

# RECORD OF ORDINANCES

Dayton Legal Blank Co.—10116

Ordinance No. 1993-06

Passed May 18, 1993

AN ORDINANCE ENACTING AND ADOPTING SUPPLEMENT NO. 13 TO THE CODE OF ORDINANCES OF THE MUNICIPALITY OF BROOKVILLE, OHIO, AND DECLARING IT AN EMERGENCY.

WHEREAS, the American Legal Publishing Company of Cincinnati, Ohio, has completed No. 13 Supplement to the Code of Ordinances of the Municipality of Brookville, Ohio, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this Municipality; and

WHEREAS, said American Legal Publishing Company has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to the sections of the Ohio Revised Code; and

WHEREAS, adoption of these recommendations would bring those sections of the Code of Ordinances of the Municipality of Brookville, Ohio, into conformance with the Ohio Revised Code; and

WHEREAS, it is the intent of the Council of the Municipality of Brookville, Ohio, to accept these updated sections in accordance with the changes of the law of the State of Ohio; and

WHEREAS, it has been deemed necessary for the public peace, health, safety and welfare of the Municipality and for its citizens to have its Code of Ordinances so updated;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE MUNICIPALITY OF BROOKVILLE, OHIO, THAT:

## SECTION I:

The No. 13 supplement to the Code of Ordinances of the Municipality of Brookville, Ohio, as submitted by the American Legal Publishing Company of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

## SECTION II:

This ordinance is hereby declared to be an emergency measure and necessary for the immediate preservation of the public peace, health, safety and welfare and it shall therefore take effect immediately upon passage by two-thirds of the members of the Council of the Municipality of Brookville, Ohio.

PASSED this 18th day of May, 1993.

ATTEST:

  
E. Eugene Roeser, Clerk

  
Michael A. Duncan, Mayor

**SPECIAL PURPOSE  
FLOOD DAMAGE PREVENTION ORDINANCE**

**SECTION 1.0  
STATUTORY AUTHORIZATION, FINDINGS OF FACT  
PURPOSE AND OBJECTIVES**

**SECTION 1.0 Comment:**

*These sections of the ordinance establish the statutory authorization and justification for adopting the floodplain regulations. They may be reworded or shortened to suit a community's needs.*

**1.1 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  
Municipality of Brookville, State of Ohio  
(governing body) (local unit)  
does ordain as follows:

**1.2 FINDINGS OF FACT**

- (1) The flood hazard areas of Brookville are subject to  
(local unit)  
periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**1.3 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;

- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (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 minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### 1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

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

#### SECTION 2.0 DEFINITIONS

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

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

"Appeal" means a request for review of the Municipal Manager's  
(local administrator)  
interpretation of any provision of this ordinance or a request for a variance.

"Area of special flood hazard" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.

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

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

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

*"Development" Comment:*

*The NFIP Regulations require that all proposed developments within the special flood hazard area, or 100-year floodplain, must be reviewed to determine if the activity falls within the scope of the local flood damage prevention regulations. In addition to "structural" development proposals (e.g. new construction and improvements to existing structures), "nonstructural" developments (e.g. filling, grade alterations, excavations, and mining or drilling activities) must be reviewed through the local permit process to ensure that the developments will not be affected by floodwaters and not adversely affect the flow of the floodwaters. Other examples of development activities include storage of materials and equipment, dredging operations, and paving.*

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

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

- (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 Insurance Rate Map" (FIRM) means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

"Flood Insurance Study" means the official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*"Floodway" Comment:*

*The floodway consists of the channel and adjacent overbank area that conveys most of the flood flow. The boundaries of the floodway were determined through engineering studies that calculated the expected increase in flood heights resulting from existing and future developments in the floodplain. NFIP standards restrict increases in flood height to no more than one foot. The allowable increase is found in the Flood Insurance Study under Section 4.2, Floodways, and is usually one foot; however, some earlier flood studies have been completed using a 0.5 foot increase.*

"Historic Structure" means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) By an approved state program as determined by the Secretary of the Interior or
  - (ii) Directly by the Secretary of the Interior in states without approved programs.

*"Historic Structure" Comment:*

*For more information about a structure's historic designation please contact The Ohio Historical Society, 1985 Velma Avenue, Columbus, Ohio 43211, (614) 297-2300.*

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable design requirements specified in this ordinance for enclosures below the lowest floor.

*"Lowest Floor" Comment:*

*The NFIP regulations require that the lowest floor, including basement, of residential structures be elevated to or above the base flood elevation, and that nonresidential structures be elevated or floodproofed to at least the 100-year flood elevation..*

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

*"Manufactured home" Comment:*

*Ohio law (ORC Section 3733.02) states that the Public Health Council shall have exclusive power to make rules and issue licenses over manufactured home parks. You may contact the local health board, or the Ohio Department of Health to find out whether a manufactured home park falls under their exclusive jurisdiction.*

*Generally speaking, all manufactured homes used as primary residences are subject to regulations (including flood damage prevention standards) adopted by the Public Health Council. One or two manufactured homes, or manufactured home parks that do not meet the Public Health Council definition of "primary residence", i.e. occupied by the same person(s) for at least 120 days per year must conform to this ordinance.*

"Manufactured home park" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, for which the Public Health Council has exclusive rule making power.

"Manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, for which the Public Health Council has exclusive rule making power.

"New construction" means structures for which the "start of construction" commenced on or after the initial effective date of the Brookville's Flood Insurance Rate Map, and includes any subsequent local unit improvements to such structures.

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



"Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

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

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*"Substantial Damage" Comment:*

*Structures which have sustained serious damage from any source to the extent the cost of repair would exceed 50 percent or more of the market value of the structure before the damage occurred, must conform to the flood damage prevention standards of the ordinance.*

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. 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 by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or
- (3) Any improvement to a structure which is considered new construction.

"Variance" means a grant of relief from the standards of this ordinance consistent with the variance conditions herein.

## SECTION 3.0 GENERAL PROVISIONS

### 3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Brookville, Ohio as identified by the (local unit) Federal Emergency Management Agency, including any additional flood hazard areas annexed by the Brookville that are not identified on the (local unit) effective Flood Insurance Rate Map.

#### *3.1 Lands To Which This Ordinance Applies Comment:*

*When a community annexes land from another community which includes special flood hazard area, it has a responsibility to ensure that all new construction, substantial improvements, and other developments conform to the local flood damage prevention regulations. At the same time the community must notify FEMA of the annexation by submitting an updated community map or other information to identify the area of annexation, and request that the flood maps be revised.*

### 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study for the Brookville." This (local unit) study, with accompanying Flood Boundary and Floodway Maps and/or Flood Insurance Rate Maps dated October 15, 19 81 and any revisions thereto is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at 130 Main Street. (address)

#### *3.2 Basis For Establishing The Areas Of Special Flood Hazard Comment:*

*Many earlier Flood Insurance Studies produced a community's floodplain information on two different types of flood maps: Flood Insurance Rate Maps, and Flood Boundary and Floodway Maps. Most recently completed studies produce a single map format, the Flood Insurance Rate Map, which identifies both the floodway and flood fringe.*

### 3.3 COMPLIANCE

No structure or land shall hereafter be located, erected, constructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this ordinance and all other applicable regulations which apply to uses within the jurisdiction of this ordinance, unless specifically exempted from filing for a development permit as stated in Section 4.2, EXEMPTION FROM FILING A DEVELOPMENT PERMIT.



### 3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### 3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

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

### 3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of Brookville, any (local unit) officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

### 3.7 VIOLATIONS AND PENALTIES

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

The Brookville shall prosecute any violation of this ordinance (local unit) in accordance with the penalties stated herein.

### 3.7, Violations And Penalties Comment:

*Under this section, the community must establish procedures for establishing and remedying violations to the standards of the floodplain management regulations. These regulations are not unlike any other legally enforceable land use regulations, and shall be enforced when violations are discovered and documented. The community's legal counsel should review and provide comment on the appropriate penalty for violation of the floodplain regulations. Alternatively, the community may reference penalties from another part of its existing codified regulations.*

## SECTION 4.0 ADMINISTRATION

### SECTION 4.0, ADMINISTRATION Comment:

*By participating in the NFIP a community agrees to review all proposed developments prior to construction and issue permits under the authority of its floodplain management regulations for all activities to be located within the special flood hazard area. This responsibility includes reviewing projects undertaken by state or other local governments. Prior to issuing the local floodplain development permit the local Floodplain Administrator must review site plans and drawings, structural plans, and survey elevations to determine the project's location with respect to the floodway and flood fringe, and to establish the appropriate standards for flood protection. To verify compliance with the floodplain management regulations the certified "as-built" lowest floor elevation of any new construction or substantial improvements to existing structures must be obtained.*

*The specific duties of the local Floodplain Administrator are outlined within Section 4.0 of the Flood Damage Prevention Regulations below. For guidance procedures on the permit requirements and administrative documentation necessary for community compliance with the NFIP regulations, local officials are directed to the ODNR manual National Flood Insurance Program: A Handbook for Local Permit Officials, which can be obtained from the ODNR Division of Water, Floodplain Management Unit.*

*A community may wish to add a subsection establishing a basic filing charge for all proposed developments in the flood hazard area. If the local floodplain administrator determines that a development must comply with local floodplain standards, than an additional permit fee may be charged to compensate for the plan reviews and site inspections. Such a permit fee should be established according to the local government's statutory authority and be in a standardized format, e.g. based on a flat fee, sliding scale according to the value of the development, etc..*

### 4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained from the Municipal Manager  
(local administrator)

before construction or development begins within any area of special flood hazard established in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. Application for a Development Permit shall be made on forms furnished by the Municipal Manager and may include, but not  
(local administrator)

be limited to: site specific topographic plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in special flood hazard areas where base flood elevation data are utilized;
- (2) Elevation in relation to mean sea level to which any proposed structure will be floodproofed in accordance with Section 5.2-2(1) where base flood elevation data are utilized;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2(1) where base flood elevation data are utilized;
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.

*Section 4.1, Establishment Of Development Permit Comment:*

*When a community chooses to join the NFIP, it must require floodplain permits for all proposed construction and other development within its flood hazard areas to ensure that such developments minimize flood damage. A community is required to review all classes of structures including residential, commercial, and industrial structures as well as fill and other activities which may have an impact on flood hazards. Such floodplain reviews include requirements to obtain and record the actual elevation of a structure's lowest floor, including basement, and a description of the method of flood protection (e.g. fill, piers, enclosure below lowest floor, etc.).*

*It should be noted that commercial, industrial, and multi-residential structures are subject to state building standards under the Ohio Basic Building Code. The Ohio Basic Building Code does not assure compliance with the NFIP requirements; therefore, even though such a structure must comply with state building regulations, the structure must also receive a local floodplain permit, if it is located in a FEMA identified flood hazard area. Compliance with state building regulations does not relieve a community of the responsibility to undertake local floodplain reviews, or preempt the community from enforcing floodplain management regulations over such classes of structures.*

*It is recommended that communities develop and adopt a special type of permit applicable to flood hazard area activities. Such a permit should be specifically written to reference the nature of the development proposed, its location in the floodplain, type and source of flood elevation and floodway data available, and document the applicable standards of the floodplain management regulations being required as a condition of permit approval. The Floodplain Management Unit of the Division of Water can assist a community in developing a special permit form and recordkeeping procedure. For more information contact the Division of Water.*

#### **4.2 EXEMPTION FROM FILING A DEVELOPMENT PERMIT**

An application for a Development Permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$1,000.00. Any proposed action exempt from filing for a Development Permit is also exempt from the standards of this ordinance.

*Section 4.2, Exemption From Filing A Development Permit Comment:*

*The only development activities exempt from the Development Permit are very minor activities specifically referenced in this section. All other development activities, including building additions, construction or placement of small storage sheds, fences, etc. must obtain a permit before construction begins. The permit approval requirements will depend on which of the General Standards (Section 5.0) and Specific Standards (Sections 5.2 and 5.3) apply to the activity proposed.*

**4.3 DESIGNATION OF THE FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR**

The Municipal Manager is hereby appointed to  
(local administrator)  
administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

*Section 4.3, Designation Of The Flood Damage Prevention Ordinance Administrator Comment:*

*The individual or office designated to administer the Flood Damage Prevention Regulations should take responsibility for issuing all applicable local permits, such as building and zoning permits, associated with a proposed development in the flood hazard area. The administrator of the regulations must also be charged with responsibility for maintaining permit files, variance records, topographic maps and site plans, and all other pertinent information which document the compliance of development activities with the standards of the floodplain management regulations.*

**4.4 DUTIES AND RESPONSIBILITIES OF THE** Municipal Manager  
(local administrator)

The duties and responsibilities of the Municipal Manager  
(local administrator)  
shall include but are not limited to:

**4.4-1 PERMIT REVIEW**

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits 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 Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.
- (3) Review all development permits to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 5.3(1) is met.



*Section 4.4-1, Permit Review Comment:*

*The local administrator shall review all applications for permits to develop in the flood hazard area, and determine what information is necessary to ensure compliance with the standards of the floodplain management regulations. Even though other local, state, or federal agencies may have permit authority, in most cases such authority does not preempt the local floodplain permit review. However, it is recommended that the local administrator view this as an opportunity to "coordinate" all other reviews from a floodplain management standpoint.*

**4.4-2 USE OF OTHER BASE FLOOD ELEVATION AND FLOODWAY DATA**

Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, are designated as Zone A on the community's Flood Insurance Rate Map. Within these areas, the Municipal Manager shall obtain, review and

*(local administrator)*

reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, including data obtained under Section 5.2-6, SUBDIVISIONS AND LARGE DEVELOPMENTS, in order to administer Section 5.2-1, SPECIFIC STANDARDS, Residential Construction; 5.2-2, SPECIFIC STANDARDS, Non-residential Construction; and 5.3, FLOODWAYS.

*Section 4.4-2, Use Of Other Base Flood Elevation And Floodway Data Comment:*

*Private engineering firms as well as government agencies (such as the U.S. Geologic Survey, U. S. Army Corps of Engineers, and Soil Conservation Service) conduct floodplain information studies. These studies contain base flood elevation data and, occasionally, floodway data. Within Zone A on the community's Flood Insurance Rate Map, FEMA requires that the local floodplain administrator utilize base flood elevation data from any source to require that structures are elevated or floodproofed. If floodway data are also available, then the administrator must also require that any development located within the designated floodway meet the requirements of Section 5.3, Floodways.*

**4.4-3 INFORMATION TO BE OBTAINED AND MAINTAINED**

Where base flood elevation data are utilized within areas of special flood hazard on a community's Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and record whether or not such structures contain an enclosure below the lowest floor;
- (2) For all new or substantially-improved floodproofed nonresidential structures:
  - (i) verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and,
  - (ii) maintain the floodproofing certifications required in Section 4.1(3).



- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

*Section 4.4-3, Information To Be Obtained And Maintained Comment:*

*In areas of special flood hazard where base flood elevations are shown on the community's Flood Insurance Rate Map, the local floodplain administrator must obtain and record the actual elevation of the lowest floor, including basement, of all new or substantially improved residential structures, or the level to which nonresidential structures have been elevated or floodproofed. An effective method of accomplishing this task is to utilize FEMA's Elevation Certificate for residential or nonresidential structures being elevated to the base flood elevation, or FEMA's Floodproofing Certificate for floodproofing of nonresidential structures. Information about the use and ordering of these forms is provided in the ODNR Handbook for Local Permit Officials.*

*In addition to certification that a structure's "as-built" lowest floor, including basement, or floodproofed elevation is compliant with the floodplain management regulations, insurance agents can utilize the elevation data from the certification to properly rate a structure for flood insurance purposes.*

#### 4.4-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any change occurs within its banks.
- (2) Maintain engineering documentation required in Section 4.1(4) that the flood carrying capacity of the altered or relocated portion of said watercourse will not be diminished.
- (3) Require that necessary maintenance will be provided for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

*Section 4.4-4, Alteration Of Watercourses Comment:*

*Prior to any alteration or relocation of a watercourse for which flood hazard areas have been identified on a community's Flood Insurance Rate Map, adjacent communities and the Ohio Department of Natural Resources, Division of Water must be notified in writing by the community in which the alteration or relocation is being proposed. FEMA must receive evidence of the notification. The main purpose of the notification is to invite comment by communities which may be affected by the stream alteration or relocation. Additionally, the appropriate district office of the U.S. Army Corps of Engineers should be contacted since such activity may be subject to federal permit requirements under Section 404 of the Clean Water Act. Proper notification of a watercourse alteration or relocation should include a map and supplemental information.*

*For any watercourse alteration or relocation an engineering analysis should be performed to demonstrate that the flood carrying capacity of the altered or relocated portion of the watercourse will not be diminished, and it must be demonstrated that the altered or relocated watercourse will be maintained. A plan of maintenance of the channel alteration is necessary to reduce the possibility of erosion or increases in flood velocities which could aggravate flooding conditions. Additionally, the community should examine the effects of the alteration or relocation to determine if the community's Flood Insurance Rate Map needs to be revised by FEMA to reflect the effect of the modification on base flood elevations and/or floodways. Standard procedures for requesting map revisions are found in the National Flood Insurance Program Regulations, available from the Division of Water.*

#### 4.4-5 INTERPRETATION OF FLOOD BOUNDARIES

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Where a map boundary and field elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.5, VARIANCE PROCEDURE.

*Section 4.4-5, Interpretation of Flood Boundaries Comment:*

*The local floodplain administrator has authority to make map interpretations based on a comparison of the Flood Insurance Rate Map and flood profiles from the Flood Insurance Study to existing grades as shown on surveys, topographic maps, etc. Where significant differences in the relationship between the map boundary and existing ground exist, a map revision should be requested from FEMA. Information on the standard procedures for requesting flood map revisions from FEMA are available from the Division of Water.*

#### 4.5 VARIANCE PROCEDURE

*Section 4.5, Variance Procedure Comment:*

*Variances from the standards of the floodplain management regulations must be examined very carefully, due to the implications for increased flood damages and insurance costs arising from such decisions. It is important to remember that any variances to the requirements should only be based on the physical characteristics of the proposed development site and the structure, i.e. the physical hardship imposed by meeting all floodplain standards would exceed the benefits of flood protection. No variances should be granted for economic or social considerations, and variances for floodway activities are prohibited unless the applicant can demonstrate that no increases in base flood elevations or other adverse impacts would be created if the variance is granted. For more information, refer to the FEMA variance guidelines available from the Division of Water.*

#### 4.5-1 APPEAL BOARD

- (1) The Zoning Board of Appeals as established by  
(appeal board)  
Brookville shall hear and decide appeals and  
(local unit)  
requests for variances from the requirements of this ordinance.

- (2) The Zoning Board of Appeals  
(appeal board) shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Municipal Manager  
(local administrator) in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals or  
(appeal board) any taxpayer, may appeal such decision to the Montgomery County  
(county) Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
- (4) In passing upon such applications, the Zoning Board of Appeals  
(appeal board) shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
- (i) the danger that materials may be swept onto other lands to the injury of others;
  - (ii) the danger to life and property due to flooding or erosion damage;
  - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (iv) the importance of the services provided by the proposed facility to the community;
  - (v) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (vi) the necessity to the facility of a waterfront location, where applicable;
  - (vii) the compatibility of the proposed use with existing and anticipated development;
  - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

- (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of Section 4.5-1(4) and the purposes of this ordinance, the Zoning Board of Appeals *(appeal board)* may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) The Municipal Manager *(local administrator)* shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

#### 4.5-2 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) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (3) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.5-1(4) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (4) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (5) Variances shall only be issued upon:
- (i) a showing of good and sufficient cause;
  - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

- (iii) a determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this ordinance, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.5-1(4), or conflict with existing local laws or ordinances.
- (6) 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.

*Section 4.5-2, Conditions For Variances Comment:*

*Variances should only be granted under the NFIP in situations where either the physical characteristics of the site (e.g. topography, drainage) or the physical limitations of flood protection on the site (e.g. effects of fill on drainage for surrounding properties) might aggravate existing flood conditions. Generally, the type of condition meeting these criteria is within an existing development, such as a small undeveloped lot in a subdivision or older developed area of a community, where the size of the parcel is normally less than one-half acre. The larger the lot, the easier it will be for an applicant to meet the requirements of the regulations*

*As noted above, no variances can be granted within a regulatory floodway (shown on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map) unless an engineering analysis performed in accordance with standard hydraulic engineering practices demonstrates no increase in base flood elevations during the base flood discharge.*

*Often a community's Appeal Board may be able to require flood protection standards even though some considerations may be granted by variance. Examples are: elevation to the highest grade on the lot, a compromise on the amount of fill required, and use of flood resistant materials and construction techniques.*

*Any reduction in flood protection of a proposed structure or substantial improvement below the base flood elevation by way of a variance will be reflected in higher flood insurance premiums for that structure, since the cost of flood insurance is set by federal law. Variances are only granted for floodplain management purposes, not for insurance rating. The applicant for a variance must therefore be given written notice that the increased flood insurance premium will be commensurate with the increased risk of flood damage.*



## SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

### *Section 5.0, Provisions For Flood Hazard Reduction Comment:*

*The following flood protection criteria are divided into several important areas of regulation called "performance standards". Section 5.1, General Standards, applies to all proposed new and substantially improved structures, and constitutes the general construction, utility, and subdivision requirements of the NFIP. Section 5.2, Specific Standards, contains the flood elevation standards for different types of buildings. Section 5.3, Floodways, establishes criteria for maintaining the "floodway", or high velocity flow area of the floodplain, free of obstructions which would increase flood levels.*

### 5.1 GENERAL STANDARDS

In all areas of special flood hazard the following standards are required:

#### 5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) All manufactured homes, not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks, shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

### *Section 5.1-1, Anchoring Comment:*

*Special anchoring techniques must be utilized in the design and construction of new and substantially improved structures to be located in the Special Flood Hazard Area. These anchoring standards are especially important for more buoyant structures such as manufactured homes, small storage sheds, etc., which may float off site, lodge against a bridge and create an obstruction, or collide into another building. FEMA has produced explicit technical manuals and bulletins for guidelines on these anchoring requirements. For more information or to order a manual, contact the Division of Water.*

#### 5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials resistant to flood damage;
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and

- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

*Section 5.1-2, Construction Materials And Methods Comment:*

*As with anchoring techniques in flood hazard areas, special construction materials and methods are necessary for new or substantially improved structures proposed for development within the flood hazard area. Sealants, wall and floor materials, adhesives, and other building materials must be chosen for their impermeability and resistance to floodwaters, and installed accordingly. The local floodplain administrator must ensure that a proposed development utilizes all feasible and available materials and methods for flood damage reduction.*

### 5.1-3 UTILITIES

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 them or contamination from them during flooding.

*Section 5.1-3, Utilities Comment:*

*In many cases the local Health Department may establish restrictions on the type and installation of utilities in the flood hazard area. This is especially true in the case of water and sewer lines, septic tanks, and other infrastructure which have the potential to be impaired or damaged by floodwaters. Backflow valves, elevation of electric boxes and other connections, and other techniques should be utilized in the design and construction of proposed buildings and other developments.*

### 5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals, including manufactured home subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and

- (4) All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of Section 5.2-6, SUBDIVISIONS AND LARGE DEVELOPMENTS.

*Section 5.1-4, Subdivision Proposals Comment:*

*All proposed subdivisions, industrial parks, and other "large scale" developments within the flood hazard area must incorporate special design considerations to reduce flood damage potential. For those developments greater in size than 50 lots or 5 acres, whichever is less, to be located in flood hazard areas shown as Zone A on the community's Flood Insurance Rate Map, the local floodplain administrator must ensure that base flood elevation data are provided. Generally, this means that the applicant must generate such base flood elevation data. Alternatively, the community may wish to undertake its own flood study to generate base flood elevation data. The flood study method used may depend on the availability of existing floodplain information, but should be prepared following current standards for hydrologic and hydraulic analysis.*

**5.1-5 STANDARDS IN AREAS OF SPECIAL FLOOD HAZARD WITHOUT BASE FLOOD ELEVATION DATA**

In all areas of special flood hazard identified as Zone A on the Flood Insurance Rate Map where base flood elevation data are not available from any source, the following provisions apply:

- (1) New Construction and substantial improvement of any residential, commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to at least two feet above the highest adjacent natural grade.

*Section 5.1-5 Comment:*

*This section is optional but strongly recommended. Elevation of the lowest floor, including basement, at least two feet above the highest adjacent grade will ensure minimal flood protection, as well as reduced flood insurance premiums.*

**5.2 SPECIFIC STANDARDS**

In all areas of special flood hazard where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD; Section 4.4-2, USE OF OTHER BASE FLOOD ELEVATION AND FLOODWAY DATA; or Section 5.2-6, SUBDIVISIONS AND LARGE DEVELOPMENTS, the following provisions are required:

*Section 5.2, Specific Standards Comment:*

*The following flood protection standards apply in those areas of flood hazard shown on the community's Flood Insurance Rate Map where base flood elevation data are available from the Flood Insurance Study or from other federal, state, or local sources.*

## 5.2-1 RESIDENTIAL CONSTRUCTION

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to the base flood elevation.

### *Section 5.2-1, Residential Construction Comment:*

*FEMA's minimum standards require protection to the base flood elevation. However, the Ohio Department of Natural Resources recommends that communities exceed FEMA's minimum requirements by protecting developments an additional 1 to 2 feet above the base flood elevation. This 1 to 2 feet should be considered an additional safety factor, to account for floods greater than that predicted in the Flood Insurance Study. Additional flood protection can also have other benefits in the form of greatly reduced flood insurance premiums. Public facilities such as utilities, educational and health care facilities, and any other development which, if damaged, would cause great hardship to the community, should be protected in this manner. Elevation of structures on fill also necessitates special site considerations such as fill compaction standards, extension of the fill pad at least 15 feet beyond the building perimeter, etc.*

## 5.2-2 NONRESIDENTIAL CONSTRUCTION

- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - (i) be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the base flood elevation. In order to be eligible for lower flood insurance rates, the structure should be floodproofed at least one foot above the base flood elevation.
  - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
  - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. Such certification shall be provided to the official as set forth in Section 4.1(3).

*Section 5.2-2, Nonresidential Construction Comment:*

*The principal difference between flood protection of nonresidential structures and residential structures is the option of "floodproofing" for nonresidential construction. A proposed nonresidential structure (or substantial improvement thereof) can be designed by a qualified architect or engineer to be effectively sealed off from floodwaters. Specific floodproofing guidelines follow criteria developed by the U.S. Army Corps of Engineers, which calculate design loads for water pressure and debris impact on structures and rates of seepage for floodproofed buildings. FEMA has also produced technical manuals and bulletins for use in the design of floodproofed nonresidential structures. The local floodplain administrator must require certification by the building designer that the structure meets the design criteria specified in the regulations.*

*It is important to note that a floodproofed nonresidential structure must be floodproofed to 1 foot above the base flood elevation in order to be eligible for reduced flood insurance premiums.*

**5.2-3 ACCESSORY STRUCTURES**

- (1) A relief to the elevation or dry floodproofing standards may be granted for accessory structures (e.g., sheds, detached garages) containing 576 square feet or less in gross floor area. Such structures must meet the encroachment provisions of Section 5.3(1) and the following additional standards:
  - (i) they shall not be used for human habitation;
  - (ii) they shall be designed to have low flood damage potential;
  - (iii) they shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
  - (iv) they shall be firmly anchored to prevent flotation; and,
  - (v) service facilities such as electrical and heating equipment shall be elevated or floodproofed.



*Section 5.2-3, Accessory Structures Comment:*

*This section is optional. A community may keep this provision in the ordinance if it feels that an exemption from the elevation requirements is justified. However, it is important to remember that the community floodplain administrator must still require a Development Permit and apply the General Standards and Floodway Standards of the floodplain regulations to the structure.*

*FEMA and ODNR believe there is justification for treating minor investments differently in regard to the application of flood protection measures. The minor initial investment in such structures could be greatly increased by the necessity of either elevating or dry floodproofing the accessory structure. The model regulations limit accessory structures to buildings with 576 square feet or less of gross floor area. If an exemption is granted, the applicant should be aware of any possible insurance cost ramification.*

**5.2-4 MANUFACTURED HOMES AND RECREATIONAL VEHICLES**

The following standards shall apply to all new and substantially improved manufactured homes not subject to the manufactured home requirements of Section 3733.01, Ohio Revised Code:

- (1) Manufactured homes shall be anchored in accordance with Section 5.1-1(2).
- (2) Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at the base flood elevation.

These standards also apply to recreational vehicles that are either (i) located on sites for 180 days or more, or (ii) are not fully licensed and ready for highway use.

*Section 5.2-4, Manufactured Homes And Recreational Vehicles Comment:*

*Where base flood elevation data are available from the community's Flood Insurance Study, or if such data are not available from any other source, all new, replacement, or substantially improved manufactured homes shall have the lowest floor of the structure elevated to the base flood elevation. The structure must also meet the special anchoring criteria for flood hazard areas. Specific design and installation guidelines are found in FEMA manuals and technical bulletins available from the Division of Water.*

**5.2-5 ENCLOSURES BELOW THE LOWEST FLOOR**

The following standards apply to all new and substantially improved residential and nonresidential structures which are elevated to the base flood elevation using pilings, columns, or posts. Fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must:

- (1) Be certified by a registered professional engineer or architect;  
or,

(2) Must meet or exceed the following criteria:

- (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (ii) the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other openings provided that they permit the automatic entry and exit of floodwaters.

*Section 5.2-5, Enclosures Below The Lowest Floor Comment:*

*This section establishes special design requirements for enclosing an opening in an area other than a basement, beneath a structure's lowest floor. It is important to note that an enclosure which functions as a basement must be rated as such for flood insurance purposes. The most common type of enclosure is a small "crawl space" below a structure, usable only for storage. Larger enclosures - such as for parking, vehicle access, or storage - are most often incorporated into a building's design using piling, post, or column construction to elevate the lowest floor above the base flood elevation. As in nonresidential floodproofing, special design considerations must be certified by an engineer or architect that the hydrostatic pressure during flood conditions will be equalized by the enclosure design, minimizing flood damage. A community has the option to prohibit these enclosures.*

**5.2-6 SUBDIVISIONS AND LARGE DEVELOPMENTS**

In all areas of special flood hazard where base flood elevation data have not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.4-2, USE OF OTHER BASE FLOOD ELEVATION DATA, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or 5 acres (whichever is less):

- (1) The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;
- (2) If Section 5.2-6(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.1, GENERAL STANDARDS, and Section 5.2, SPECIFIC STANDARDS.

*Section 5.2-6, Subdivisions And Large Developments Comment:*

*This section strengthens the general subdivision standards at Section 5.1-4 and stipulates that, in flood hazard areas on the community's Flood Insurance Rate Map where base flood elevation data are not provided by FEMA, the applicant must generate such information following accepted engineering practices.*

### 5.3 FLOODWAYS

*Section 5.3, Floodways Comment:*

*In the Floodway all uses are subject to the encroachment provisions of the regulations. The floodway, which consists of the channel of a stream and the adjacent overbank area, carries the deep, fast - moving portion of floodwaters, and therefore must remain free of any obstructions. The floodway was calculated in the Flood Insurance Study by assuming that all existing and proposed developments in the floodplain would create some increase in flood elevations during the base flood discharge due to the loss of floodplain storage capacity. These increases are generally limited to a maximum of one foot above the calculated base flood elevation; some early Flood Insurance Studies in Ohio were calculated based on a one-half foot allowable rise in flood elevations.*

#### 5.3-1 Areas With Floodways

The Flood Insurance Study referenced in Section 3.2 identifies a segment within areas of special flood hazard known as a floodway. Floodways may also be delineated in other sources of flood information as specified in Section 4.4-2. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. The following provisions apply within all delineated floodway areas:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 5.3-1(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.2, SPECIFIC STANDARDS.
- (3) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval by the Federal Emergency management Agency. Such requests must be submitted by the Municipal Manager to (local administrator) the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program.

*Section 5.3-1, Areas With Floodways Comment:*

*FEMA's minimum standards prohibit development in the regulatory floodway shown on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, unless the applicant conducts a site - specific flood study using the base flood information from the Flood Insurance Study to demonstrate that no increase in the base flood elevation will result from the proposed development. In most cases the applicant will have to obtain the computer generated Flood Insurance Study technical data base from FEMA prior to performing the engineering analysis. This analysis can be an expensive process and shall only be performed by a licensed hydraulic engineer or other registered civil engineer familiar with the concepts of hydraulic modeling.*

*As an alternative communities may wish to create standards which limit uses in the floodway, thereby preventing potential future obstructions to flood flows. Only uses which do not increase flood heights are permitted. Such uses can be specified in the regulations and may include:*

- 1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, etc.*
- 2. Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat-launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, etc.*
- 3. Accessory residential uses such as yard areas, gardens, play areas, and parking areas.*
- 4. Accessory industrial and commercial uses such as yard areas, parking and loading areas, airport landing strips, etc.*

*Structures, fill, or storage of equipment and materials may be permitted as conditional uses if the encroachment provisions of the regulations are satisfied. If storage of material or equipment is allowed, it should not be buoyant, flammable or explosive or be damageable by floodwaters. All material and equipment must be firmly anchored to prevent flotation or movement, and/or made readily removable from the area.*

*It is important to note that all proposed uses or use changes should be considered new development and the local floodplain administrator must review the proposed activity for compliance with the floodplain regulations.*

## SECTION 6.0

This Ordinance shall take effect from and after the earliest period allowed by law and replaces Ordinance Number 1986-13.

PASSED;

1st reading: 6-1-93

2nd reading: 6-15-93

3rd reading: 7-6-93

  
Clerk

  
Mayor

CERTIFICATE

The undersigned, Clerk of the Municipality of Brookville, Ohio does hereby certify that the foregoing is a true and correct copy of Ordinance No. 1993-07 passed by the Council of said Municipality on the 6th day of July, 1993.

  
E. Eugene Roeser, Clerk

CERTIFICATION OF POSTING

The undersigned, Clerk of Council of the Municipality of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 1993-07 was posted at the Municipal Building, U. S. Postoffice and the Brookville National Bank, Brookville, Ohio, on the 13th day of July, 1993 to the 11th day of August, 1993, both days inclusive.

  
E. Eugene Roeser, Clerk