

SPECIAL PURPOSE
FLOOD DAMAGE PREVENTION REGULATIONS

SECTION 1.0

STATUTORY AUTHORIZATION, FINDINGS OF FACT
PURPOSE AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

This resolution is adopted pursuant to authorization contained in Section 307.37 and 307.85 of the Ohio Revised Code. This resolution adopts regulations for flood hazard areas that are necessary for participation in the National Flood Insurance Program. Therefore, the Board of County Commissioners of Butler County does resolve as follows:

1.2 FINDINGS OF FACT

(1) The flood hazard areas of the unincorporated areas of Butler County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) 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 resolution to promote the public health, safety and general welfare, protect the natural function of streams, and to minimize public 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 potential buyers are aware that property is in an area of special flood hazard; and,
- (8) ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (9) Minimize the impact of development on adjacent properties within and near flood prone areas;**
- (10) Ensure that the flood storage and conveyance functions of the floodplain are maintained;**
- (11) Minimize the impact of development on the natural, beneficial values of the floodplain;**
- (12) Prevent floodplain uses that are either hazardous or environmentally incompatible; and**
- (13) Meet community participation requirements of the National Flood Insurance Program.**

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this resolution 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 flood plains, 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.

88-21-2007

SECTION 2.0

DEFINITIONS

Unless specifically defined below, words or phrases used in this resolution shall be interpreted so as to give them the meaning they have in common usage and to give this resolution 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 a review of the Butler County Building Administrator’s interpretation of any provision of this resolution or a request for a variance.

“Area of shallow flooding” means a designated AO or AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channeled does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of special flood hazard” means the land in the flood plain subject to a one percent and/or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management agency (hereafter referred to as “FEMA”) as Zone A, AE, AH, AO, A1-30, and A99.

Any area outside the FEMA studied areas lying along blue line streams as shown on the United States Department of the Interior Geological Survey (hereafter referred to as “USGS”) quadrants of which Butler County is contained and/or areas with flood prone soils which are contiguous to blue line streams as shown on the Butler County Flood Prone Soils Map shall also be considered special flood hazard areas.

Butler County is contained within the following USGS quadrants: College Corner, Oxford, West Elkton, Middletown, Franklin, Reily, Millville, Hamilton, Trenton, Monroe, Harrison, Shandon, Greenhills, Glendale and Mason.

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

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

~~“Basement” means any area of the building having its floor below ground level on all sides:~~ **means any area** of the building having its floor subgrade (below ground level) on all sides.

“Blue Line Stream” means creeks or streams which are indicated on the USGS quadrants of which Butler County is contained.

“Compensatory Flood Storage” An artificially excavated, hydraulically equivalent volume of floodplain storage sufficient to offset a reduction in floodplain storage resulting from filling within the special flood hazard area. Such floodplain storage compensation shall be within the same watershed and shall be provided on the same property or at an alternate site if administrative approval is given.

Damaged or Diseased Trees: Trees that have split trunk, broken tops, heart rot, insect or fungus problems that will lead to imminent death, undercut root systems that put the tree in imminent danger of falling, lean as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a Stream or onto a structure.

“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.

“Enclosure Below the Lowest Floor” – See *“Lowest Floor”*.

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

“Fill” any human act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the resulting grade conditions. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

First Order Stream: A Stream with no tributaries.

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

“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 Risk Zones” Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

Zone A:

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

Zones A1-30 and Zone AE:

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

Zone AO:

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

Zone AH:

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

Zone A99:

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

Zone B and Zone X (shaded):

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

Zone C and Zone X (unshaded):

Areas determined to be outside the 500-year floodplain.

“Flood Insurance Study” (FIS) ~~means the official report in which FEMA has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.~~ **means the official report in which FEMA 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.**

“Flood Prone Soils Map” means a map indicating soils subject to inundation by water from overflow of streams and formed in materials deposited on the land surface by this water.

“Flood Protection Elevation” ~~The Flood Protection Elevation, or FPE, is the base flood elevation plus one foot six inches (1’ 6”) of freeboard.~~ **The Flood Protection Elevation, or FPE for new construction is the base flood elevation plus one foot, six inches (1’ 6”) of freeboard. The FPE for building or structures existing prior to (add date) is the BFE 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” ~~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 (1’). A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.~~

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

“Freeboard” means 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 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 the watershed.

“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 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.

“Hydrologic and Hydraulic Engineering Analysis” means 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 man-made 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 formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfurnished 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 resolution for enclosures below the 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” 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”. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”. For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

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

three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

“Manufactured home subdivisions” 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.

“National Flood Insurance Program” (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” means structures for which the “start of construction” commenced on or after the initial effective date of the Butler County Flood Insurance Rate Map and applicable Flood Prone Soils Map, and includes any subsequent improvements to such structures.

Noxious Weeds: Any plant species defined by the Ohio Department of Agriculture as a “noxious weed” and listed as such by the Department. For the purposes of these regulations, the most recent version of this list at the time of application of these regulations shall prevail. (Ohio Administrative Code 901:5-37-01)

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

“Recreational vehicle” means a vehicle which is (1) built on a single chassis, (2) four hundred (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.

“Registered Professional Architect” means a person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Ohio Revised Code.

“Registered Professional Engineer” means a person registered as a professional engineer under Chapter 4733 of the Ohio Revised Code.

“Registered Professional Surveyor” means a person registered as a professional surveyor under Chapter 4733 of the Ohio Revised Code.

Second Order Stream: A Stream with at least one First Order tributary.

“Special Flood Hazard Area” also known as “Areas of Special Flood Hazard”, it is the land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by FEMA on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

“Start of construction” means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, replacement, or other improvements 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 Buffer” a vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream’s natural functions. Alteration of this natural area is limited, except as otherwise stated in these regulations.

Stream Buffer Easement: An easement that limits activities and alterations to designated Riparian areas.

“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 it’s before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty five percent (25%) of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. **When the combined total of all previous improvements or repairs made during the life of the structure equals or exceeds 50 percent (50%) of a structure’s market value, that structure is considered a substantial improvement.** 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 alternation will not preclude the structure’s continued designation as a “historic Structure”; or
- (3) Any improvement to a structure which is considered new construction.

“Top of Bank” the area of the stream channel that is the bank full level of the channel. *See illustrations.*

“Variance” is a grant of relief from the standards of this resolution consistent with the variance conditions herein.

“Violation” means the failure of a structure or other development to be fully compliant with this resolution.

SECTION 3.0

GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS RESOLUTION APPLIES

This resolution shall apply to all areas of special flood hazard within the jurisdiction of unincorporated Butler County as identified by FEMA.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard have been identified by FEMA in a scientific and engineering report entitled "Flood Insurance Study for unincorporated Butler County".

This study, revised January 21, 1998, with accompanying USGS quadrants in which Butler County is contained, Butler County Flood Prone Soils Map, Flood Boundary and Floodway Maps and/or Flood Insurance Rate Maps effective at the time that this resolution is adopted and as those documents may thereafter be amended are hereby adopted by reference and declared to be a part of this resolution. The Flood Insurance Study is on file at 130 High Street, Hamilton, OH 45011.

Any area outside the studied area lying along blue line streams as shown on the USGS quadrants of which Butler County is contained and/or areas with flood prone soils which are contiguous to blue line streams as shown on the Butler County Flood Prone Soils Map, also shall be considered special flood hazard areas.

Any hydrologic and hydraulic engineering analysis authored by a registered professional engineer in the State of Ohio which has been approved by the Butler County Building and Zoning Administrator as required by Section 5.2-6 Subdivisions and large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Butler County Building & Zoning Department, Butler County, Ohio.

3.3 COMPLIANCE REQUIRED

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

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

Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 3.8.

Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 3.8.

3.4 ABROGATION AND GREATER RESTRICTIONS

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

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

3.5 INTERPRETATION

In the interpretation and application of this resolution, 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 resolution may be in conflict with a State law, such State law shall take precedence over the resolution.

3.6 WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this resolution 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 resolution does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This resolution shall not create liability on the part of Butler County, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this resolution or any administrative decisions lawfully made there under.

3.7 NOTICE OF VIOLATION

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

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

3.8 VIOLATIONS AND PENALTIES

Pursuant to R.C. §307.37(D), no person shall violate any provision of these Flood Damage Prevention Regulations in regard to the location, erection, construction, redevelopment, or floodproofing of new buildings or structures, substantial improvements to existing buildings or structures, or other development in the unincorporated territory of Butler County which is within any flood hazard area identified under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended. Whoever violates any provision of these regulations shall be subject to punishment as provided in R.C. §307.99. Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense. Violation of the provisions of this resolution or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this resolution 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 not more than \$300.00 and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent unincorporated Butler County from taking such other lawful action as is necessary to prevent or remedy any violation of **these regulations**. Butler County shall prosecute any violation of this resolution in accordance with the penalties stated herein.

3.9 APPEAL TO THE BOARD

Any person or persons adversely affected by this resolution or by any decision of the Butler County Building and Zoning Administrator may appeal to the Butler County Residential Board of Appeals.

SECTION 4.0

ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained from the Butler County Building and Zoning 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 Butler County Building and Zoning Administrator and may include, but not limited to: site specific topographic plans in duplicate, drawn to scale, showing the nature, location, dimensions, and elevation of the area in question, and showing 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 **dry** floodproofed in accordance with Section 5.2-2 (1), of this resolution where base flood elevation data are utilized;
- (3) certification by a registered professional engineer or architect that the **dry** floodproofing methods for any nonresidential structure and meet the **dry** floodproofing criteria in Section 5.2-2 (1) of this resolution where base flood elevation data are utilized; and
- (4) description of the extent to which any watercourse will be altered or relocated as a result of proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.

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 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 resolution. Construction of storage sheds and fences are not exempt.~~

An application for a floodplain development permit shall not be required for:

- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.00**
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.**
- (3) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.**
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.**
- (5) Development activities undertaken by the federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.**

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

4.3 DESIGNATION OF THE FLOOD DAMAGE PREVENTION REGULATION ADMINISTRATOR

The Butler County Building and Zoning Administrator is hereby appointed to administer and implement this resolution by granting or denying development permit applications in accordance with its provisions.

4.4 DUTIES AND RESPONSIBILITIES OF THE BUTLER COUNTY BUILDING AND ZONING ADMINISTRATOR

The duties and responsibilities of the Butler County Building and Zoning Inspector 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 resolution 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 of this resolution is met.
- (4) **Evaluate applications for permits to develop in special flood hazard areas.**
- (5) **Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.**
- (6) **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.**
- (7) **Inspect buildings and lands to determine whether any violations of these regulations have been committed.**
- (8) **Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances and records of enforcement actions taken for violations of these regulations.**
- (9) **Enforce the provisions of these regulations.**

- (10) **Provide information, testimony, or other evidence as needed during variance hearings.**
- (11) **Coordinate map maintenance activities and FEMA follow-up.**
- (12) **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.**

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 FEMA in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, are designated as Zone A on the County's Flood Insurance Rate Map. Within these areas, the Butler County Building and Zoning Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source including data obtained under Section 5.2-6, SUBDIVISIONS AND LARGE DEVELOPMENTS, in order to administer Section 5.2-1, SPECIFIC STANDARDS, Residential Construction; 5.2-2, SPECIFIC STANDARDS, Nonresidential Construction; and 5.3, FLOODWAYS.

4.4-3 Information to be Obtained and Maintained

Where base flood elevation data are utilized within areas of special food hazard, regardless of the source of such data, the following provisions apply:

- (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 notifications to FEMA. A watercourse is considered to be altered if any change occurs within the bank;~~
- (2) ~~Maintain engineering documentation required in Section 4.1 (4) of this resolution that the flood carrying capacity of the altered or relocated portion to be altered if any change occurs within its banks;~~
- (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:~~

- (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 whether or not such structures contain an enclosure below the lowest floor.
- (2) For all new or substantially improved **dry** floodproofed structures;
 - i. Verify and record the actual elevation (in relation to mean sea level: to which the structure was dry flood proofed, and;
 - ii. Maintain the **dry** floodproofing certification required in Section 4.1(3) of this resolution.
- (3) Maintain for public inspection all records pertaining to the provisions of this resolution.

4.4-4 Alteration of Watercourses

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 if constructed per the design plan.**
- (2) **Adjacent communities: Notification to the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water and the Ohio EPA must be notified made prior to any alternation or relocation of a watercourse. Evidence of such notification must be submitted to FEMA**

- (3) **The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse to that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with Butler County specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.**
- (4) **~~The applicant shall meet the requirements to submit technical data in Section 4.4-6 (1) (c) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.~~**

4.4-5 Interpretation of Flood Boundaries Data Use and Flood Map Interpretation

~~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 interpretations as provided in Section 4.5 VARIANCE PROCEDURE.~~

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

- (1) **In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state or other source.**
- (2) **Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevation 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 that are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.**

- (3) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:**
 - (i) Upon the issuance of a letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided for FEMA for the purpose of administering these regulations.**
 - (ii) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.**
- (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.5, VARIANCE PROCEDURE.**
- (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.**

4.4-6 Annexation/Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of Butler County 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 Butler County's Flood Insurance Rate Map accurately represent Butler County's boundaries, include within such notification a copy of a map of Butler County suitable for reproduction, clearly showing the new corporate limits or the new area for which Butler County has assumed or relinquished floodplain management regulatory authority.

4.4-7 Substantial Damage Determinations

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

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

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

4.5 VARIANCE PROCEDURE

4.5-1 Variance Board

- (1) The Butler County Residential Board of Appeals referred to as the “Board”) is hereby empowered to grant variances from the floodplain management requirements of this resolution where owing to special conditions a literal enforcement of the provisions of this resolution will result in unnecessary hardship. The Board shall consist of seven members to be appointed by the Board of County Commissioners. The members shall serve a three (3) year term after which time they shall be reappointed or replaced by the Board of County Commissioners. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant. A Chairperson shall be elected by the members of the Board.**

- (2) Meetings of the Board shall be held as needed. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings reflecting the vote of each member upon each question and shall keep records of all official actions. The records shall be open for public review
- (3) Upon the filing of a variance request with the Board, the Board shall set a date for a public hearing and shall arrive at a decision within thirty (30) days after the hearing.
- (4) Appeals from any decision of the Board may be taken by any person or persons aggrieved by any decision of the Board to the Butler County Court of Common Pleas
- (5) In deciding upon a variance request, the Board shall consider all technical evaluations, all relevant factors, standards specific in other sections of this resolution, 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 damages;
 - (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 county;
 - (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, water systems, streets and bridges.

- (6) Upon consideration of the factors of Section 4.5-1 (5) and the purpose of this resolution, the Board may attach such conditions to the granting of a variances as it deems necessary to further the purposes of this resolution.
- (7) The Butler County Building and Zoning Administrator shall maintain the records of all appeal actions and report any variances to FEMA 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, unless the applicant has first secured and presented either a:
 - (i) FEMA LOMR – Letter of Map Revision; or a
 - (ii) CLOMR – Conditional Letter of Map Revision
- (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 than 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(5) have been fully considered. As the lot size increases beyond the 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 resolution, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as indicated in Section 4.5-1(5), 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 that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

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SECTION 5.0

PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards 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.
- (3) **Storage of Materials:**
Storage of material or equipment not otherwise prohibited shall be firmly anchored to prevent flotation.
- (4) **Prohibited Uses in Floodway:**
 - (i) **Storage or processing of materials that is hazardous, flammable, or explosive in the identified floodway areas.**
 - (ii) **Storage of material(s) or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway areas.**

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.
- (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 redesigned and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-3 Utilities ~~Water and Wastewater Systems~~

~~————The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code.~~

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 floodwaters into the systems;**
- (2) **New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,**
- (3) **On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.**

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.

5.1-5 Standards in Areas of Special Flood Hazard Without Base Flood Elevation Data

- (1) 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 provision applies:

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 three feet (3') above the highest adjacent natural grade.

- (2) In all areas of special flood hazard identified as an area outside the studied area lying along blue line streams and/or areas with flood prone soils which are contiguous to blue line streams as shown on the Butler County Flood Prone Soils Map, the following provision applies:

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 one foot, six inches (1' 6") above the 100-year base flood elevation as determined by a registered professional engineer employed by the applicant. Additions to buildings or structures built prior to (DATE) shall have the lowest floor including basement, elevated to at least one foot, zero inches (1' 0") above the 100-year base flood elevation, or elevate the lowest floor, including basement, to at least three feet (3') above the highest adjacent natural grade.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, or 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:

5.2-1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot, six inches (1' 6") above the base flood elevation. Additions to buildings or structures built prior to (date) shall have the lowest floor including basement, elevated to at least one foot, zero inches (1' 0") above the 100-year base flood elevation.
- (2) In AO zones new construction and substantial improvements shall have the lowest floor, including basement, elevated above the highest adjacent grade at least ~~one foot (1')~~ **three feet (3')** above the depth number on the community's Flood Insurance Rate Map. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

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 at least one foot, six inches (1' 6") above the base flood elevation; additions to buildings or structures built prior to (date) shall have the lowest floor including basement, elevated to at least one foot, zero inches (1' 0") above the 100-year base flood elevation or together with attendant utility, sanitary facilities, ~~and parking lots~~ shall:
 - (i) be **dry** floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of at least one foot, six inches (1' 6") above the base flood elevation. Additions to buildings or structures built prior to (date) shall have the lowest floor including basement, elevated to at least one foot, zero inches (1' 0") above the 100-year 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 Butler County Building and Zoning Administrator as set forth in Section 4.1(3) of this resolution.
- (2) In AO zones new construction and substantial improvements shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least ~~one foot (1')~~ **three feet (3')** above the depth number on the community's Flood Insurance Rate Map; or be floodproofed to that level consistent with the floodproofing standards in Section 5.2-2(1) (i), (ii), (iii) of this resolution, and adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- (3) Parking lots for newly constructed buildings or structures shall be elevated at or above base flood elevation. Trucking docks and loading facilities may be constructed at an elevation of one foot, zero inches (1' 0") maximum below base flood elevation. Trucking docks and loading facilities may be constructed at an elevation of one foot, zero inches (1' 0") maximum below base flood elevation.

5.2-3 Accessory Structures

- (1) Relief from the elevation or dry floodproofing standards may be granted for accessory structures (e.g., sheds, detach garages) containing ~~576~~ **600** square feet or less in gross floor area. Such structures must meet the encroachment provisions of Section 5.3-1 of this resolution 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.

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) of this resolution, and
- (2) Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot, six inches (1' 6") above 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.

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 at least one foot, six inches (1' 6") above the base flood elevation using pilings, columns, or posts. Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement 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 the enclosed area 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.

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 five (5) acres (whichever is less):

- (1) The applicant shall provide base flood elevation data performed in accordance with standard engineering practices, **as approved by the Butler County Floodplain Administrator.**
- (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.

5.2-7 All Filing of special Flood Hazard Areas

All filling of areas of special flood hazard outside of floodways are permitted subject to the Development Permit requirements of Section 4.1 of this resolution. Fill within area of special hazard shall result in no net loss of natural floodplain storage. The volume of the loss of floodplain storage due to filling of the special flood hazard area shall be offset by providing an equal volume of compensatory flood storage by excavation at or adjacent to the development site. All compensatory flood storage must be located within the same reach of the river or flowing body of water (i.e., between the nearest features controlling the flood water elevations upstream and downstream from the proposed displacement area) as the proposed project involving flood water displacement, and must be located as close to the proposed displacement area as possible.

Provide a volumetric calculation report demonstrating compensatory storage has been provided. Butler County reserves the right to request additional information regarding the report.

~~Calculations for floodplain volume shall be submitted in tabular form showing calculations by cross-section. The volume of floodplain storage under the without-project conditions and the with-project conditions should be determined using the average end-area method with plotted cross-sections at a horizontal to vertical ratio of between 5:1 and 10:1, with 2-, 10-, 50-, and 100-year flood elevations noted on each cross-section. The scale chosen should be large enough to show the intent of proposed grading. Cross-sections should reflect both the existing and proposed conditions on the same plot. The location and extent of the compensatory flood storage area as well as the location and orientation of cross-section should be shown on the grading plan.~~

This compensatory flood storage area shall have a direct opening to the main channel at the two-year flood elevation, unless groundwater or water table is encountered. The compensatory flood storage area shall be a recorded compensatory Flood Storage easement and shall be maintained by the appropriate party, i.e. property owner or Property Owners Association. Compensatory flood storage is in addition to the site storm water management storage, and or water quality storage requirements.

5.2-8 Mill Creek Levees (uncertified)

When development involving the excavation of in excess of 1,000 cubic yards of dirt occurs on a parcel that contains a levee (uncertified) which was constructed for the protection from the Mill Creek, and is 300' or more in length, the existing levee shall be notched or altered in some manner to make it dysfunctional. In order to maintain equivalent protection to adjoining properties, a new levee shall be constructed adjacent to the common property line. The effective height of the level **levee** shall be no lower than that of the existing levee. In the event the levee has been made dysfunctional and a new levee is proposed for storm water detention/retention, that is parallel to the channel, the following conditions shall apply: *See illustration I-1 and I-2.*

- ~~• Relocated levee shall be established at a distance of 75' from the top of bank (TOB) to the centerline of the levee~~
- ~~• Effective height of the levee shall be no higher than the ten-year (10-year) water surface elevation in the channel~~
- ~~• Spillway is to be constructed on the levee set at the two-year (2-year) water surface elevation~~

- ~~Perimeter levee shall be constructed along common property lines with an effective height no lower than that of the existing levee~~
- **In the event that the levee is already 75 feet or greater from the TOB it is to be strengthened on the land side to protect it from scour.**
- **The riparian corridor shall also be preserved, except as otherwise permitted in these regulations.**
- **All work in this section must also be in conformance with the “Floodway” standards as described in Section 5.3-1 and 5.3-2 of these regulations.**

5.2-9 Public **Agency** Access

Floodplain easements established under these regulations shall provide for public **agency** access for purposes of inspection and enforcement of these regulations, and the regulations as adopted by Butler County. The establishment of these easements does not in itself provide for public maintenance of these facilities.

5.2-10 As-builts

Within sixty (60) days of the completion of all construction performed in a “Flood Hazard Area”, as-built drawings are to be submitted **to the Floodplain Administrator**. These as-built plans shall indicate the final location and elevation of the ground, building floors, parking lots, sidewalks, streets, storm sewers, manhole inverts, buffers, levees and easements.

5.2-11 ~~Stream Buffer~~ See Section 6.1-2

~~For the purposes of flood damage prevention, erosion control, and storm water management, a stream buffer shall be maintained for all waterways identified as Special Flood Hazard Areas on the FEMA FIRM Maps. A stream buffer for FEMA defined streams shall consist of undisturbed and/or natural areas of land extending along both sides of the stream. The stream buffer shall begin at the top of bank of the stream and shall be a minimum of 75 feet on each side of the stream. The following structures, practices, and activities are permitted in the buffer, with specific design or maintenance features, subject to the review of the Department:~~

- ~~(1) Roads, bridges, foot and bike paths, stormwater management facilities, levees and utilities.~~

- a. ~~The right-of-way should be minimum width needed to allow for maintenance access and installation.~~
- b. ~~The angle of the crossing shall be as close to perpendicular to the stream or buffer as possible in order to minimize clearing requirements.~~
- e. ~~When constructing, the area cleared will be limited to the area required for construction and adequate maintenance access.~~

~~———— The buffer shall be preserved or improved to include native vegetation such as sand bar willows, black or white willows, sycamore, silky dogwood, eastern or swamp cottonwood and native riparian grasses. Compaction of the soil shall be minimized to the greatest extent practical. Specific features may be recommended pursuant to the permit requirements in Section 4.1 of these regulations.~~

~~———— The following practices and activities are restricted within the buffer, except with approval by the Department:~~

- (1) ~~Clearing of existing vegetation~~
- (2) ~~Soil disturbance grading, stripping, or other practices~~
- (3) ~~Filling or dumping~~
- (4) ~~Use, storage, or application of pesticides, except for spot spraying of noxious weeds or non-native species consistent with recommendations of Ohio DNR.~~
- (5) ~~Storage or operation of motorized vehicles, except for maintenance and emergency use approved by the Department~~

5.2-12 Above Ground Gas or Liquid Storage Tanks

All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement results from hydrodynamic and hydrostatic loads.

5.2-13 Critical Development

- (1) **Critical development is that which is critical to the community's public health and safety, are is essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants**

that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, and gas/oil/propane storage facilities.

Critical development shall be elevated to the 500-year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500-year flood elevation or the highest known historical flood elevation, the applicant shall design to one foot, six inches (1' 6") above FBE. ~~provide a hydrologic and hydraulic engineering analysis that generates 500-year flood elevation data.~~

5.3 FLOOD WAYS

5.3-1 Areas with Floodways

The Flood Insurance Study referenced in section 3.2 of this resolution identifies a segment within areas of special flood hazard know as a floodway. Floodways may also be delineated in other sources of flood information as specified in Section 4.4-2 of this resolution. 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 encroachments shall 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 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (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 FEMA. Such requests must be submitted by the Butler County Building and Zoning Administrator to FEMA and must meet the requirements of the National Flood Insurance Program.

5.3-2 Areas Without Floodways

In all areas of special flood hazard where FEMA has provided base flood elevation data as set forth in Section 3.2 of this resolution, but FEMA has not delineated a floodway, the following provisions apply:

- (1) New construction, substantial improvements, or other development (including fill) shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot (1') at any point.
- (2) If Section 5.3-2(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISION FOR FLOOD HAZARD REDUCTION.

6.0 Stream Buffers

6.1 Special Flood Hazard Area and Blue Line Stream Buffer

For the purposes of flood damage prevention, erosion control, and stormwater management, a Stream Buffer shall be maintained for all waterways identified as Special Flood Hazard Areas on the FEMA Firm Maps and for all Second Order and greater waterways identified as Blue Line Streams on the USGS quadrants of which Butler County is contained. A Stream Buffer for FEMA defined streams and Blue Line Streams shall consist of undisturbed and/or natural areas of land extending along both sides of the stream. The Stream Buffer shall begin at the Top of Bank of the stream and shall extend a minimum of 75' on each side of the stream. The following structures, practices, and activities are permitted in the Special Flood Hazard Area and Blue Line Stream Buffer with specific design or maintenance features subject to the review of the Department.

- (1) **Roads, bridges, foot- and bike-paths, stormwater management facilities, levees, and utilities.**
 - a. **The right-of-way should be the minimum width needed to allow for maintenance access and installation.**
 - b. **The angle of a stream crossing shall be designed to minimize clearing within the buffer limits.**
 - c. **When constructing, the area cleared shall be limited to the area required for construction and adequate maintenance access.**
- (2) **Stormwater management:**
 - a. **Stormwater management facilities (i.e. stormwater detention and retention) shall be permitted within Stream Buffers only**

after The Department has determined that the stormwater management facilities are either necessary for flood control or significantly improve the water quality or habitat in the stream.

- b. When constructing stormwater management facilities within a Stream Buffer, the Stream Buffer area cleared shall be limited to the area required for construction and adequate maintenance access shall be provided.
 - c. Material dredged or otherwise removed from a stormwater management facility shall be permanently stored outside the Stream Buffer.
- (3) Stream Restoration projects, facilities, and activities.
 - (4) Removal of individual Damaged or Diseased Trees.
 - (5) Other timber cutting techniques under the advice and guidance of Ohio DNR Division of Forestry if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire.
 - (6) Stream Buffer areas may be allowed to grow into their vegetative state naturally, but methods to enhance the successional process such as active reforestation may be used when deemed necessary by ODNR Division of Forestry to ensure the preservation and propagation of the Buffer area. Stream Buffer areas may also be enhanced through reforestation or other growth techniques as a form of mitigation for achieving Buffer preservation requirements.
 - (7) Construction of fencing shall be allowed with the condition that reasonable efforts be taken to minimize the destruction of existing vegetation, provided that the fence does not impede stream or flood flow.

The Stream Buffer shall be preserved or may be improved to include native vegetation such as sand bar willows, black or white willows, sycamore, silky dogwood, eastern or swamp cottonwood, and native riparian grasses. Compaction of the soil shall be minimized to the greatest extent practical. Specific features may be recommended pursuant to the permit requirements in Section 4.1 of these regulations.

The following practices and activities are restricted within the Special Flood Hazard Area and Blue Line Stream Buffer, except with approval by the Department:

- (1) Construction of buildings and structures.
- (2) In-line storm water detention facilities.
- (3) Clearing of existing vegetation, except as otherwise permitted in these regulations.
- (4) Soil disturbance by grading, stripping, or other practices.
- (5) Filling or dumping.

- (6) Use, storage, or application of pesticides, except for spot spraying of Noxious Weeds or non-native species consistent with recommendations of Ohio DNR.
- (7) Storage or operation of motorized vehicles, except for maintenance and emergency use approved by the Department.

6.2 Exceptions and Nonconforming Structures

All existing structures and/or structures that have been issued a building permit within the defined stream buffers at the time of adoption of this section are permitted to remain as non-conforming structures.

Any nonconforming building or structure which is damaged by fire, flood, wind, earthquake, or other calamity or act of God or public enemy, may be restored, but not to an extent greater than the original floor area which existed at the time of the damage.

Any nonconforming building or structure may be maintained, repaired, or altered as long as activities conform to the requirements of this section and requirements of these Flood Damage Prevention Regulations.

A nonconforming structure shall not be extended or enlarged, except in conformity with this section or when required to do so by law or ordinance or when the change does not compound the existing violation.

A nonconforming structure shall not be moved in whole or in part to any other location within the Blue Line Stream Buffer.

All nonconforming structures must still meet all other requirements as detailed in these Flood Damage Prevention Regulations.

If, by the adoption of Section 6, a pre-existing parcel is rendered unbuildable, adjustments may be made to the Blue Line Stream Buffer by the Department so that a primary structure can be located on the property.

The requirements of Section 6.1-1 do not apply to land disturbing activities related to producing agricultural crops or Silviculture operations regulated by the Ohio Agriculture Sediment Pollution Abatement Rules (1501: 15-5-01 to 1501: 15-5-18 of the Ohio Administrative Code) and existing at the time of passage of this Section.

6.3 Violations and Penalties

Please refer to Section 3.8 for violation and penalty procedures.

6.4 Special Flood Hazard Area and Blue Line Stream Buffer for Subdivision Developments Being Platted

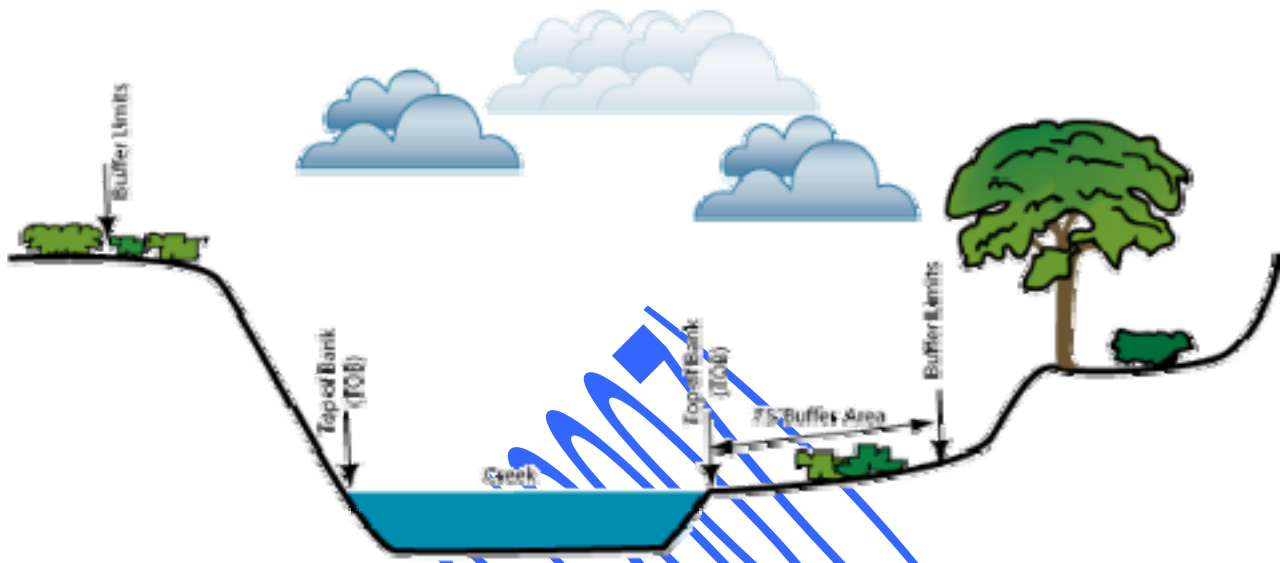
- (1) All Special Flood Hazard Area and Blue Line Stream Buffer areas for parcels created after the adoption of this section shall be held through a Stream Buffer Easement which is required to be submitted for approval

by the Butler County Department of Development Planning Division. The Stream Buffer Easement shall be recorded in the land records and shall run with the land and continue in perpetuity.

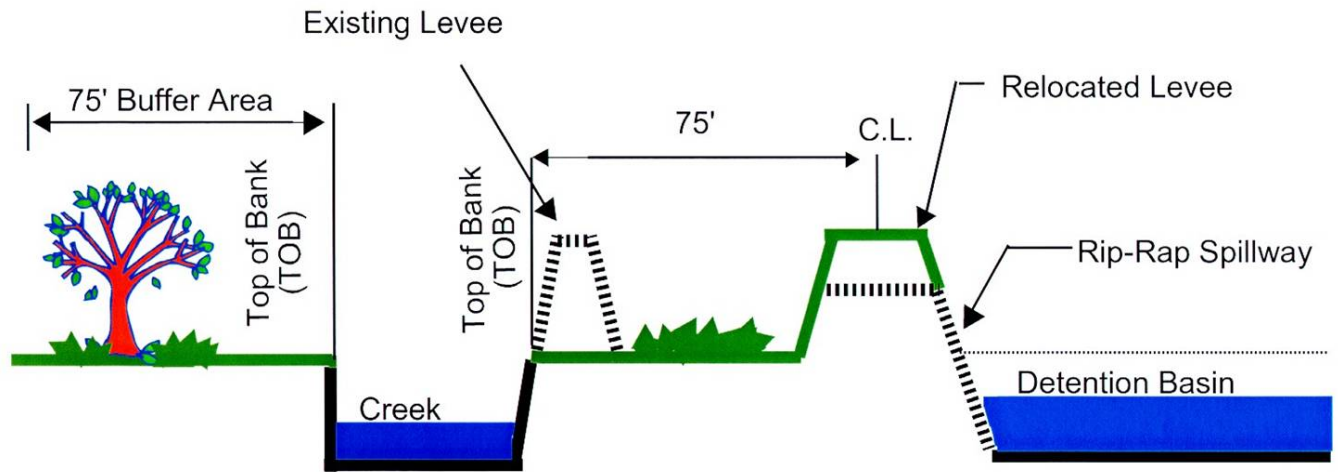
- (2) The extent of the Special Flood Hazard Area and Blue Line Stream Buffer shall be clearly delineated on the preliminary plat, Storm water Pollution Prevention Plan, and final plat.
 - a) Show the extent of any Stream Buffer on the subject property.
 - b) Label the Stream Buffer.
 - c) Provide a note to reference any Stream Buffer Easements governing all Stream Buffer areas stating: "The Stream Buffer Easement shown hereon restricts disturbance and use of the area. There shall be no clearing, grading, construction, filling, or disturbance of existing vegetation except as approved by the Department."
- (3) Temporary Stream Buffer boundary markers, in the form of plastic barrier fence, snow fence, or equivalent as approved by the Department, shall be installed by the Owner/Operator along the perimeter of the Stream Buffer prior to final approval of the required SWP3.

6.5 Violations and Penalties for Subdivision Developments Being Platted

- (1) All Development Areas are subject to periodic inspections by the Department to ensure compliance with these regulations.
- (2) Failure to comply with these regulations may result in denial of building permits or rejection of record approval until the disturbed buffer area is re-vegetated with native species such as, but not limited to, those mentioned in Section 6.1-1,



Buffer Area Cross-Section



Levee Relocation and Buffer Area Cross-Section

