

ORDINANCE NO. 1507 AC CMS

AN ORDINANCE PROVIDING FOR FLOOD DAMAGE PREVENTION

WHEREAS, the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the public health, safety and general welfare of its citizens. (1.1)

NOW, THEREFORE BE IT ORDAINED, by the Council of the City of Oberlin, Lorain County, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the adoption of flood plain management measures is necessary in order to maintain the City's eligibility in the National Flood Insurance Program.

The flood hazard areas of the City of Oberlin 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.

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 flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (1.2)

STATEMENT OF PURPOSE (1.3)

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 hazards;
- (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 notified 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.

METHODS OF REDUCING FLOOD LOSSES (1.4)

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 or erosion hazards, or which result in damaging increases in erosion or 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.

SECTION 2. DEFINITIONS (2.0)

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 a review of the Code Administrator's interpretation of any provision of this ordinance or a request for a variance.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Development" means any man-made change to improve or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"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.

DEFINITIONS (Continued)

"Flood Insurance Rate Map (FIRM)" means an official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Boundary and Floodway Map, and the water surface elevation 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.

"Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Start of construction" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home park or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

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

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

### SECTION 3. GENERAL PROVISIONS (3.0)

#### LANDS TO WHICH THIS ORDINANCE APPLIES (3.1)

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Oberlin.

#### BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS (3.2)

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 City of Oberlin." This study, with accompanying Flood Boundary and Floodway Maps and Flood Insurance Rate Maps dated June 18, 1980 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 85 South Main Street.

#### COMPLIANCE (3.3)

Unless specifically exempted from filing for a development permit as stated in Section 4.2 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.

#### ABROGATION AND GREATER RESTRICTIONS (3.4)

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.

#### INTERPRETATION (3.5)

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.

#### WARNING AND DISCLAIMER OF LIABILITY (3.6)

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 hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Oberlin, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from

reliance on this ordinance or any administrative decision lawfully made thereunder.

### VIOLATIONS AND PENALTIES (3.7)

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

## SECTION 4. ADMINISTRATION (4.0)

### ESTABLISHMENT OF DEVELOPMENT PERMIT (4.1)

A Development Permit shall be obtained 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 Hazards). Application for a Development Permit shall be made on forms furnished by the Code Administrator and may include, but not be limited to:

Plans in duplicate 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. Specifically, the following information is required:

- (1) elevation in relation to mean sea level of the lowest floor, including basement of all proposed structures;
- (2) elevation in relation to mean sea level to which any proposed structure will be floodproofed;
- (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); and,
- (4) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

### EXEMPTION FROM FILING A DEVELOPMENT PERMIT (4.2)

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) valued at less than \$500.00.

### DESIGNATION OF THE FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR (4.3)

The Code Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

### DUTIES AND RESPONSIBILITIES OF THE CODE ADMINISTRATOR (4.4)

Duties of the Code Administrator shall include, but are not limited to:

Permit Review (4.4-1)

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located within the designated floodway as indicated in the Flood Boundary and Floodway Map of the Flood Insurance Study. If the proposed development is located within the designated floodway, assure that the encroachment provision of Section 5.3 (1) is met.
- (4) Fee Schedule:
  - (a) Basic Filing Fee.....\$5.00
  - (b) Plan Review.....\$15.00
  - (c) Building Permit Fee.....(See Building Code)

Use of Other Base Flood Data (4.4-2)

When base flood elevation data has not been provided by the Federal Emergency Management Agency in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Code Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source in order to administer Section 5.2-1, SPECIFIC STANDARDS, Residential Construction, and 5.2-2, SPECIFIC STANDARDS, Nonresidential Construction.

Information to be Obtained and Maintained (4.4-3)

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor, including basement, of all new or substantially improved structures, and whether or not such structures contain a basement.
- (2) For all new or substantially improved floodproofed 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.

Alteration of Watercourses (4.4-4)

- (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.

Alteration of Watercourses (4.4-4, Continued)

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

Interpretation of Flood Boundaries (4.4-5)

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). 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 (4.5)Appeal Board (4.5-1)

(1) The Zoning Board of Appeals as established by the City of Oberlin shall hear and decide appeals and requests for variances from the requirements of this ordinance. Appeals must be taken as set forth in Chapter 1325.03 of the Codified Ordinances of the City of Oberlin.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Code Administrator in the enforcement or administration of this ordinance.

(3) Those aggrieved by the decision of the Zoning Board of Appeals or any taxpayer, may appeal such decision to the City Council, as provided in Chapter 1325.05.

(4) In passing upon such applications, the Zoning Board of Appeals 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 flood plain 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 of this ordinance, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(6) The Code Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Conditions for Variances (4.5-2)

(1) 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 the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(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, 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.



Conditions for Variances (4.5-2, Continued)

(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.

SECTION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION (5.0)GENERAL STANDARDS (5.1)

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

Anchoring (5.1-1)

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

Construction materials and Methods (5.1-2)

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

Utilities (5.1-3)

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New and replacement sanitary sewage 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.

Subdivision Proposals (5.1-4)

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

SPECIFIC STANDARDS (5.2)

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 Data, the following provisions are required:

Residential Construction (5.2-1)

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

Nonresidential Construction (5.2-2)

(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 below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (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 standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 4.1(3).

(2) A variance to the elevation or dry floodproofing standards may be granted for accessory structures (e.g., shed, detached garages) built at a cost of less than \$4,000. 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.

FLOODWAYS (5.3)

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since 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:

FLOODWAYS (5.3, Continued)

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation certified by a registered professional engineer or architect, 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) 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) Permitted Uses -

The following shall be permitted uses in the Flood Plain Combining District:

- (a) Agriculture, nurseries and truck gardening;
- (b) Recreation facilities of a primarily open nature such as parks and playgrounds, picnic areas, golf courses, sporting areas, fishing and hunting areas, nature and woodland preserves and wildlife sanctuaries;
- (c) Foot paths, bicycle paths and foot bridges;
- (d) Residential uses such as flower or vegetable gardens and lawns;
- (e) Sanitary and storm water sewage mains

SECTION 6. That this ordinance shall take effect from and after the earliest period allowed by law.

PASSED: 1st reading: 2/19/80  
2nd reading: 3/17/80 (amended)  
3rd reading: 4/7/80

ATTEST:

  
CLERK OF COUNCIL

  
CHAIRMAN OF COUNCIL

POSTED 4/8/80