

**VILLAGE OF CHAUNCEY
STATE OF OHIO
ORDINANCE NO. 2021-2**

FLOODPLAIN MANAGEMENT

TABLE OF CONTENTS

CHAPTER 1. GENERAL PROVISIONS	1
1.1 TITLE	1
1.2 STATUTORY AUTHORIZATION	1
1.3 FINDINGS OF FACTS	1
1.4 STATEMENT OF PURPOSE	1
1.5 METHODS OF REDUCING FLOOD LOSS	2
1.6 LANDS TO WHICH THESE REGULATIONS APPLY	2
1.7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD	2
1.8 ABROGATION AND GREATER RESTRICTIONS	2
1.9 INTERPRETATION	3
1.10 WARNING AND DISCLAIMER OF LIABILITY	3
1.11 SEVERABILITY	3
CHAPTER 2. DEFINITIONS	3
2.1 DEFINITIONS	3
CHAPTER 3. ADMINISTRATION	9
3.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR	9
3.2 DUTIES, RESPONSIBILITIES AND AUTHORITY OF THE FLOODPLAIN ADMINISTRATOR	10
3.3 FLOODPLAIN DEVELOPMENT PERMITS	10
3.5 REVIEW AND APPROVAL OF A FLOODPLAIN DEVELOPMENT PERMIT APPLICATION	11
3.6 INSPECTIONS	12
3.7 POST-CONSTRUCTION CERTIFICATIONS REQUIRED	12
3.8 REVOKING A FLOODPLAIN DEVELOPMENT PERMIT	12
3.9 EXEMPTION FROM FILING A DEVELOPMENT PERMIT	12
3.10 STATE AND FEDERAL DEVELOPMENT	12
3.11 MAP MAINTENANCE ACTIVITIES	12
3.12 DATA USE AND FLOOD MAP INTERPRETATION	14
3.13 SUBSTANTIAL DAMAGE DETERMINATIONS	15

CHAPTER 4. USE AND DEVELOPMENT STANDARDS FOR FLOODPLAIN MANAGEMENT	16
4.1 USE REGULATIONS	16
4.2 WATER AND WASTEWATER SYSTEMS	16
4.3 SUBDIVISIONS AND LARGE DEVELOPMENTS	16
4.4 RESIDENTIAL STRUCTURES	17
4.5 NONRESIDENTIAL STRUCTURES	18
4.6 ACCESSORY STRUCTURES	18
4.7 RECREATIONAL VEHICLES	19
4.8 ABOVE GROUND GAS OR LIQUID STORAGE TANKS	19
4.9 ASSURANCE OF FLOOD-CARRYING CAPACITY	19
4.10 FILL	21
4.11 COMPENSATORY STORAGE	21
4.12 ESTABLISHMENT OF A RIPARIAN SETBACK	22
4.13 CRITICAL FACILITIES	22
4.14 HAZARDOUS MATERIALS	22
CHAPTER 5. APPEALS AND VARIANCES	22
5.1 APPEALS COMMITTEE ESTABLISHED	22
5.2 POWERS AND DUTIES	23
5.3 APPEALS FROM DECISIONS OF THE FLOODPLAIN ADMINISTRATOR	23
5.4 VARIANCES	23
5.5 PRODEDURE AT HEARINGS	25
5.6 STAY OF PROCEEDINGS	26
5.7 DECISIONS OF THE APPEALS COMMITTEE	26
5.8 APPEAL TO THE COURT	26
CHAPTER 6. ENFORCEMENT	26
6.1 COMPLIANCE REQUIRED	26
6.2 NOTICE OF VIOLATION	26
6.3 VIOLATIONS AND PENALTIES	27

**VILLAGE OF CHAUNCEY
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FLOODPLAIN MANAGEMENT

CHAPTER 1. GENERAL PROVISIONS

1.1 TITLE

This Ordinance shall be known as the "Floodplain Management Ordinance and Regulations of the Village of Chauncey, Ohio," hereinafter referred to as "this ordinance," or "these regulations."

1.2 STATUTORY AUTHORIZATION

Article XVIII, Section 3, of the Ohio Constitution and Ohio Revised Code Sections 1521.13(E) and 1521.18 grants Villages the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Village Council of Chauncey, State of Ohio, does ordain as follows:

1.3 FINDINGS OF FACTS

The Village of Chauncey, Ohio, 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.

1.4 STATEMENT OF PURPOSE

It is the purpose of this Ordinance to promote the public health, safety and general welfare, and to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. 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;
- F. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect public and private property and minimize future flood blight areas;
- G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

- H. Minimize the impact of development on adjacent properties within and near floodprone areas;
- I. Ensure that the flood water storage and conveyance functions of the floodplain are maintained;
- J. Minimize the impact of development on the natural, beneficial values of the floodplain;
- K. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- L. Meet community participation requirements of the National Flood Insurance Program set forth in 44 CFR Part 60 et seq.

1.5 METHODS OF REDUCING FLOOD LOSS

In order to accomplish its purposes, these regulations include methods and provisions for:

- A. 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;
- B. Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

1.6 LANDS TO WHICH THESE REGULATIONS APPLY

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the Village of Chauncey, Ohio, identified in Section 1.7, including any additional areas of special flood hazard annexed by the Village of Chauncey.

1.7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

- A. For the purposes of these regulations, the Flood Insurance Rate Map for Athens County, Ohio and Incorporated Areas, effective December 18, 2009 and the Flood Insurance Study for Athens County, Ohio and Incorporated Areas, effective December 18, 2009 are adopted.
- B. 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.
- C. 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 Chauncey as required by Section 4.3 Subdivisions and Other New Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Village Hall, 1 South Fifth Street, Chauncey, Ohio 45719.

1.8 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 ordinance, deed restriction, covenant, or easement but the land subject to such interests shall also be governed by these regulations. Where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

1.9 INTERPRETATION

In the interpretation and application of these regulations, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. 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.

1.10 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 manmade 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 Chauncey, Ohio, 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.

1.11 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.

CHAPTER 2. DEFINITIONS

2.1 DEFINITIONS

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

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

"Appeal." A request for review of the floodplain administrator's interpretation of or decision under any provision of these regulations or a request for a variance.

"Base flood." The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one percent chance annual flood or 100-year flood.

"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 one to three feet).

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

"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.

"Enclosure below the lowest floor." See "Lowest floor."

"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.

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

"Fill." A deposit of earth material placed by artificial means.

"Flood" or "Flooding." A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood hazard boundary map (FHB)." 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.

"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.

"Flood insurance risk zones." Zone designations on FHBMS and FIRMS that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

"Zone A:" Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.

"Zones A1—30 and Zone AE:" Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.

"Zone AO:" Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of one to three feet (usually sheet flow on sloping terrain); average depths are determined.

"Zone AH:" Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of one to three feet (usually areas of ponding); base flood elevations are determined.

"Zone A99:" Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a federal flood protection system under construction; no base flood elevations are determined.

"Zone B" and "Zone X (shaded):" Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile; and areas protected by levees from the base flood.

"Zone C" and "Zone X (unshaded):" Areas determined to be outside the 500-year floodplain.

"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.

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

"Flood protection elevation." The flood protection elevation, or FPE, is the base flood elevation plus one foot 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.

"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 floodwaters, high potential for debris and projectile impacts, and moderate to high erosion forces.

"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.

"Historic structure." Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
3. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or

"Hydraulic connection." Hydraulic connection is generally defined as a condition where water from one location can reach another location through pervious subsurface geologies in a relatively rapid manner. Two sites with a hydraulic connection between them are considered to be hydraulically connected.

"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.

"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. LOMCS are broken down into the following categories:

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

"Letter of map 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.

"Conditional letter of map revision (CLOMR)." A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A CLOMR does not amend or revise effective flood insurance rate maps, flood boundary and floodway maps, or flood insurance studies.

"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.

"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 4781 of the ORC.

"Manufactured home park." As specified in the OAC 4781-12-01(K), a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

"Market value." Any of the following:

1. Professional appraisal;
2. Auditor's appraised (true) value.

"Mean sea level." For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"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.

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

"Nonconforming uses." The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enacting a zoning ordinance or an amendment to the ordinance, may be continued, although such use does not conform with the provisions of such ordinance or amendment, but if any such nonconforming use is voluntarily discontinued for two years or more, or for a period of not less than six months but not more than two years that a municipal corporation otherwise provides by ordinance, any future use of such land shall be in conformity with sections 713.01 to 713.15 of the Revised Code. The legislative authority of a municipal corporation shall provide in any zoning ordinance for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon such reasonable terms as are set forth in the zoning ordinance.

"Ordinary high water mark." The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. the ordinary high water mark defines the bed of a watercourse.

"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 ORC Section 111.15(A)(2) 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.

"Recreational vehicle." A vehicle which is:

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

"Registered professional architect." A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the ORC.

"Registered professional engineer." A person registered as a professional engineer under Chapter 4733 of the ORC.

"Registered professional surveyor." A person registered as a professional surveyor under Chapter 4733 of the ORC.

"Riparian area." Naturally vegetated land adjacent to streams that, if appropriately sized, helps to stabilize stream banks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.

"Riparian setback." The real property adjacent to a designated stream located in the area defined by the criteria set forth in this regulation.

"Routine maintenance" includes, but is not limited to, replacing roofing, windows or appliances, painting and basement sealing, or for small development activities (except for filling and grading) valued at less than \$2500.00.

"Special flood hazard area." Also known as "areas of special flood hazard," it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on flood insurance rate maps, flood insurance studies, flood boundary and floodway maps and flood hazard boundary maps as Zones A, AE, AH, AO, A1—30, and A99. Special flood hazard areas may also refer to areas that are floodprone 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 floodprone soils associated with a watercourse.

"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.

"Stream." A surface watercourse with a well-defined bed and bank, either natural or artificial, which confines and conducts continuous or periodical flowing water (O.R.C. 6105.01) in such a way that terrestrial vegetation cannot establish roots within the channel.

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

"Substantial damage." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
2. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure;"

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

"Violation." The failure of a structure or other development to be fully compliant with these regulations.

CHAPTER 3. ADMINISTRATION

3.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Village Administrator of the Village of Chauncey or his/her designee is hereby appointed to administer and implement these regulations and is referred to herein as the "floodplain administrator."

3.2 DUTIES, RESPONSIBILITIES AND AUTHORITY OF THE FLOODPLAIN ADMINISTRATOR

The duties, responsibilities and authority of the floodplain administrator shall include but are not limited to:

- A. Evaluate applications for permits to develop in special flood hazard areas.
- B. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- C. 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.
- D. Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- E. 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, floodproofing certificates, variances, and records of enforcement actions taken for violations of these regulations.
- F. Enforce the provisions of these regulations.
- G. Provide information, testimony, or other evidence as needed during variance hearings.
- H. Coordinate map maintenance activities and FEMA follow-up.
- I. 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.

3.3 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 1.7 , 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. All officials and public employees of the village who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue no permit or license for any use, development, or purpose in conflict with the provisions of this chapter. Any permit or license that is issued in conflict with the provisions of this chapter shall be null and void.

3.4 APPLICATION REQUIRED

A written 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 and signed by the owner of the property or on the owner's behalf by an agent authorized in writing by the owner, herein referred to as the "applicant", prior to the actual commencement of such construction on a form furnished by the Village office or Floodplain Administrator 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:

- A. Duplicate 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 in relation to the channel, the floodway, and the flood protection elevation.
- B. Elevation of the existing, natural ground where structures are proposed.
- C. Elevation of the lowest floor, including basement, of all proposed structures.
- D. Such other material and information as may be requested by the floodplain administrator to determine conformance with, and provide enforcement of these regulations.
- E. 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:
 1. Floodproofing certification for nonresidential floodproofed structure as required in section 4.5.
 2. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of subsection 4.4 (E) are designed to automatically equalize hydrostatic flood forces.
 3. 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 4.9.
 4. 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 subsection 4.9 (B).
 5. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by subsection 4.9 (A).
 6. Generation of base flood elevation(s) for subdivision and large-scale developments as required by section 4.3.

3.5 REVIEW AND APPROVAL OF A FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

A. Review.

1. After receipt of a complete application, the floodplain administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 3.4, has been received by the floodplain administrator.

2. 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.
- B. Approval. Within 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 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

3.6 INSPECTIONS

The floodplain administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

3.7 POST-CONSTRUCTION CERTIFICATIONS REQUIRED

The following as-built certifications are required after a floodplain development permit has been issued:

- A. 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.
- B. For all development activities subject to the standards of subsection 3.11 (A), a letter of map revision.
- C. For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Non-Residential Structures completed by a registered professional engineer or architect together with associated documentation.

3.8 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 Village Council in accordance with Chapter 5 of these regulations.

3.9 EXEMPTION FROM FILING A DEVELOPMENT PERMIT

An application for a floodplain development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$2500.

3.10 STATE AND FEDERAL DEVELOPMENT

- A. Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NFIP criteria.
- B. Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable local floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:
 - 1. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781-12.
 - 2. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
 - 3. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- C. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.
 - 1. Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of EO 11988.

3.11 MAP MAINTENANCE ACTIVITIES

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Village of Chauncey, Ohio's flood map and study identified in section 1.7 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(A.) Requirement to submit new technical data.

- (1.) 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:
 - (a.) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - (b.) 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;
 - (c.) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - (d.) Subdivision or other new development proposals requiring the establishment of base flood elevations in accordance with Section 4.3.
- (2.) It is the responsibility of the applicant to have technical data, required in accordance with subsection 3.11 (A) 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.
- (3.) The floodplain administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- (a.) Proposed floodway encroachments that increase the base flood elevation; and
 - (b.) 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.
- (4.) 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 3.11 (A).
- (B.) Right to submit new technical data. The floodplain administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the Village of Chauncey, Ohio, and may be submitted at any time.
- (C.) Annexation/detachment. Upon occurrence, the floodplain administrator shall notify FEMA in writing whenever the boundaries of the Village of Chauncey, Ohio, have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Village's flood insurance rate map accurately represent the Village boundaries, include within such notification a copy of a map of the Village suitable for reproduction, clearly showing the new corporate limits or the new area for which the Village has assumed or relinquished floodplain management regulatory authority.

3.12 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:

- A. 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.
- B. 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.
- C. 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 5., "Appeals and variances."
- D. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

(naturally or by means of fill) to the base flood level prior to sale of the lot. All lots must meet the compensatory storage requirements in Section 4.11 when elevating with fill.

- G. For subdivisions or portions of subdivisions within the 100-year floodplain, each lot must have a naturally elevated (to the base flood level) buildable area in order for a structure to be erected on it.
- H. For subdivisions or portions of subdivisions within the 100-year floodplain, residential structures are not permitted unless there is access to the structure in the event of a base flood.
- I. Each new nonresidential subdivision with adjacent access above the flood protection level shall have direct access to a driveway or roadway whose surface elevation is not less than the flood protection elevation and such escape route shall lead directly out of the floodplain area.

4.4 RESIDENTIAL STRUCTURES

The requirements of Section 4.4 apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 3.13.

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring and construction materials resistant to flood damage are satisfied as required herein.
- B. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- C. 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.
- D. 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. Support structures and other foundation members shall be certified by a registered professional engineer or architect as designed in accordance with ASCE 24, Flood-Resistant Design and Construction.
- E. 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 floodwaters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - 1. Be used only for the parking of vehicles, building access, or storage;
 - 2. 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;
 - 3. 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;

- F. 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.
- G. 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 section 4.4.
- H. Each new residential site with adjacent access above the flood protection level shall have direct access to a driveway or roadway whose surface elevation is not less than the flood protection elevation and such escape route shall lead directly out of the floodplain area.

4.5 NONRESIDENTIAL STRUCTURES

The requirements of Section 4.5 apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 3.13.

- A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of section 4.4.
- B. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - 1. 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;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with subsections (B)(1) and (2) above.
- C. Each new nonresidential site with adjacent access above the flood protection level shall have direct access to a driveway or roadway whose surface elevation is not less than the flood protection elevation and such escape route shall lead directly out of the floodplain area.

4.6 ACCESSORY STRUCTURES

Structures that are 600 square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH designated on the community's FIRM. Such structures must meet the following standards:

- A. They shall not be used for human habitation;
- B. They shall be constructed of flood-resistant materials;

- C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- D. They shall be firmly anchored to prevent flotation;
- E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- F. They shall meet the opening requirements of subsection 4.4 (E)(3).

4.7 RECREATIONAL VEHICLES

Recreational vehicles must meet at least one of the following standards:

- A. They shall not be located on sites in special flood hazard areas for more than 180 days;
- B. They must be fully licensed and ready for highway use; or
- C. They must be placed on the site pursuant to a floodplain development permit issued under Sections 3.3 and 3.4, and meet all standards of section 4.4.

4.8 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.

4.9 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:

- A. Development in floodways.
 - (1.) Prohibited uses. The following uses are prohibited from the floodway district, regardless of their effect on flood levels:
 - (a.) No structure shall be designed, constructed, altered, enlarged, or used for human habitation.
 - (b.) There shall be no manufacture or storage of materials that are buoyant, flammable, toxic, or explosive.
 - (2.) 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
 - (3.) Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - (a.) Meet the requirements to submit technical data in subsection 3.11 (A).
 - (b.) An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - (c.) Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 - (d.) 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

- (e.) Concurrence of the Mayor of the Village of Chauncey, Ohio, and the chief executive officer of any other communities impacted by the proposed actions.
- (4.) Floodway nonconforming uses. Any lawful use of land or buildings existing on the effective date of this chapter, and located in a floodway district in which such would not be permitted as a new use under the provisions of this chapter, is hereby declared to be a nonconforming use. Nonconforming uses may be continued, subject to the following conditions:
 - (a.) No such use, nor any structure or premises put to such use, may be expanded or enlarged; nor may such use, structure, or premises be changed or altered in a way which increases the nonconformity.
 - (b.) If such use is discontinued for 12 or more consecutive months, any future use of the building premises shall conform to this chapter.
 - (c.) Uses or adjuncts thereof that are declared nuisances shall not be entitled to continue as nonconforming uses.
 - (d.) Over the lifetime of a nonconforming use, no structural alterations or repairs to any structure that houses such use shall exceed 50 percent of the structure's assessed value at the time of its use becoming a nonconforming use, unless the structure is permanently changed to a conforming use, or unless the degree of nonconformity is significantly reduced as a result of the changes.
 - (e.) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its assessed value, it shall not be reconstructed except in conformity with the provisions of this chapter.
- B. Development in riverine areas with base flood elevations but no floodways.
 - (1.) 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 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
 - (2.) 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:
 - (a.) 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;
 - (b.) Section 4.9(A)(3) a. and c. – e. above.
- C. 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:

- (1.) 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.
- (2.) 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.
- (3.) 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 Chauncey, Ohio, specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

The applicant shall meet the requirements to submit technical data in section 3.11 when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

4.10 FILL

The following standards apply to all fill activities in special flood hazard areas:

- A. Fill sites, upon which structures will be constructed or placed, must be compacted to 95 percent of the maximum density obtainable with the standard proctor test method or an acceptable equivalent method;
- B. Fill slopes shall not be steeper than one foot vertical to two feet horizontal;
- C. Fill shall be composed of clean granular or earthen material;
- D. Fill shall extend a minimum of 30 feet from the base of the structure to provide access by fire equipment, with a grade not more than two percent for new construction or substantial damage or improvement, on any lots greater than 200 feet wide.

4.11 COMPENSATORY STORAGE

Compensatory storage required for fill.

- A. When fill is used during development on the 100-year floodplain, prior to issuance of a floodplain development permit, a plan and calculations prepared by a professional engineer shall be submitted for approval. This plan shall be based on a field survey, shall show the existing and proposed grades of the development and compensatory storage areas, and shall be accompanied by calculations which demonstrate that the proposed stage vs. storage volume relationship of the compensatory storage area would meet the storage volume requirements outlined in subsection 4.11 (D) at each stage of the proposed development.
- B. Where the applicant proposes compensatory storage on property owned by others, the applicant shall submit a written agreement between such landowner and the applicant wherein the landowner agrees to convey an easement or other property interest or right to the applicant allowing compensatory storage, and to permanently maintain such area for flood storage purposes.

- C. After the development and compensatory storage areas are complete, an as-built topographic survey of the development area and the compensatory storage area shall be prepared and stamped by a professional surveyor and submitted to the Floodplain Administrator. This survey shall be accompanied by as-built stage vs. storage volume calculations prepared by a professional engineer as described in subsection (A) above.
- D. Parking lots. Parking lots within the special flood hazard area (100-year floodplain) may not be elevated with fill, with the exception of a minimal amount of material, such as gravel and asphalt, needed for the construction of the parking surface. All material brought on site shall be compensated by material removed from site. Up to one inch of asphalt for parking lot maintenance may be allowed without compensation. Parking lots also may be filled to meet Americans with Disabilities Act (ADA) requirements for pedestrian access, using on site material.
- E. Within the 100-year floodplain area, a minimal amount of fill should be used to elevate any structures.
- F. Exception: If an existing legal non-conforming structure is substantially damaged, fill may be used to bring an existing basement to original grade as part of bringing the structure into compliance.

4.12 ESTABLISHMENT OF A RIPARIAN SETBACK

- A. Riparian setbacks are established as provided in this section.
- B. Streams addressed by this title are those which meet the definition of "stream" in section 5.2 of these regulations and are indicated on at least one of the following maps:
 - (1.) USGS topographical map;
 - (2.) Currently adopted Village of Chauncey Flood Insurance Study and Flood Insurance Rate Map.
- C. Widths of setbacks are measured as horizontal map distance outward from the ordinary high water mark on each side of a stream, and are established as follows:
 - (1.) A minimum of 75 feet on each side of all streams draining an area 100 square miles or greater.
 - (2.) A minimum of 30 feet on each side of all streams draining an area between 15 and 100 square miles.
 - (3.) A minimum of 15 feet on each side of all streams draining an area of 15 or less square miles.

4.13 CRITICAL FACILITIES

New critical facilities are prohibited on the five percent annual chance (20-year) floodplain. Existing facilities are allowed to perform any maintenance necessary to continue operation, but are prohibited from expanding unless the facility has direct access to a driveway or roadway whose surface elevation is not less than the flood protection elevation and such escape route leads directly out of the floodplain area.

4.14 HAZARDOUS MATERIALS

There shall be no manufacture or storage of hazardous materials within the 100-year floodplain except as may be provided by federal and state law.

CHAPTER 5. APPEALS AND VARIANCES

5.1 APPEALS COMMITTEE ESTABLISHED

- A. The Village of Chauncey Mayor shall appoint a Planning Commission as described in Rules of Council, Rule 19. The committee shall review appeals as provided herein.
- B. The organization of the Planning Commission is described in Rules of Council, Rules 19 and 20.

5.2 POWERS AND DUTIES

- A. The Planning Commission designated in its appeals function as the "Appeal" committee 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; and
- B. Shall consider and authorize variances in accordance with section 5.4 of these regulations.

5.3 APPEALS FROM DECISIONS OF THE FLOODPLAIN ADMINISTRATOR

- A. Any person with standing regarding a notice, decision, order, or other official action of the floodplain administrator may request and shall be granted a hearing on the matter before the Planning Commission provided that such person shall file, within 20 days of the date of such decision, notice, order, or other official action, a brief written statement of the grounds for such hearing request or for the mitigation of any item appearing on any part of the floodplain administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the floodplain administrator and the Village Fiscal Officer or Village Clerk.
- B. Information required in appeals. The following information, submitted in writing, shall accompany any appeal, and no appeal shall be complete, nor shall it be scheduled for hearing, until all such required information shall have been submitted:
 - (1.) All of the material required in section 3.4, "Application Required," of this chapter;
 - (2.) A copy of the floodplain administrator's refusal, action, notice, order, determination, or decision from which the appeal is taken; and
 - (3.) Where an appellant alleges error in an order, requirement, decision, determination, or refusal made by the floodplain administrator, a written statement of the section of this title for which the alleged erroneous ruling is being appealed, and of the reasons why the appellant believes the ruling to be erroneous. 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 Planning Commission.
- C. Upon receipt of the notice of appeal, the Appeals Committee may fix a reasonable time for the appeal hearing, give ten days' public notice thereof, as well as notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted on the record. At the hearing, any party may appear in person or be represented by an authorized agent or attorney. The Village floodplain administrator may be represented by the Solicitor. Testimony shall be conducted under oath. A record of the proceeding shall be arranged by and paid for by the appellant and copies shall be provided to the Appeals Committee free of charge. Failure to do so shall be grounds for dismissal of the appeal with prejudice.

5.4 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 Planning & Development Committee 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.

A. Application for a variance.

1. 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 Chauncey Planning Commission Committee.
2. Such application at a minimum shall contain the following information:
 - a. All of the material required in section 3.4, "Application Required," of this chapter;
 - b. A copy of the floodplain administrator's refusal, order, determination, or decision from which the appeal is taken; and
 - c. A written statement in the terms of subsection 5.4 (D) of the reasons why a variance should be granted.
 - d. 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.
 - e. All applications for a variance shall be accompanied by a Variance Application Fee set in the Schedule of Fees adopted by the Village of Chauncey.

B. Notice for public hearing. Upon receipt of the notice of appeal, the Planning Commission shall fix a reasonable time for the appeal, give thirty (30) days' public notice thereof, as well as notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

C. Public hearing. At such hearing the applicant shall present such statements and evidence as the Planning Commission requires. In considering such variance applications, the Planning Commission 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 that 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 floodwaters 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.
- D. 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.
 6. Upon consideration of the above factors and the purposes of these regulations, the Chauncey Planning Commission may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.
- E. Other conditions for variances.
1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 2. 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 (C)(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.
 3. 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.

Any variance to permit encroachment within a designated floodway shall be conditioned upon approval by FEMA as outlined in Section 3.11(A)(3).

5.5 PROCEDURE AT HEARINGS

- A. All testimony shall be given under oath.
- B. A complete record of the proceedings shall be kept at the expense of the appellant, except confidential deliberations of the Appeals Committee, and including all documents presented and a verbatim record of the testimony of all witnesses.
- C. The appellant shall proceed first to present evidence and testimony in support of the appeal or variance.
- D. The floodplain administrator may present evidence or testimony in opposition to the appeal or variance.

- E. All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- F. Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- G. The Appeals Board shall issue subpoenas upon written request of ant party for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- H. The Appeal 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 after the hearing and submitted to the appellant.

5.6 STAY OF PROCEEDINGS

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the floodplain administrator certifies to the Appeals Committee after notice of appeal shall have been filed with him, that, by reason of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by the court of common pleas on application, on notice of the floodplain administrator, or by judicial proceedings, and on due cause shown.

5.7 DECISIONS OF THE APPEALS COMMITTEE

The Appeals Committee shall decide all appeals within 30 days after the final hearing thereon. A certified copy of the board's decision shall be transmitted to the appellant, and to the floodplain administrator. Such decision shall be binding upon the floodplain administrator and shall be observed by him, and he shall incorporate the terms and conditions of the same in the permit to the appellant, whenever a permit is authorized by the Appeals Committee.

5.8 APPEAL TO THE COURT

Those aggrieved by the decision of the Appeals Committee may appeal such decision to the Athens County Court of Common Pleas, as provided in Chapter 2506 of the ORC. Such appeal petition shall be presented to the court within 30 days after the day upon which written notification of the Appeal Committee's decision is mailed to the applicant or appellant.

CHAPTER 6. ENFORCEMENT

6.1 COMPLIANCE REQUIRED

- A. 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 herein.
- B. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with section 6.3.
- C. 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

- B. 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;
- C. Specify a reasonable time for performance;
- D. Advise the owner, operator, or occupant of the right to appeal;
- E. 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.

6.3 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 first degree misdemeanor pursuant to O.R.C. 715.67. 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 State of Ohio and the Ordinances of the Village of Chauncey, Ohio. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Chauncey, Ohio from taking such other lawful action as is necessary to prevent or remedy any violation. The Village of Chauncey, Ohio, shall prosecute any violation of these regulations in accordance with the penalties stated herein.

PASSED this 8th day of April, 2021.

ATTEST:

Connaught Cullen
 Connaught Cullen
 Council President

ATTEST:

Kevin Simons
 Kevin Simons
 Fiscal Officer

APPROVED AS TO FORM:

Robert J. Shostak
 Robert J. Shostak, Esq.
 Solicitor

APPROVED:

Amy Renner
 Amy Renner
 Mayor

First Reading: 2/11/21

Second Reading: 3/11/21

Third Reading: 4/9/21

**CERTIFICATION OF FISCAL OFFICER AS TO
POSTING OF ORDINANCE**

The foregoing is a true copy of the original Ordinance No. 2021-2.

Publication of this Resolution was made by posting a copy of the same in the following five locations within the Village, beginning on April 12, 2021, and concluding on April 17, 2021, (at least 15 days later):

Location	Date Posted:
Village Hall	<u>04/12/2021</u>
Chauncey Food Mart	<u>04/12/2021</u>
Cee Dee	<u>04/12/2021</u>
Post Office	<u>04/12/2021</u>
Library	<u>04/12/2021</u>

ATTEST:

Date:  _____
Kevin Simons
Fiscal Officer