shall be manufactured or sold, either at wholesale or retail upon the premises. These restrictions shall run with the land and shall be binding upon the grantee, his heirs and assigns.

1147.05 NUMBER TWO DISTRICT, RESIDENCE.

The following uses are permitted in the No. 2 District, and within the district. No building, structure or premises shall be used or designed to be used, except for one or more of the following uses:

- (a) Day nurseries and kindergartens.
- (b) Playgrounds, parks and recreation activities.
- (c) Libraries.
- (d) Home occupations and professional offices subject to approval by the Planning Commission. (Ord. 540. Passed 3-16-63.)

1147.06 NUMBER THREE DISTRICT, RESIDENCE AND LIMITED COMMERCIAL.

The following uses are permitted in the No. 3 District, and within the district. No building, structure or premises shall be used or designed to be used, except for one or more of the following uses:

- (a) Banks and post offices.
- (b) Home occupations and professional offices subject to approval by the Planning Commission.

- (c) Funeral homes and flower shops.
- (d) Barber and beauty shops.
- (e) Retail stores, grocery, bakery, furniture, hardware, drugs, shoe repair, clothing and shoes.
- (f) Municipal buildings.
- (g) Printing shops.
- (h) Dwelling units over a business.
(Ord. 540. Passed 3-16-63.)

1147.07 NUMBER FOUR DISTRICT, RESIDENCE AND COMMERCIAL.

The following uses are permitted in the No. 4 District, and within this district. No building, structure or premises shall be used or designed to be used, except for one or more of the following uses:

- (a) Banks, post office, schools, libraries and churches.
- (b) Municipal buildings, professional offices and retail stores.
- (c) Home occupations, barber and beauty shops.
- (d) Homes for the aged, indigent or orphans.
- (e) Hospitals, convalescent and nursing homes, but not establishments for the care of contagious diseases, epileptic, drug or liquor patients or criminals.
- (f) Hotels, restaurants, theaters, dairy bars, cafes and taverns.
- (g) Bowling alleys, pool rooms and skating rinks.
- (h) Auto sales, repair garages, used car lots and gasoline service stations.
- (i) Clubs, lodges and tourist homes.
- (j) Cleaning and pressing, furniture repair, cabinet making, pattern shops, plumbing and heating shops and printing shops.
(Ord. 540. Passed 3-16-63.)

1147.08 NUMBER FIVE DISTRICT, INDUSTRY.

The following uses are permitted in the No. 5 District, and within this district, no building, structure or premises shall be used or designed to be used, except for one or more of the following uses:

- (a) Manufacturing, processing, assembly, mixing and fabrication of materials.
- (b) Automotive parts manufacturing, stamping or fabrication.
- (c) Concrete mixing plants.
- (d) Cleaning, dyeing and laundry plants.
- (e) Commercial storage in or out of buildings.
- (f) Contractors equipment and storage warehouse.
(Ord. 540. Passed 3-16-63.)

1147.09 PROHIBITED USES.

The following uses will not be permitted in any zone district in the Village:

- (a) Aluminum powder or paint manufacture.
- (b) Automobile or buck wrecking and the dismantling or storage of disabled vehicles.
- (c) Cement, lime gypsum or plaster-of-paris manufacture.
- (d) Commercial feeding establishment for cattle, fowl or hogs.
- (e) Explosives (including ammunition and fireworks) manufacture or wholesale storage.
- (f) Fertilizer manufacture, either organic or nonorganic, but not limiting treatment of sewerage by the Village.
- (g) Pulp or fiber reduction or processing.
- (h) Rendering of animals, fowl, garbage or waste.
- (i) Stockyards or the commercial slaughtering of animals or fowl.
- (j) For the purposes of this section, "recreational vehicles" includes trailers, non-commercial trailers, motor homes, truck campers and recreational vehicles as defined in Ohio R.C. 4501.01 and 4517.01.
 - (1) One recreational vehicle may be parked for the purpose of storage on residential property so long as it is not in any public street or right of way or upon any public property. One recreational vehicle may be parked for the purpose of storage on a vacant piece of property as long as it is not in any public street, or right of way or upon any public property. Owners must comply with FEMA regulations regarding storage or parking of recreational vehicles in a flood zone;
 - (2) One recreational vehicle may be parked or stored at a resident's mailing address. The recreational vehicle may be parked or stored on said residential property only if the owner of the recreational vehicle resides at the residential property. One recreational vehicle may be parked or stored on a vacant piece of property only if the owner of the recreational vehicle owns the said property. If an individual owns more than one recreational vehicle and wants to store it on that same vacant piece of property the recreational vehicle must be stored in a enclosed building. If an individual cannot meet all of the regulations listed above he/she must use alternative storage elsewhere. Owners must comply with FEMA regulations regarding storage of parking of recreational vehicles in a flood zone;

- (3) No recreational vehicle shall be occupied as a permanent or temporary residence and shall have no permanent electric, water, or gas connections and no connections of any kind to a public or private sanitary sewer system. At no time shall recreational vehicles be used for living, sleeping, or business purposes, except for an "act of God", such as flood, hurricane or tornado which severely damages their dwelling, then the owners may be permitted to live in the recreational vehicle for a period not to exceed fourteen days or as approved by the Mayor or his/her designee;
- (4) All recreational vehicles shall be maintained in a clean and sanitary condition, in good structural and mechanical repair and full operational for their intended use with all current licenses and registration required for their operation and use upon the public roadways. Grass or vegetation, if any, under a recreational vehicle, must be maintained at the same height as the other portions of the abutting grass or vegetation. (Mowing of grass and weeds, see Streets, Utilities and Public Services Code, Section 905.02.)
- (5) A recreational vehicle may, however, be permitted on an occupied premises when visiting friends or relatives for a period not to exceed ten days, or as approved by the Mayor and his/her designee.
- (6) Notwithstanding the provisions of subsection (j)(1) through (5) hereof, recreational vehicles may be parked anywhere on the premises for the ordinary, customary and reasonable time required for the purpose of loading, unloading, outfitting or otherwise preparing for a recreational or camping use, but not to exceed, in the aggregate, seven days in any thirty day period.
- (7) Whoever violates any provision of these sections (j)(1) through (6) hereof shall be fined not more than one hundred dollars (\$100.00) per day. Each day any violation of these sections continues shall constitute a separate offense. (Ord. 1096. Passed 11-21-06.)

1147.10 STANDARDS FOR RESIDENCE AND COMMERCIAL DISTRICTS.

The following uses are permitted in a Residence or Commercial District:

- (a) A dwelling for one family, a duplex for two families or apartment for four families.
- (b) The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers, together with the resident members of the family does not exceed two in number for each regular sleeping room available in the premises.
- (c) Customary accessory uses are permitted, but not including the conduct of a business or industry of any driveway or walk giving access thereto.
- (d) A private garage on the same lot with or within the dwelling to which it is accessory and in which garage no business or industry is conducted. No part of the garage shall be used as a residence or dwelling unit.
- (e) The office of a professional person may be located in the dwelling used by such person as his residence, upon approval of the Planning Commission.

- (f) Signs pertaining to the lease, sale or use of a lot or dwelling may be placed thereon, provided that the total of all such signs does not exceed eight square feet; provided, further that for a dwelling occupied by one or more families, the name or occupation of an occupant shall not exceed one square foot for each family housed. A bulletin board not exceeding twelve square feet in area may be erected upon the premises of a church. A nonconforming business may place signs upon the front of the building. No signs are permitted over any sidewalks. (Ord. 540. Passed 3-16-63.)

1147.11 HEIGHT; SETBACK; YARD AND LOT AREA.

(a) **Height.** No dwelling shall exceed thirty-five feet or two and one-half stories in height. Churches, hospitals, schools or any other public building permitted to be constructed in a district may be built to a height of seventy feet or six stories, provided any such building sets back from every street and lot line one foot for each foot of height of the building in excess of thirty-five feet, in addition to other yard and setback requirements herein specified.

(b) **Setback Line.** No dwelling shall be erected, reconstructed or altered so as to project in any manner beyond a line which is distant from the front lot line, the average distance therefrom of the buildings fronting on the same side of the street within the block, on April 16, 1963, where no building exists fronting on the same side of the street within the block. No new dwellings shall be erected with its street wall nearer than thirty feet to the lot line.

(c) **Rear Yards.** There shall be a rear yard on every lot, which rear yard shall have a minimum depth of twenty-five feet for a one-story building. Such depth shall be increased to thirty feet for a two or two and one-half story building.

Accessory buildings not over fifteen feet high may be located in the rear yard, provided such accessory buildings come not nearer than three feet to any lot line.

In case of a corner lot, no wall of an accessory building shall be nearer to a side street than the side line of the main building. Such wall shall also be as far from the side street line as the setback line fixed for buildings on the side street lots or as near thereto as the width of the lot will permit.

(d) **Side Yards.** There shall be a side yard on each side of every building except as heretofore provided for accessory buildings. The minimum width for any side yard shall be ten percent of the lot width for each side yard, but not less than five feet.

(e) **Lot Width.** The minimum frontage of any lot at a distance of thirty feet from the front lot line shall be fifty feet.

(f) **Lot Area.** The minimum requirements shall be 6,000 square feet of lot area for each dwelling. (Ord. 540. Passed 3-16-63.)

1147.12 FRONT STEPS AND PORCHES.

Steps, uncovered porches and covered but unclosed porches on the first story which do not extend more than ten feet beyond the front wall of the building are exempt from the provisions of Section 1147.11. The foregoing setback line provisions shall apply only along the front lot line. (Ord. 540. Passed 3-16-63.)

1147.13 OFF-STREET PARKING.

There shall be provided, at the time of erection of any new dwelling, one off-street parking space per dwelling unit for housing of private vehicles. Such parking space shall be located on the same lot as the dwelling and may be installed as an integral part of the dwelling or in a detached private garage or be an open space on the lot having a minimum area of 200 square feet for each required space. (Ord. 540. Passed 3-16-63.)

1147.14 STANDARDS FOR COMMERCIAL BUILDINGS.

(a) For each commercial building there shall be a setback of ten feet from the front lot line. These ten feet may be used for the display of merchandise to be sold. No setback from the side lot lines is required, except for three feet from side lot lines which abut a residence. There shall be a rear yard setback of five feet from the lot line of a sixteen foot alley. There is no height limit for a commercial building in this district.

(b) Signs advertising merchandise and services for sale or the name of an owner or occupants are limited to the front of the building, except for gasoline service stations which must comply with the ten foot setback line from the property line. (Ord. 540. Passed 3-16-63.)

1147.15 STANDARDS FOR INDUSTRY.

(a) For industry there are no height limits, yards and setbacks; a setback not less than forty feet shall be provided on any Industrial Zone District abutting any zone of another classification, providing that such a setback shall not be required along property lines that front on a public street or highway or other permanent open space of comparable width. The forty foot setback shall be used for landscaping only except that access driveways and walks are permitted.

(b) Although new dwellings or dwelling units are not permitted in this zoned area, nothing shall prevent the remodeling or enlarging of an existing residence, provided that no additional dwelling units are added, and that minimum yard areas are maintained in conformity with the requirements for a residence. (Ord. 540. Passed 3-16-63.)

1147.16 SUPPLEMENTARY STANDARDS.

(a) No building or structure shall be erected or altered, nor shall any building or premises be used for any purpose, other than a use permitted in the zone district in which such building or premises is located. No building or premises shall be used so as to produce greater heights, smaller yards or less unoccupied area, and no building shall be occupied by more families than hereinafter prescribed for the zone district in which it is located. No lot which is now or may be hereafter built upon as herein required, may be so reduced in area that the yards and open spaces will be smaller than prescribed by this Zoning Ordinance.

(b) Every dwelling hereafter erected or moved or remodeled into a greater number of dwelling units shall be on a lot that abuts onto a public street, the right of way width of which is not less than thirty feet, have a lot width at the street line or at the building line of not less than fifty feet and a total area of not less than 5,000 square feet. However, any lot which has less width or less area than herein specified or which faces on a public way of less than thirty feet in width, but which was a lot of a recorded subdivision or was in separate ownership prior to the effective date of this section (Ordinance 540, passed March 16, 1963) may be used for a dwelling, the number of dwelling units therein to be in accordance with the zone restrictions for the zone district in which it is located.

(c) No construction of buildings nor division of land by sale shall reduce the width, area or yards of any lot in a Residence District below the standards of this Zoning Ordinance. In a Commercial or Industrial District, no front or rear yard for an existing dwelling may be reduced below eight feet nor any side yard below four feet. No portion of any lot area, yard area or street frontage that is required for a building or use under this Zoning Ordinance may be used by another building or use to conform to the standards of this Zoning Ordinance. However, nothing in this Zoning Ordinance shall prevent the erection of one building on two adjacent lots for a joint garage or other residential accessory use.

(d) There shall be no storage of materials or equipment in a required front or side yard. An open porch may extend into a front or rear yard up to ten feet. Chimneys, cornices, eaves and similar features may extend into a yard area a maximum distance of two feet. Radio and television aerials and broadcasting towers, necessary utility services, flagpoles and the like shall not be subject to the height standards of this Zoning Ordinance.

(e) When several dwellings are to be erected under one ownership on a tract containing one acre or more, flexibility of the location of the buildings may be permitted without adhering strictly to the yard and frontage requirements for single lots. However, there shall be similar provision for adequate light, air and circulation between all dwellings. Plans for such developments must be approved by the Planning Commission, and no reduction of open spaces on an approved plan for a group of dwellings may be made without similar approval of a revised plan.

(f) Areas which become annexed to the Village subsequent to the adoption of this section (Ordinance 540, passed March 16, 1963) shall be classified automatically to conform to the zoning district to which they are contiguous. If they are contiguous to more than one zone, the Planning Commission shall classify them in accordance with the land uses therein and appropriately to the land uses in adjacent contiguous zoned districts.

(g) Nonconforming uses in these areas shall be subject to the nonconforming use provisions of this Zoning Ordinance.

(h) Areas shown as public property on the Zone Map shall become classified automatically to conform to the zoning district to which they are contiguous, if and when these areas are made available for private development or use. If they are contiguous to more than one district, the Planning Commission shall classify them in accordance with the land uses in the adjacent contiguous districts.

(i) Public rights of way which become legally closed shall become classified automatically with the zone district of the adjoining property. Private easements and railroad rights of way shall only be used for the purpose for which the easements or rights of way were established.

(j) Wherever any lot which was in separate ownership prior to the effective date of this section (Ordinance 540, passed March 16, 1963) is divided by a district zone boundary, the Planning Commission may recommend and approve, upon request by the owner of such lot, that up to fifty feet on either side of the zone district boundary may be zoned to one of the zone districts into which it is divided.

(k) Insofar as possible, when preparing new zoning district boundaries, the Planning Commission shall draw such boundaries to coincide with existing property lines. If such zone boundary lines therefore become irregular in shape, the Planning Commission shall add special detail inserts at a larger scale where necessary to the Zone Map in order to clearly define zoning district boundaries. (Ord. 540. Passed 3-16-63.)

1147.17 NONCONFORMING USES.

(a) Any lawful building, structure or use existing on the effective date of this section (Ordinance 540, passed March 16, 1963), or whenever a district is changed by amendment to this Zoning Ordinance, may be continued although such building, structure or use does not conform to the regulations of the district in which it is located.

(b) No building or structure, or the nonconforming use of a building, structure or land shall hereafter be extended or altered unless such extension or alteration conforms to the provisions of this Zoning Ordinance for the district in which it is located. However, a nonconforming use may be extended throughout those parts of the building which were manifestly arranged or designed for such use prior to March 16, 1963, or the enactment of subsequent amendments to this Zoning Ordinance if no structural alterations, except those required by law or ordinance, are made therein.

(c) Where no structural alterations are made in any building containing a nonconforming use, such use may be changed to one of a similar or more restricted classification, but no building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted use.

(d) Structural alterations of a building or structure which does not conform to the provisions of this Zoning Ordinance may only be made if the building is being made to conform to the requirements of the district in which it is located. (Ord. 540. Passed 3-16-63.)

(e) No nonconforming use may be re-established where such nonconforming use has been discontinued for a period of at least six months. However, this shall not be interpreted to interfere with temporary seasonal nonconforming uses that have been in continual operation for a period of two or more years prior to the effective date of Ordinance 540, passed March 16, 1963. (Ord. 561. Passed 3-20-65.)

(f) Any building damaged by fire or other causes to the extent of ninety percent or more of its valuation may be rebuilt only in accordance with this Zoning Ordinance. If any building which has contained a nonconforming use is moved or removed, the subsequent use of the property shall conform to this Zoning Ordinance.

(g) The use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this section (Ordinance 540, passed March 16, 1963) may proceed, provided such building is completed within one year, or such use of land established within thirty days after the effective date of this section.

(h) Whenever the boundaries of a zone district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this section. (Ord. 540. Passed 3-16-63.)

CODIFIED ORDINANCES OF POWHATAN POINT
PART THIRTEEN - BUILDING CODE

Chap. 1305. Permits and Fees.

Chap. 1311. Unsafe Buildings.

Chap. 1317. Flood Damage Prevention.

Chap. 1323. Outdoor Advertising Signs.

CODIFIED ORDINANCES OF POWHATAN POINT
PART THIRTEEN - BUILDING CODE

CHAPTER 1305
Permits and Fees

1305.01 Permit application; fee; exemption.

1305.99 Penalty.

CROSS REFERENCES

Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.37

Fees for plan approval - see Ohio R.C. 3791.07

Required submission of plans of public buildings - see Ohio R.C. 3791.04

Certificate of occupancy - see P. & Z. 1139.02

1305.01 PERMIT APPLICATION; FEE; EXEMPTION.

(a) Before the erection, construction, alteration or repair of any building or structure or part thereof, and before the installation or alteration of any drainage system, electric system, plumbing system or heating system of any building or structure is begun, there shall be submitted to the Planning Commission, by the owner of such building or structure or his authorized agent, an application, in triplicate, on appropriate blanks to be furnished by the Planning Commission.

(b) The application shall contain:

- (1) A detailed statement of the specifications;
- (2) Cost of erection, construction, alteration, repair or installation;
- (3) The location of the premises involved and,
- (4) The name and address of the person who is to perform the work.
(Ord. 692. Passed 11-19-74.)

(c) The application is to be approved by the Planning Commission before the commencement of the work and it shall be the duty of the President of the Planning Commission to notify the applicant of the approval or rejection of any application filed with the Commission pursuant to this section within a reasonable time after the application has been submitted to the Commission. One copy of the application shall be retained by the Planning Commission; one copy of the application shall be kept at the building or structure during the progress of the work; and, one copy shall be forwarded to the Clerk-Treasurer.
(Ord. 717. Passed 6-15-76.)

- (d) (1) A fee shall be paid to the Clerk-Treasurer upon certifying the application and returning the same as a "permit" as follows:
- A. The fee for building permits for \$0 to \$3,000 is \$10.00, each additional \$1,000 is \$3.00, and each additional \$100.00 is \$0.30.
 - B. In addition to the charge in (d)(1)A. hereof, the sum of \$3.00 per thousand exceeding \$1,000; and
 - C. In addition to the charge in (d)(1)A. hereof, an additional \$0.30 shall be charged for each additional \$100.00.
- (2) Any new construction building permits issued in a flood plain shall be charged an additional fee of dollar for dollar for any extraordinary costs incurred for the issue of a building permit in the flood plain, pursuant to the zoning ordinances which include the FEMA requirements of the Village of Powhatan Point, Ohio.
- (3) There is further established a Building Permit Inspector who shall visually inspect each premises requiring a building permit and sign.
(Ord. 1128. Passed 7-7-09.)

(e) This section shall not be applicable to the replacement of windows, roofs, porches or furnaces. (Ord. 692. Passed 11-19-74.)

(f) Upon the erection of any building or structure by the Village of Powhatan Point, the Board of Trustees of Public Affairs or any other subdivision of the Village, any building permit fee is waived. (Ord. 906. Passed 9-20-88.)

1305.99 PENALTY.

Whoever violates any provision of this chapter by commencing work without having the application approved and paying the required fee, shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 1311
Unsafe Buildings

| | | | |
|----------------|---------------------------------------|----------------|---------------------------|
| 1311.01 | Definition; nuisance declared. | 1311.05 | Permits. |
| 1311.02 | Notice to owner, | 1311.06 | Right to demolish. |
| 1311.03 | Service of notice. | 1311.99 | Penalty. |
| 1311.04 | Posting of signs. | | |

CROSS REFERENCES

Removal of unsafe structures - see Ohio R. C. 715.26(B),
715.261

Abatement of nuisance - see Ohio R. C. Ch. 3767

Permits and fees - see BLDG. 1305.01

1311.01 DEFINITION; NUISANCE DECLARED.

All buildings or structures which are structurally unsafe, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to health by reason of inadequate maintenance, dilapidation or obsolescence, are for the purpose of this chapter, "unsafe buildings." All such unsafe buildings are declared to be public nuisances and shall be abated by repair and rehabilitation, or by demolition, in accordance with the procedure of this chapter. (Ord. 658. Passed 5-3-72.)

1311.02 NOTICE TO OWNER.

The Building Inspector shall examine, or cause to be examined, every building or structure, or portion thereof, reported as or believed to be an unsafe building as defined in Section 1311.01. He shall give written notice to the owner or owners of record, including any purchasers under a recorded land contract, and to the persons occupying the building if they are not the owners thereof. The written notice shall specifically state the defects that cause the building to be unsafe and shall state that work shall commence within thirty days and continue thereafter either to complete the specified repairs or to demolish and remove the building structure, or portion thereof, leaving the premises in a clean, safe and sanitary condition, such condition being subject to the approval of the Building Inspector. However, in cases of emergency making immediate repairs necessary, the Building Inspector may order the repairs or demolition to be made within a shorter period. The notice shall also require the building or portion thereof to be vacated forthwith by the occupants thereof. (Ord. 658. Passed 5-3-72.)

1311.03 SERVICE OF NOTICE.

Proper service of notice shall be by personal service, residence service or by registered mail. However, such notice shall be deemed to be properly served if a copy thereof is sent by registered mail to the last known address. If any of the parties cannot be located, nor can his address be ascertained, this notice shall be deemed to be properly served if a copy thereof is posted in a conspicuous place in or about the building or structure affected by this notice, for a period of thirty days. If such notice is by registered mail, the thirty days period within which such owner is required to comply with the order of the Building Inspector shall begin as of the date he received such notice or it shall begin as of the date that the postal return receipt card is returned to the Building Inspector, whichever is earliest. If such notice is by posting, the thirty day period within which such owner is required to comply with the order of the Building Inspector shall begin as of the date that the notice is first posted. (Ord. 658. Passed 5-3-72.)

1311.04 POSTING OF SIGNS.

The Building Inspector shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER, UNSAFE TO OCCUPY. DIVISION OF BUILDING REGULATION, VILLAGE OF POWHATAN POINT, OHIO." Such notice shall remain posted until the required repairs are made or demolition is completed.

No person shall remove such notice without permission of the Building Inspector or enter the building, except for the purpose of making the required repairs or of demolishing the building. (Ord. 658. Passed 5-3-72.)

1311.05 PERMITS.

In all cases of construction or repair pursuant to orders of the Building Inspector, permits covering such work shall be obtained as required by other ordinances of this Village. (Ord. 658. Passed 5-3-72.)

1311.06 RIGHT TO DEMOLISH.

In case the owner of record, or the purchaser under a land contract if that be the case, fails, neglects or refuses to comply with the notice to repair or demolish and remove such building or structure or portion thereof, such party, either the owner of record or the purchaser under a land contract, shall be subject to the penalty provisions of this chapter and the Building Inspector shall proceed to have the building or structure or portion thereof demolished and removed from the premises, leaving the premises in a clean, safe and sanitary condition and the cost of such work shall be paid by the Village. If the Village is not immediately reimbursed for such costs, the amount thereof shall be certified to the County Treasurer and levied as a special assessment against the property on which the building or structure was located and shall be collected in the manner provided for special assessments. (Ord. 658. Passed 5-3-72.)

1311.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 1317
Flood Damage Prevention

| | | | |
|---------|--|---------|---|
| 1317.01 | Statutory authorization, findings of fact, purpose and objectives. | 1317.04 | Use and development standards for flood hazard reduction. |
| 1317.02 | Definitions. | 1317.05 | Appeals and variances. |
| 1317.03 | Administration. | 1317.06 | Appeals. |

CROSS REFERENCES

Basis of zoning districts - see Ohio R.C. 713.10
Levees - see Ohio R.C. 717.01
Marking flood areas - see Ohio R.C. 1521.14

**1317.01 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 Council of the Village of Powhatan Point, State of Ohio, does ordain as follows:

(b) Findings of Fact. The Village of Powhatan Point has special flood hazard areas that 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. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(c) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and 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;
- (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;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

(d) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include 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.

(e) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the Village of Powhatan Point as identified in subsection (f) hereof, including any additional areas of special flood hazard annexed by the Village.

(f) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and/or maps are adopted:

- (1) Flood Insurance Study for Belmont County, Ohio and Incorporated Areas, effective date April 5, 2006. Flood Insurance Rate Maps for Belmont County, Ohio and Incorporated Areas, effective date April 5, 2006.
- (2) Other studies and/or maps which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.

- (3) Any hydrologic and hydraulic engineering analysis authorized by a registered Professional Engineer in the State of Ohio which has been approved by the Village of Powhatan Point as required by Section 1317.04(c), Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Village of Powhatan Point Clerk's Office at 104 Mellott Street, Powhatan Point, Ohio, 43942.

(g) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction, covenant or easement but the land subject to such interests shall also be governed by the regulations.

(h) Interpretation. In the interpretation and application of these regulations, 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 provisions of these regulations may be in conflict with a state or Federal law such state or Federal law shall take precedence over these regulations.

(i) Warning and Disclaimer of Liability. The degree of flood protection required by these regulations 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. These regulations do 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. These regulations shall not create liability on the part of the Village of Powhatan Point, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

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

(Ord. 1084. Passed 12-20-05.)

1317.02 DEFINITIONS.

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

(a) Accessory Structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

(b) Appeal. A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.

(c) Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.

(d) Base (100-Year) Flood Elevation (BFE). The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

(e) Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

(f) Development. Any manmade 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) Enclosure Below the Lowest Floor. See "Lowest Floor."

(h) Executive Order 11988 Management. Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

(i) Federal Emergency Management Agency (FEMA). The agency with the overall responsibility for administering the National Flood Insurance Program.

(j) Fill. A deposit of earth material placed by artificial means.

(k) Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas.

(1) The overflow of inland or tidal waters, and/or

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

(l) Flood Hazard Boundary Map (FHBM). Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

(m) Flood Insurance Rate Map (FIRM). 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.

(n) Flood Insurance Risk Zones. Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

Zone A:

Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

Zones A1-30 and Zone AE.

Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

Zone AO:

Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

Zone AH:

Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

Zone A99:

Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

Zone B and Zone X (shaded):

Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone C and Zone X (unshaded):

Areas determined to be outside the 500-year floodplain.

(o) Flood Insurance Study (FIS). The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

(p) Flood Protection Elevation. The Flood Protection Elevation, or FPE, is the base flood elevation plus Q feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

(q) Floodway. A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

(r) Freeboard. A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and of floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

- (s) Historic structure. 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; or
 - (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.

(t) Hydrologic and Hydraulic engineering analysis. An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

(u) Letter of Map Change (LOMC). A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revisions (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

(v) Lowest floor. The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

(w) Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

(x) Manufactured home park. As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

(y) National Flood Insurance Program (NFIP). The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

(z) New construction. Structures for which the "start of construction" commenced on or after the initial effective date of the Village of Powhatan Point Flood Insurance Rate Map, July 5, 1983, and includes any subsequent improvements to such structures.

(aa) Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio R.C. 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

(bb) Recreational vehicle. 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.

(cc) Registered Professional Architect. A person registered to engage in the practice of architecture under the provisions of Sections 4703.01 to 4703.10 of the Ohio Revised Code.

(dd) Registered Professional Engineer. A person registered as a professional engineer under Chapter 4733 of the Revised Code.

(ee) Registered Professional Surveyor. A person registered as a professional surveyor under Chapter 4733 of the Revised Code.

(ff) Special Flood Hazard Area. Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

(gg) Start of construction. 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.

(hh) Structure. A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

(ii) Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two (2) 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 percent of the market value of the structure before the damage occurred.

(jj) Substantial Improvement. 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. When the combined total of all previous improvements or repairs are made during the life of the structure equals or exceeds 50 percent of a structure's market value, the structure is considered a substantial 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 improvement to a structure which is considered "new construction"
- (2) 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; or
- (3) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

(kk) Variance. A grant of relief from the standards of these regulations consistent with the variance conditions herein.

(ll) Violation. The failure of a structure or other development to be fully compliant with these regulations. (Ord. 1084. Passed 12-20-05.)

1317.03 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Floodplain Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

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

- (1) Evaluate applications for permits to develop in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
- (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
- (6) Enforce the provisions of these regulations.
- (7) Provide information, testimony, or other evidence as needed during variance hearings.
- (8) Coordinate map maintenance activities and FEMA follow-up.
- (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(c) Floodplain Development Permits. It shall be unlawful for any person to begin construction or other development activity including but not limited to: filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1317.01(f), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(d) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- (2) Elevation of the existing, natural ground where structures are proposed.
- (3) Elevation of the lowest floor, including basement, of all proposed structures.
- (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Section 1317.04(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1317.04(d)(5) are designed to automatically equalize hydrostatic flood forces.
 - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1317.04(i)(3).
 - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1317.04(i)(2).
 - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1317.04(i)(1).
 - F. Generation of base flood elevation(s) for subdivision and large scale developments as required by Section 1317.04(c).

(e) Review and Approval of a Floodplain Development Permit Application.

- (1) A. Review. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1317.03(d) has been received by the Floodplain Administrator.

- B. The Floodplain Administrator shall review all floodplain 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 including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.
- (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.
- (f) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.
- (g) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:
- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
 - (2) For all development activities subject to the standards of subsection (j)(1) hereof, a Letter of Map Revision.
- (h) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1317.05.
- (i) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:
- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than five thousand dollars (\$5,000).
 - (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.

- (3) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive order 11988 - Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

(j) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Village of Powhatan Point's flood maps, studies and other data identified in Section 1317.01(f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data.

- A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1317.04(c).
- B. It is the responsibility of the applicant to have technical data, required in accordance with subsection (j)(1) hereof, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 1. Proposed floodway encroachments that increase the base flood elevation; and
 2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to subsection (j)(1)A. hereof.

- (2) Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the Village of Powhatan Point, and may be submitted at any time.
 - (3) Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall 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 Flood Insurance Rate Map accurately represent the Village boundaries, include within such notification a copy of a map of Village suitable for reproduction, clearly showing the new corporate limits or the new area for which the Village has assumed or relinquished floodplain management regulatory authority.
- (k) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:
- (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
 - (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
 - (3) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:
 - A. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
 - B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
 - (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1317.05, Appeals and Variances.

- (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

(l) Substantial Damage Determinations. Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:

- (1) Determine whether damaged structures are located in special flood hazard areas;
- (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- (3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.
(Ord. 1084. Passed 12-20-05.)

1317.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1317.01(f) or 1317.01(k)(1)(A):

(a) Use Regulations.

- (1) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the Village are allowed provided they meet the provisions of these regulations.
- (2) Prohibited Uses.
 - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
 - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.

(b) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- (2) 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,
- (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

- (c) Subdivisions and Large Developments.
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
 - (5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1317.03(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by subsection (c)(4) hereof.
- (d) Residential Structures.
- (1) 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. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring and construction materials resistant to flood damage are satisfied.
 - (2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
 - (3) 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.
 - (4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
 - (5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - A. Be used only for the parking of vehicles, building access, or storage; and
 - B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or

- C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Manufactured homes shall be affixed to a permanent foundation and 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.
- (7) 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 is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of subsection (d) hereof.
- (e) Nonresidential Structures.
- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection (d)(1)-(3) and (5)-(7).
- (2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
- A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection 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, through the use of a Federal Emergency Management Floodproofing Certificate, that the design and methods of construction are in accordance with subsections (e)(2)A. and B.
- (f) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
- (1) They shall not be used for human habitation;
- (2) They shall be constructed of flood resistant materials;
- (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
- (4) They shall be firmly anchored to prevent flotation;
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- (6) They shall meet the opening requirements of subsection (d)(5)C.
- (g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
- (1) They shall not be located on sites in special flood hazard areas for more than 180 days within a calendar year
- (2) They must meet all standards of subsection (d) hereof.

- (h) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (i) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
- (1) Development in Floodways.
- A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
- B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
1. Meet the requirements to submit technical data in Section 1317.03(j)(1);
 2. An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 3. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;
 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 5. Concurrence of the Mayor of the Village of Powhatan Point and the Chief Executive officer of any other communities impacted by the proposed actions.
- (2) Development in Riverine Areas with Base Flood Elevations but No Floodways.
- A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
- B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 2. Subsection (i)(1)B., items (1) and (3)-(5).
- (3) Alterations of a Watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
- A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a 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 bankfull flood carrying capacity of the watercourse will not be diminished.
 - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the Village specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
 - D. The applicant shall meet the requirements to submit technical data in Section 1317.03(j)(1)A.3., when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.
- (Ord. 1084. Passed 12-20-05.)

1317.05 APPEALS AND VARIANCES.

(a) Appeals Board Established.

- (1) The Village Board of Zoning Appeals, consisting of five appointed members of the community and a Chairman, shall serve indefinite terms after which time they shall be reappointed or replaced by the Council. Each member shall serve until his/her successor is appointed.

- (2) Meetings of the Appeals Board shall be held as needed and shall be held at the call of the Chairperson, or in his absence, the Acting Chairperson. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasi-judicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in the Village Clerk's office at 104 Mellott Street, Powhatan Point, Ohio, 43942.
- (b) Powers and Duties.
- (1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
 - (2) Authorize variances in accordance with subsection (d) hereof.
- (c) Appeals.
- (1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within fourteen days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.
 - (2) Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.
- (d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.
- (1) Application for a Variance.
 - A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
 - B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

- C. All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by Belmont County.
- (2) Notice for Public Hearing. The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.
- (3) Public Hearing.
- A. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:
1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger to life and property due to flooding or erosion damage.
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 4. The importance of the services provided by the proposed facility to the community.
 5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 6. The necessity to the facility of a waterfront location, where applicable.
 7. The compatibility of the proposed use with existing and anticipated development.
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- B. Variances shall only be issued upon:
1. A showing of good and sufficient cause.
 2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.

3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 4. A determination that the structure or other development is protected by methods to minimize flood damages.
 5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.
- (4) Other Conditions for Variances.
- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - B. 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 in subsection (d)(3)A. 1. to 11. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
 - C. 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.
- (e) Procedure at Hearings.
- (1) All testimony shall be given under oath.
 - (2) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
 - (3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
 - (4) The administrator may present evidence or testimony in opposition to the appeal or variance.
 - (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
 - (6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.
 - (7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.

- (8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(f) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Belmont County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
(Ord. 1084. Passed 12-20-05.)

1317.06 ENFORCEMENT.

(a) Compliance Required.

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1317.03(i).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (c) hereof.
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with subsection (c) hereof.

(b) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefor and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(c) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the Village. 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 these regulations in accordance with the penalties stated herein.
(Ord. 1084. Passed 12-20-05.)

CHAPTER 1323
Outdoor Advertising Signs

| | |
|--|-------------------------|
| 1323.01 Restrictions. | 1323.99 Penalty. |
| 1323.02 Administration and enforcement. | |

CROSS REFERENCES

Power to regulate advertising - see Ohio R.C. 715.65

Advertising on State and interstate highways - see Ohio R.C. Ch. 5516

1323.01 RESTRICTIONS.

(a) No advertising sign, display or device shall hinder the clear, unobstructed view of approaching or merging traffic, or obscure from view any traffic sign or other official sign.

(b) No advertising sign, display or device shall be so located as to obscure the view of any connecting road or intersection.

(c) No advertising display or device shall be painted, affixed or attached to any natural feature.

(d) No advertising sign shall be erected or maintained which involves rapid motion or rotation of the structure or any part thereof.

(e) No advertising display or device shall use the word "stop" or "danger" or present or imply the need or existence of danger.

(f) No advertising sign, display or device shall be a copy or imitate a traffic sign or other official sign.

(g) No advertising display or device shall attempt or purport to direct traffic.

(h) No advertising sign shall contain lighting which is not shielded, and any lighting shall be of such low intensity as not to cause glare or impair the vision of the operator of any motor vehicle.

(i) No advertising display or device shall be illuminated by any rapid flashing, intermittent light or lights. (Ord. 985. Passed 9-11-97.)

1323.02 ADMINISTRATION AND ENFORCEMENT.

(a) The Chief of Police shall be designated and shall administer and enforce the this chapter.

(b) If the Chief of Police finds that any of the provisions of this chapter are being violated, he shall notify in writing the persons responsible for such violation, indicating with specificity the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance and removal of unlawful signs and sign structures; the discontinuance or removal of unlawful additions or structural changes thereto; and the discontinuance of any unlawful work being done. He shall take such other action as may be required to insure compliance with or to prevent violation of this chapter.

(c) Persons responsible, as used in this chapter, may include the owner of the property on which a sign or structure is placed, the tenant, lessee or other occupant of that property, the owner of the sign or sign structure, and the person, firm or corporation erecting the sign or structure. Persons responsible for signs or sign structures shall be jointly and severally liable for violation of this chapter.

(Ord. 985. Passed 9-11-97.)

1323.99 PENALTY.

(a) Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Each day any violation of this chapter continues shall constitute a separate offense.

(b) The Chief of Police may institute a civil action for injunction in the Common Pleas Court, to enjoin any person, firm or corporation from violating any of the provisions of this chapter. (Ord. 985. Passed 9-11-97.)