

**CODIFIED ORDINANCES OF BETHESDA**  
**PART THIRTEEN - BUILDING CODE**

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Chap. 1301. Ohio Building Code.

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**CHAPTER 1301**  
**Ohio Building Code**

<b>1301.01</b>	<b>Adoption.</b>	<b>1301.06</b>	<b>Orders and violations.</b>
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**CROSS REFERENCES**

See sectional histories for similar State law  
 Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261  
 Power to enact further and additional regulations - see Ohio R.C. 3781.01  
 Authorization by Board of Building Standards - see Ohio R.C. 3781.12  
 Enforcement - see Ohio R.C. 3781.03, 3781.031, 3781.10(E), 3781.102, 3781.19  
 Final jurisdiction - see Ohio R.C. 3781.04  
 Application - see Ohio R.C. 3781.06, 3781.10(E), 3781.11(A)  
 Submission of plans - see Ohio R.C. 3791.04  
 Dead bolt locks in apartment buildings - see Ohio R.C. 3781.103  
 Smoke detection system for apartments and condominiums - see  
     Ohio R.C. 3781.104  
 Automatic sprinkler systems - see Ohio R.C. 3781.105, 3791.041 et seq.  
 Fire suppression systems - see Ohio R.C. 3781.108  
 Use of public buildings by handicapped persons - see Ohio R.C. 3781.111  
 Abandoned service stations - see Ohio R.C. 3791.11 et seq.  
 Safety standards for refuse containers - see Ohio R.C. 3791.21

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**1301.01 ADOPTION.**

There is hereby adopted by the Municipality, the Ohio Building Code (OBC) and related codes as adopted by the Ohio Board of Building Standards, Department of Industrial Relations, effective July 1, 2009, and as identified and published in Division 4101:1 et seq. of the Ohio Administrative Code (OAC).

**1301.02 PURPOSE.**

The purpose of the Ohio Building Code is to establish uniform minimum requirements for the erection, construction, repair, alteration, and maintenance of buildings, including construction of industrialized units. Such requirements shall relate to the conservation of energy, safety, and sanitation of buildings for their intended use and occupancy with consideration for the following:

- (a) Performance. Establish such requirements, in terms of performance objectives for the use intended.
- (b) Extent of Use. Permit to the fullest extent feasible, the use of materials and technical methods, devices, and improvements which tend to reduce the cost of construction without affecting minimum requirements for the health, safety, and security of the occupants of buildings without preferential treatment of types or classes of materials or products or methods of construction.
- (c) Standardization. To encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material and techniques, including methods employed to produce industrialized units.

The rules of the Board of Building Standards and proceedings shall be liberally construed in order to promote its purpose. When the Building Official finds that the proposed design is a reasonable interpretation of the provisions of this Code, it shall be approved. Materials, equipment and devices approved by the Building Official pursuant to Section 114 of the Ohio Building Code shall be constructed and installed in accordance with such approval.

(OBC 101.3)

**1301.03 SCOPE.**

(a) Application and Compliance. The provisions of the Ohio Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures. As provided in Section 3791.04(B) of the Ohio Revised Code, no plans or specifications shall be approved or inspection approval given unless the building represented by those plans or specifications would, if constructed, repaired, erected or equipped according to those plans or specifications, comply with Chapters 3781 and 3791 of the Ohio Revised Code and any rules adopted by the Board.

An owner may exceed the requirements of the Ohio Building Code in compliance with Section 102.9 of the Ohio Building Code.

(b) Exceptions.

- (1) The Ohio Building Code applies to detached one-, two-, and three-family dwellings and structures accessory to those dwellings, only to the extent indicated in Section 310 of the Ohio Building Code;
- (2) Buildings owned by and used for a function of the United States Government;
- (3) Buildings or structures which are incident to the use for agricultural purposes of the land on which said buildings or structures are located, provided such buildings or structures are not used in the business of retail trade; for the purposes of this section, a building or structure is not considered used in the business of retail trade if fifty percent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller (see Ohio R.C. 3781.06 and 3781.061);

- (4) Agricultural labor camps;
- (5) Type A or Type B family day-care homes;
- (6) Buildings or structures which are designed, constructed, and maintained in accordance with federal standards and regulations and are used primarily for federal and state military purposes where the U.S. Secretary of Defense, pursuant to 10 U.S.C. Sections 18233(A)(1) and 18237, has acquired by purchase, lease, or transfer, and constructs, expands, rehabilitates, or corrects and equips, such buildings or structures as he determines to be necessary to carry out the purposes of Chapter 1803 of the U.S.C.
- (7) Manufactured homes constructed under "24 CFR Part 3280", "Manufactured Home Construction and Safety Standards", and within the scope of the rules adopted by the Ohio Manufactured Home Commission.
- (8) Sewerage systems, treatment works, and disposal systems (including the tanks, piping and process equipment associated with these systems), regulated by the legislative authority of a municipal corporation or the governing board of a county or special district owning or operating a publicly owned treatment works or sewerage system as stated in division (A) of Ohio R.C. 6111.032.
- (9) Building sewer piping.
- (10) Portable electric generators and wiring supplying carnival and amusement park rides regulated by the Ohio Department of Agriculture.
- (11) Structures directly related to the operation of a generating plant or major utility facilities regulated by the Power Siting Board.  
(OBC 101.2)

#### **1301.04 COMPLIANCE.**

(a) No owner or any other person shall construct, erect, build or equip any building or structure to which the Ohio Building Code is applicable, or make any addition thereto or alteration thereof, except in case of repairs for maintenance without affecting the construction, sanitation, safety or other vital feature of such building or structure, without complying with this chapter, Ohio R.C. Chapters 3781 and 3791 or the Ohio Building Code, or fail to comply with any lawful order issued pursuant thereto.  
(ORC 3791.01, 3791.02)

(b) No architect, builder, engineer, plumber, carpenter, mason, contractor, subcontractor, foreman or employee shall violate or assist in violating this chapter, Ohio R.C. Chapters 3781 and 3791 or the Ohio Building Code, or fail to comply with any lawful order issued pursuant thereto.  
(ORC 3791.01, 3791.03)

(c) No owner shall proceed with the construction, erection, alteration or equipment of any building to which the Ohio Building Code is applicable until the plans or drawings, specifications, and data have been approved as Ohio R.C. 3791.04 requires, or the industrialized unit inspected at the point of origin. No plans or specifications shall be approved or inspection approval given unless the building represented would, if constructed, repaired, erected, or equipped comply with Chapters 3781 and 3791 of the Ohio Revised Code and any rule made under those chapters. (ORC 3791.04)

**1301.05 EXISTING STRUCTURES.**

The provisions of Chapter 34 of the Ohio Building Code shall control the alteration, repair, addition and change of occupancy of any existing structure.

The occupancy of any structure currently existing on the date of adoption of this Code shall be permitted to continue without change provided there are no orders of the Building Official pending, no evidence of fraud, or no serious safety or sanitation hazard. When requested, such approvals shall be in the form of a "Certificate of Occupancy for an Existing Building" in accordance with Section 111.2 of the Ohio Building Code.

Buildings constructed in accordance with plans which have been approved prior to the effective date of this Code are existing buildings.

(OBC 102.7)

**1301.06 ORDERS AND VIOLATIONS.**

(a) Adjudication Orders Required. When the Building Official denies any approval or takes action in response to findings of non-compliance, such action shall be initiated by issuing an adjudication order, prior to seeking any remedy, civil or criminal. Every adjudication order shall:

- (1) Clearly identify the section of law or rules violated.
- (2) Clearly identify, in a contrasting and obviously marked manner, all violations related to accessibility.
- (3) Specifically indicate which detail, installation, site preparation, material, appliance, device, addition, alteration to structures, construction documents, assemblages or procedures are necessary to change to comply with the order.
- (4) When issued to stop work, the order shall also clearly indicate the specific work that is required to cease, when the work must cease and the conditions under which the cited work will be permitted to resume. The order to stop work shall be given to the owner of the property involved, to the owner's agent and the person doing the work.
- (5) Include notice of the procedure for appeal and right to a hearing if requested within thirty days of the mailing of the order. The order shall also indicate that, at the hearing, the owner may be represented by counsel, present arguments or contentions orally or in writing, and present evidence and examine witnesses appearing for or against the owner.
- (6) Any hearing(s) scheduled for accessibility issues shall cause the Building Official or the appeals board to notify a local advocate organization for people with disabilities of the scheduled hearing. When a local advocate organization is not available, a state organization representing people with disabilities, such as the "Governor's Council on People with Disabilities" shall be notified.
- (7) Specify a reasonable period of time in which to bring the item(s) on the order into compliance.
- (8) Include the signature of the Building Official.
- (9) The order shall be sent by certified mail, return receipt requested, to the owner and any individual designated as a representative or agent by the owner in such matters.

(b) Response to Orders. The person receiving an order shall exercise their right to appeal within 30 days of the mailing of the order, comply with the order, or otherwise be released from the order by the Building Official.

(c) Prosecution and Penalties. When an owner fails to comply with subsection (b) hereof, the owner may be prosecuted and is subject to the penalty provided in Section 1301.99.

(d) Unlawful Continuance. Failure to cease work after receipt of an order to stop work is hereby declared a public nuisance. (OBC 109)

### **1301.07 UNSAFE BUILDINGS.**

(a) Unsafe Buildings Defined. Structures or existing equipment that are unsafe or unsanitary due to inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life, shall be deemed a serious hazard. Where a building is found to be a serious hazard, such hazard shall be eliminated or the building shall be vacated, and where such building, when vacated, remains a serious hazard, it shall be razed.

(b) Orders, Injunction Proceedings. Where the Building Official finds that a building is a serious hazard and the owner of such building fails, in the time specified in an order from the Building Official, to eliminate such hazard, or to vacate or raze the building, the building official shall proceed under Ohio R.C. 3781.15.

(c) Restoration. Where the structure or equipment is determined to be unsafe by the Building Official, it is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are intended to be made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with Chapter 1 and 34 of the Ohio Building Code and this chapter. (OBC 109)

### **1301.08 CONFLICT.**

(a) General. Where, in any specific case, different sections of the Ohio Building Code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(b) Other Laws. The provisions of the Ohio Building Code shall not be deemed to nullify any provisions of state or federal law. The Municipality may make further and additional regulations, not in conflict with Ohio R.C. Chapters 3781 and 3791 or with the rules of the Board of Building Standards. However approval by the Board of Building Standards of any fixture, device, material, system, assembly or product of a manufacturing process, or method or manner of construction or installation shall constitute approval for their use anywhere in Ohio.

(c) Other Rules. As provided in division (B) of Ohio R.C. 3781.11, the rules of the Board of Building Standards shall supersede and govern any order, standard or rule of the Divisions of State Fire Marshal or Industrial Compliance in the Department of Commerce, and the Department of Health and of counties and townships, in all cases where such orders, standards or rules are in conflict with the rules of the Board of Building Standards, except that rules adopted and orders issued by the Fire Marshal pursuant to Ohio R.C. Chapter 3743 prevail in the event of a conflict.

The rules of the Board of Building Standards adopted pursuant to Ohio R.C. 3781.10 shall govern any rule or standard adopted by the Board pursuant to Ohio R.C. 4104.02 and 4105.011. (OBC 102)

**1301.09 ENFORCEMENT.**

(a) Building Official. The Building Official is responsible for the enforcement of the rules of the Board and of Ohio R.C. Chapters 3781 and 3791 relating to the construction, arrangement, and the erection of buildings or parts thereof. All building officials shall conduct themselves in a professional, courteous, impartial, responsive, and cooperative manner. Building officials shall be responsible to assure that a system is in place to track and audit all projects, to assure that all Building Department personnel perform their duties in accordance with this section, and for the overall administration of a Building Department as follows:

(b) Applications and Plan Approvals. The Building Official shall receive applications, require or cause the submitted construction documents to be examined, ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Ohio Building Code, and shall issue plan approvals for the construction, erection, alteration, demolition and moving of buildings and structures.

(c) Plan Examination by the Building Official. When the Building Department does not have in its full-time employ a certified master plans examiner, the certified Building Official shall examine construction documents to determine compliance with the rules of the Board if the registered design professional elects to submit construction documents that contain a written certification by the registered design professional indicating conformance with the requirements of the rules of the Board and Ohio R.C. Chapters 3781 and 3791.

(d) Orders. The Building Official shall issue all orders in accordance with Section 1301.06 to ensure compliance with the Ohio Building Code.

(e) Inspections.

- (1) If the plans for the erection, construction, repair, alteration, relocating, or equipment of a building are subject to inspection by the Building Official, under Section 108 of the Ohio Building Code, the Building Official shall cause to be made such inspections, investigations, and determinations as are necessary to determine whether or not the work which has been performed and the installations which have been made are in conformity with the approved construction documents.
- (2) Special inspections are as required under Section 1704 of the Ohio Building Code.

(f) Department Records. The Building Official shall keep official records of applications received, certificate of plan approvals issued, notices and orders issued, certificates of occupancy, and other such records required by the rules of the Board of Building Standards. Such information shall be retained in the official permanent record for each project. One set of approved construction documents shall be retained by the Building Official for a period of not less than one hundred eighty days from date of completion of the permitted work, or as required by document retention regulations.

(g) Liability. Liability of certified Building Department personnel for any tortious act will be determined by Ohio courts to the applicable provisions of Ohio R.C. Chapter 2744.



**1301.99 PENALTY.**

Whoever violates any provision of this chapter or any Code adopted herein or fails to comply with any lawful order issued pursuant thereto is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. Each day during which noncompliance or a violation continues shall constitute a separate offense. The Municipality may institute injunction proceedings in Common Pleas Court to abate the nuisance of failure to cease work after receipt of a stop work order.



**CHAPTER 1311  
Flood Damage Reduction**

<b>1311.01</b>	<b>General provisions.</b>	<b>1311.05</b>	<b>Appeals and variances.</b>
<b>1311.02</b>	<b>Definitions.</b>	<b>1311.06</b>	<b>Enforcement.</b>
<b>1311.03</b>	<b>Administration.</b>	<b>1311.99</b>	<b>Violations and penalties.</b>
<b>1311.04</b>	<b>Use and development standards for flood hazard reduction.</b>		

**CROSS REFERENCES**

Levees - see Ohio R.C. 717.01  
Marking flood areas - see Ohio R.C. 1521.14

**1311.01 GENERAL PROVISIONS.**

(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 Bethesda, State of Ohio, does ordain as follows:

(b) Findings of Fact. The Village of Bethesda 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 Bethesda as identified in subsection (f) hereof, including any additional areas of special flood hazard annexed by Village of Bethesda.

(f) Basis for Establishing the Areas of Special Flood Hazard. For the purpose 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 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 authored by a registered Professional Engineer in the State of Ohio which has been approved by the Village of Bethesda as required by Section 1311.04(c) Subdivision and Large 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 Bethesda Municipal Building, South Main Street, Bethesda, Ohio.

(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 provision 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 Bethesda, 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. 1280. Passed 3-23-06.)

### **1311.02 DEFINITIONS.**

Unless specifically defined below, the 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.

- (1) Accessory Structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (2) Appeal. A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.

- (3) **Base Flood.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one percent (1%) chance annual flood or one-hundred (100) year flood.
- (4) **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).
- (5) **Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.
- (6) **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.
- (7) **Enclosure Below the Lowest Floor.** See “Lowest Floor.”
- (8) **Executive Order 11988 (Floodplain 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.
- (9) **Federal Emergency Management Agency (FEMA).** The agency with the overall responsibility for administering the National Flood Insurance Program.
- (10) **Fill.** A deposit of earth material placed by artificial means.
- (11) **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - A. The overflow of inland or tidal waters, and/or
  - B. The unusual and rapid accumulation of runoff of surface waters from any source.
- (12) **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.
- (13) **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.
- (14) **Flood Insurance Risk Zones.** Zone designation on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
  - A. **Zone:A**  
Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
  - B. **Zones A1-30 and Zone AE:**  
Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
  - C. **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.

- D. 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.
- E. 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.
- F. 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.
- G. Zone C and Zone X (unshaded):  
Areas determined to be outside the 500-year floodplain.
- (15) **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.
- (16) **Flood Protection Elevation.** The Flood Protection Elevation, or FPE, is the base flood elevation plus zero[0] 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.
- (17) **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.
- (18) **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 floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (19) **Historic structure.** Any structure that is:
- A. 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;
  - B. 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
  - C. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.

- (20) **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.
- (21) **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:
- A. **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.
  - B. **Letter of Map Revision (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 a 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.
  - C. **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.
- (22) **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.
- (23) **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.
- (24) **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 home, 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.



- (25) **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.
- (26) **New construction.** Structures for which the "start of construction" commenced on or after the initial effective date of the Village of Bethesda's Flood Insurance Rate Map, dated September 18, 1987, and includes any subsequent improvements to such structures.
- (27) **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.
- (28) **Recreational vehicle.** A vehicle which is:
- A. Built on a single chassis,
  - B. 400 square feet or less when measured at the largest horizontal projection,
  - C. Designed to be self-propelled or permanently towable by a light duty truck, and
  - D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (29) **Registered Professional Architect.** A person registered to engage in the practice of architecture under the provisions of Ohio R.C. 4703.01 to 4703.19.
- (30) **Registered Professional Engineer.** A person registered as a professional engineer under Chapter 4733 of the Ohio Revised Code.
- (31) **Registered Professional Surveyor.** A person registered as a professional surveyor under Chapter 4733 of the Ohio Revised Code.
- (32) **Special Flood Hazard Area.** Also known as "Areas of Special Flood Hazard", it is the land in floodplain subject to a one percent (1%) or greater change 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, AI-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.

- (33) **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.
- (34) **Structure.** A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (35) **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 fifty percent (50%) of the market value of the structure before the damage occurred.
- (36) **Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:
- A. Any improvement to a structure which is considered "new construction,"
  - B. 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
  - C. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- (37) **Variance.** A grant of relief from the standards of these regulations consistent with the variance conditions herein.
- (38) **Violation.** The failure of a structure or other development to be fully compliant with these regulations. (Ord. 1280. Passed 3-23-06.)

### **1311.03 ADMINISTRATION.**

- (a) **Designation of the Floodplain Administrator.** The Water Superintendent 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 1311.01(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 1311.04(e).
    - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1311.04(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 1311.04(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 1311.04(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 1311.04(i)(1).
    - F. Generation of base flood elevation(s) for subdivisions and large scale developments as required by Section 1311.04(c).
- (e) Review and Approval of a Floodplain Development Permit Application.
- (1) Review.
    - A. 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 subsection (d) hereof 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 1311.05.

(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 \$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 Chapter 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Chapter 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 Bethesda's flood maps, studies and other data identified in Section 1311.01(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 1311.04(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 Bethesda, 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 of Bethesda 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 of Bethesda's Flood Insurance Rate Map accurately represent the Village of Bethesda's boundaries, include within such notification a copy of a map of the Village of Bethesda suitable for reproduction, clearly showing the new corporate limits or the new area for which the Village of Bethesda 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 areas 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 1311.05, 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.

(1) 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; provide 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. 1280. Passed 3-23-06.)

#### **1311.04 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 Sections 1311.01(f) Or 1311.03(k)(1):

(a) Use Regulations.

- (1) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by Bethesda 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 Chapter 3701 of the Ohio Revised Code.
  - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Chapter 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 1311.03(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 (subsection (d)(1)) and construction materials resistant to flood damage (subsection (d)(2)) 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) to (3) and (5) hereof.
  - (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 subsection (e)(2) A. and B. hereof.
- (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. hereof.

(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, or
- (2) They must be fully licensed and ready for highway use, or
- (3) 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 1311.03(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 Bethesda 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. Section 1311.04(i)(1)B.1. and 3. to 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 of Bethesda 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 1311.03(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. 1280. Passed 3-23-06.)

### **1311.05 APPEALS AND VARIANCES.**

(a) Appeals Board Established.

- (1) The Bethesda Village Council shall appoint an Appeals Board consisting of the members of the Board of Trustees of Public Affairs. The members shall serve four [4] year terms after which time they shall be reappointed or replaced by the Village Council. Each member shall serve until his/her successor is appointed.

- (2) A chairperson shall be elected by the members of the Appeals Board. 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 Bethesda Municipal Offices.

(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. 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 14 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.

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.

- (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.

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 Court of Common Pleas; as provided in Chapter 2506 of the Ohio Revised Code. (Ord. 1280. Passed 3-23-06.)

### **1311.06 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 1311.03(i).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1311.99.
- (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 Section 1311.99.

(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 therefore 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.
- (Ord. 1280. Passed 3-23-06.)



**1311.99 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 of Bethesda. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Bethesda from taking such other lawful action as is necessary to prevent or remedy any violation. The Village of Bethesda shall prosecute any violation of these regulations in accordance with the penalties stated herein.  
(Ord. 1280. Passed 3-23-06.)



**CHAPTER 1321  
Mobile Homes**

<b>1321.01</b>	<b>Definitions.</b>	<b>1321.04</b>	<b>Enforcement; penalty.</b>
<b>1321.02</b>	<b>Requirements.</b>	<b>1321.05</b>	<b>Exemptions.</b>
<b>1321.03</b>	<b>Renting or leasing.</b>		

**CROSS REFERENCES**

Occupancy of campers and motor homes - see BLDG. Ch. 1331

**1321.01 DEFINITIONS.**

For purposes of this chapter, the following definitions apply:

- (a) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on side, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections.
- (b) "Site" means any one (1) lots, or any combination of two (2) or more adjacent lots, within the Village.  
(Ord. 1333. Passed 4-23-15.)

**1321.02 REQUIREMENTS.**

(a) Each site for a mobile home or similar type structure shall contain not less than five thousand (5,000) square feet per mobile home or similar type structure to be situated thereon. There shall not be both a house and a mobile home or similar type structure situated upon the same site within the Village unless the site is of such size that an actual division of the site upon the street frontage leaves the required five thousand (5,000) square foot area, and off-street parking facilities for any such mobile home site so created.

(b) Each mobile home or similar type structure, within the Village, shall be properly connected to the Village sanitary sewer system and the Village water system together with all utility connections, in compliance with all requirements with all the ordinances and regulations as may be in existence in the Village with regards to dwellings.

(c) Each mobile home or similar type structure, within the Village, shall be equipped with underskirting of a corresponding or matching material used in construction of the mobile home.

(d) Each mobile home or similar type structure, within the Village, shall have a permanent foundation of either a concrete slab, with proper underskirting as established in subsection (e), or concrete block.  
(Ord. 1333. Passed 4-23-15.)

#### **1321.03 RENTING OR LEASING.**

(a) It shall be unlawful for the owner, in fee simple, of a site within the Village to rent or lease said site for the purposes of placing a mobile home on said site.

(b) Each mobile home or similar type structure, within the Village, shall at all times authorized under this chapter, be the residence of its registered owner, and it shall be unlawful to rent, lease, or sublet the use of such mobile home, or similar type structure, within the Village, unless the site owner was presently under a rental or lease agreement for rental or lease with another individual on September 22, 1988. If the site owner was presently under a rental or lease agreement on September 22, 1988, the site may be continued to be rented or lease; however, the mobile home shall not be vacant for more than ninety (90) days. If said mobile home is vacant for more than ninety (90) days, it shall be unlawful for said mobile home to be rented or leased.

(c) Each mobile home or similar type structure, within the Village, that existed prior to September 22, 1988, is permitted to remain within the Village as long as it remains in the present location which it was located prior to September 22, 1988, and subject to subsections (a) and (b) of this section. If the registered owner of said mobile home or similar type structure, within the Village, removes and relocated said mobile home or similar type structure to another site within the Village, the owner, in fee simple, of said site may not replace said manufactured home.

(d) All owners of mobile homes or similar type structures, that are in compliance with the provisions of this chapter, within the Village, may upgrade a mobile home or similar type structure with a mobile home or similar type structure of better quality and construction.  
(Ord. 1333. Passed 4-23-15.)

#### **1321.04 ENFORCEMENT; PENALTY.**

(a) Upon motion of the Council, enforcement of this chapter may be waived to permit temporary use, which would be in violation of this chapter; however, such temporary use shall not be waived for a period in excess of six (6) months.

(b) Upon a finding by the Council of a violation of the provisions of this chapter and upon motion of the Council, the Village Administrator shall cause a written notice, endorsed by the Mayor, to be sent, by certified mail, return-receipt requested, to the owner, in fee simple, of the site or the owner of the mobile home or similar type structure, or both, advising said owner or owners of the violation and granting him, her, or them thirty (30) days from and after the date of receipt of said notice to remedy the violation without penalty.

(c) After thirty (30) days from the date of receipt of the notice, if the condition of violation remains unremedied, any violation of the provisions of this chapter, the owner, in fee simple, of the site or the owner of the manufactured home or similar type structure may be charged with a minor misdemeanor, which carries a maximum fine of \$150.00, and each subsequent period of thirty (30) days the condition of violation continues to be so constitutes a separate offense.

(Ord. 1333. Passed 4-23-15.)

**1321.05 EXEMPTIONS.**

The two (2) trailer parks presently located within the Village as expressly exempt from the provisions of this chapter.

(Ord. 1333. Passed 4-23-15.)



**CHAPTER 1331**  
**Occupancy of Campers and Motor Homes**

**1331.01 Definitions.**  
**1331.02 Prohibitions.**

**1331.99 Penalty.**

**CROSS REFERENCES**  
Mobile homes - see BLDG. Ch. 1321

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**1331.01 DEFINITIONS.**

For purposes of this chapter, the following definitions apply:

- (a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in Ohio R.C. 4517.01.
- (b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.
- (c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.
- (d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

- (e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American National Standard Institute Standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.
- (f) "Site" means any one (1) lot, or any combination of two (2) or more adjacent lots, within the Village.  
(Ord. 1330. Passed 4-23-15.)

**1331.02 PROHIBITIONS.**

It shall be unlawful for any person to occupy a camper style trailer, as defined in Section 1331.01(a) to (e), on any site in the Village of Bethesda.  
(Ord. 1330. Passed 4-23-15.)

**1331.99 PENALTY.**

Anyone who violates this chapter or permits someone to occupy a camper style trailer, as defined in Section 1331.01(a) to (e) on any site in the Village, may be charged with a minor misdemeanor, which carries a maximum fine of \$150.00.  
(Ord. 1330. Passed 4-23-15.)



**CHAPTER 1341**  
**Abatement of Dangerous Buildings**

<p><b>1341.01 Dangerous building or structures defined.</b></p> <p><b>1341.02 Declaration of nuisance and orders.</b></p> <p><b>1341.03 Notices.</b></p> <p><b>1341.04 Appeals.</b></p> <p><b>1341.05 Repairs and demolition.</b></p> <p><b>1341.06 Emergency demolition and repair.</b></p> <p><b>1341.07 Certification to County Auditor for collection.</b></p>	<p><b>1341.08 Entry and inspection of dwelling and other buildings and structures.</b></p> <p><b>1341.09 Notice of violations.</b></p> <p><b>1341.10 Hearings.</b></p> <p><b>1341.11 Establishment of Building Appeals Board; membership; terms; quorum; meetings.</b></p> <p><b>1341.99 Penalty.</b></p>
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**1341.01 DANGEROUS BUILDINGS OR STRUCTURES DEFINED.**

All buildings or structures or parts thereof which have any of the following defects shall be deemed "dangerous buildings or structures":

- (a) Those whose interior or exterior bearing walls or other vertical structural members list, lean or buckle to such extent as to weaken the structural support they provide.
- (b) Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members, or fifty percent (50%) or more of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads on the floors or roof or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind or other causes so as to no longer provide shelter from the elements and have become dangerous to life, safety, morals or the general health and welfare of the occupants or of the people of the Village.

- (e) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or vermin infested, as to likely cause sickness or disease, or injury to the health, morals, safety or general welfare of those occupying same or of people at large.
- (f) Those which have parts thereof which are so attached that they may fall and injure occupants or the public or property.  
(Ord. 1251. Passed 9-27-01.)

#### **1341.02 DECLARATION OF NUISANCE AND ORDERS.**

All dangerous buildings or structures or parts thereof within the terms of Section 1341.01 hereof, and those structures that are vacant and not secured or adequately fastened so as to prevent ready entrance by an unauthorized person or persons are hereby declared to be public nuisances and shall be repaired or secured or demolished as hereinafter provided:

- (a) If a dangerous building or structure is in such condition as to make it dangerous to the health, morals, safety and general welfare of its occupants, or others, it shall be ordered to be repaired or demolished.
- (b) In any case where a dangerous building or structure is fifty percent (50%) damaged or decayed or deteriorated from its original structure, it shall be ordered to be demolished, and in all cases where a building or structure cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered demolished. (Ord. 1251. Passed 9-27-01.)

#### **1341.03 NOTICES.**

Whenever, upon investigation, the Fire Chief determines that a building or structure is a dangerous building or structure as defined in Section 1341.01 hereof, or if unoccupied is inadequately secured from ready entrance by unauthorized persons, he shall:

- (a) Notify the owner, occupant, lessee, mortgagee or other person having an interest in the building or structure as shown by the records of Belmont County, Ohio, of any of the buildings or structures found by him to be a dangerous building or structure within the standards set forth in this chapter. The owner must repair or demolish the building or structure in accordance with the terms of the notice and this chapter. The occupant or lessee must vacate the building or structure or, with the consent of the owner, may have it repaired in accordance with the notice and order and remain in possession.
- (b) The mortgagee or other person having an interest in the building or structure, as shown by the records of Belmont County, Ohio, may, at his own risk, vacate and repair or demolish the building or structure or have such work or act done.
- (c) Service of the notice shall be made in accordance with Section 1341.09(e).  
(Ord. 1251. Passed 9-27-01.)

#### **1341.04 APPEALS.**

Any person affected by any notice and order provided for in Section 1341.03, may, within ten days after the date of such notice and order, request and shall be granted a hearing on the matter pursuant to the provisions of Section 1341.10.  
(Ord. 1251. Passed 9-27-01.)

**1341.05 REPAIRS AND DEMOLITION.**

If the owner, occupant, mortgagee or lessee fails to comply with the order of the Fire Chief, provided for in Section 1341.03, or the action of the Appeals Board after a hearing, where a hearing has been requested, the Fire Chief shall cause such structure or part thereof to be repaired or demolished and shall cause the cost of such repair or demolition to be charged against the land on which the building or structure existed as a municipal lien as provided in Section 1341.07, or to be recovered in a suit at law against the owner.  
(Ord. 1251. Passed 9-27-01.)

**1341.06 EMERGENCY DEMOLITION AND REPAIR.**

In cases where it reasonably appears, upon investigation, that there is immediate danger to the life or safety of any person unless a dangerous building or structure, as defined in Section 1341.01, is immediately repaired or demolished, the Fire Chief shall cause the immediate repair or demolition of such dangerous building or structure. The cost of such emergency repair or demolition of such dangerous building or structure shall be collected in the same manner as provided in Section 1341.05.  
(Ord. 1251. Passed 9-27-01.)

**1341.07 CERTIFICATION TO COUNTY AUDITOR FOR COLLECTION.**

The total cost, whether the same is incurred due to the use of employees, materials and equipment of the Village, or by contract for labor, materials and equipment, or both, of demolishing or repairing insecure, unsafe and structurally defective buildings, dangerous dwellings or other structures, regardless of whether such is authorized under ordinances of the Village, Ohio R.C 715.26 or Section 3, Article XVIII of the Ohio Constitution, including the cost of service or publication of notice, together with a proper description of the premises shall be certified by the Clerk to the County Auditor and by him placed upon the tax duplicate. Such cost shall be a lien upon such land on and after the date of the entry and shall be collected as other taxes and returned to the Village. (Ord. 1251. Passed 9-27-01.)

**1341.08 ENTRY AND INSPECTION OF DWELLING AND OTHER BUILDINGS AND STRUCTURES.**

The Fire Chief is hereby authorized and directed to make inspections to determine the condition of all structures and premises located within the Village so that he may perform his duties, safeguarding the health and safety of occupants of the structures and the general public. For the purpose of making such inspections and upon showing appropriate identification, the Fire Chief is hereby authorized to enter, examine and survey at any reasonable hour, all buildings and structures in the Village. The owner or occupant of any building or structure or person in charge thereof shall give the Fire Chief access to such building or structure at any reasonable hour for the purpose of inspecting, examination and survey. If refused, the Fire Chief may apply to competent authority for a search warrant. Every occupant of a building or structure shall give the owner thereof, or his agent or employee, access to any part of such building or structure at any reasonable hour for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant to the provisions of this chapter.  
(Ord. 1251. Passed 9-27-01.)

**1341.09 NOTICE OF VIOLATIONS.**

Whenever, upon investigation, the Fire Chief determines that there has been a violation of any provision of this chapter, he shall give notice of such violation to the person or persons responsible therefore and order compliance with the chapter as hereinafter provided. Such notice and order shall:

- (a) Be in writing on an appropriate form.
- (b) Include a list of violations, refer to the section or sections of this chapter violated and order remedial action, which, if taken, effect compliance of the provisions of the chapter.
- (c) Specify a reasonable time for performance, of at least thirty days.
- (d) Advise the owner, operator or occupant of the procedure for appeal.
- (e) Be served upon the owner, occupant or agent, or any other person having an interest in the property, whether legal or equitable, which interest is a matter of record in accordance with the provisions of the service of summons as set forth in the Ohio Rules of Civil Procedure.  
(Ord. 1251. Passed 9-27-01.)

**1341.10 HEARINGS.**

(a) Any person affected by any notice or order which has been issued in connection with the enforcement of any provision of this chapter may request and shall have granted a hearing on the matter before the Building Appeals Board, provided that such person shall file with the Clerk of the Village a written petition requesting such hearing, setting forth the name, address and phone number of the petitioner and a brief statement of the grounds for such hearing or for the mitigation of any order of the Fire Chief. The petition shall be filed within ten days after the notice and order is served. Upon receipt of such petition, the chairperson of the Building Appeals Board shall set a time and place for hearing and shall give the petitioner written notice thereof. The hearing shall be commenced within a reasonable time after the petition has been filed. At such hearing the petitioner shall be given the opportunity to be heard, and show cause why such notice and order should be modified or withdrawn. The failure of the petitioner or his representative to appear and state his case at such hearing shall have the same effect as if no petition were filed. The Fire Chief shall appear before the Building Appeals Board and first present to the Board any and all notices, orders and other material facts regarding violation of any sections of this chapter from which the petition is appealing.

(b) After a hearing, the Building Appeals Board shall sustain, modify or withdraw the notice and order by majority vote, depending upon its finding as to whether the provisions of the chapter have been complied with. The petition, the Fire Chief and Counsel for the Village shall be notified in writing of such findings.

(c) The proceedings at such hearing, including the findings and decision of the Building Appeals Board and reasons therefor, shall be summarized and reduced to writing and entered as a matter of public record in the Clerk's office. Such record shall also include a copy of every notice and order issued in connection with the matter. The Building Appeals Board shall also provide a record detailing the evidence presented at such hearing, but shall not be required to provide a complete stenographic transcript.  
(Ord. 1251. Passed 9-27-01.)

**1341.11 ESTABLISHMENT OF BUILDING APPEALS BOARD; MEMBERSHIP; TERM; QUORUM; MEETINGS.**

(a) There is hereby established a board to be called the Building Appeals Board, consisting of three members who are qualified by experience and training to pass upon matters pertaining to building and construction, and who shall be appointed by the Mayor and confirmed by motion of Council. The Board members shall, upon being appointed, organize themselves and elect their officers.

(b) The Mayor, when appointing the Building Appeals Board for the first time, shall appoint one member of the Board of Appeals for one year, one member for a term of two years, and one member for a term of three years. Upon expiration of the term of office of a member of the Board, his successor shall be appointed for a term of three years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made.

(c) Two members of the Building Appeals Board shall constitute a quorum. No members of the Board shall pass upon questions in which he, or any corporation in which he is a shareholder is interested.

(d) Meetings of the Building Appeals Board shall be held at the call of the chairperson and at such other times as the Board may determine. All hearings before the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member on every question, or if absent or failing to vote, keep such facts, and shall also keep records of its examinations and other official actions. Such minutes and such records shall be public records.

(e) The Building Appeals Board may establish rules and regulations for its own procedure. (Ord. 1251. Passed 9-27-01.)

**1341.99 PENALTY.**

Whoever violates any of the provisions of this chapter or permits any such violation or fails to comply with any requirements thereof shall be guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during, or in which a violation occurs beyond the date set for compliance under Sections 1341.09(c) and 1341.10. (Ord.1251. Passed 9-27-01.)

