

**CITY OF XENIA, OHIO  
ORDINANCE 2022 – 04**

**AMENDING SECTIONS 1220.01(e), 1220.10(b), 1220.11, 1226.06 AND 1244.02, AND REPEALING SECTION 1220.10(d)(2), OF THE CITY OF XENIA’S LAND DEVELOPMENT CODE, AND ADOPTING THE REVISED FEMA FLOOD INSURANCE RATE MAPS EFFECTIVE MARCH 8, 2022, AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Xenia has participated in the National Flood Insurance Program (NFIP) as administered through the Federal Emergency Management Agency (FEMA) for many years;

**WHEREAS**, FEMA routinely commissions engineering studies to validate that the boundaries of the 100-year floodplain have not been altered over time;

**WHEREAS**, the City of Xenia was notified by the Ohio Department of Natural Resources (ODNR) that FEMA has prepared a revised Flood Insurance Study and Flood Insurance Rate Maps to become effective March 8, 2022;

**WHEREAS**, it is necessary for City Council to formally adopt the revised FEMA Flood Insurance Study and Flood Insurance Rate Maps to continue participation in the National Flood Insurance Program for the City’s residents and businesses; and

**WHEREAS**, the adoption of the revised Flood Insurance Study and Flood Insurance Rate Maps will also require certain amendments to the floodplain regulations contained in the City’s Land Development Code to reference the revised study and maps, to be effective by March 8, 2022.

**NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS**, at least five (5) members of the City Council concurring, that:

**Section 1.** This Ordinance is declared to be an emergency measure necessary for the protection of the peace, health, and safety of the citizens of Xenia and for the preservation of their property, as the updated floodplain regulations must be effective on or before March 8, 2022, to assure that citizens of the City who are required to have floodplain insurance can do so.

**Section 2.** Sections 1220.01(e), 1220.10(b), 1220.11, 1226.06, and 1244.02 are hereby amended, as shown in the attached Exhibit A.

**Section 3.** Existing Sections 1220.01(e), 1220.10(b), 1220.11, 1226.06, and 1244.02 are hereby repealed.


**Section 4.** Section 1220.10(d)(2) is hereby repealed in its entirety, as shown in the attached Exhibit B.


**Section 5.** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

**Section 6.** This Ordinance shall be effective immediately upon its adoption, in accordance with Section 5.04 of the City's Charter.

Adopted: February 24, 2022

Attest:

  
Michelle D. Johnson  
City Clerk

  
Wesley E. Smith  
President, Xenia City Council

1220.01 REVIEW AND DECISION-MAKING AUTHORITIES.

(e) City Engineer.

(1) ~~The City of Xenia City Engineer shall be established to aid in the administration and enforcement of this Code. The City Engineer may be provided with the assistance of such other persons as the City Manager may direct.~~

(2) ~~Roles and Powers of the City Engineer:~~ In addition to any other authority granted to the City Engineer by Charter, ordinance, or state law, the City Engineer shall have the following powers and duties related to **the administration of this Land Development Code** ~~these regulations:~~

- A. Develop and recommend the City of Xenia Construction Standard Drawings, ~~and~~ the City of Xenia Material and Specifications Manual, and other documents as may be approved by City Council related to subdivision improvement specifications;
- B. Review and make recommendations to the City Planner on minor subdivision applications;
- C. Review and make recommendations to the PZC and City Council on major subdivision applications;
- D. Participate in any pre-application conferences requested by a property owner or potential applicant in accordance with this Code;
- E. ~~Act as the floodplain administrator for the City of Xenia and perform the following related duties:~~
  - i. ~~Evaluate applications for permits to develop in special flood hazard areas;~~
  - ii. ~~Interpret floodplain boundaries and provide flood hazard and flood protection elevation information;~~
  - iii. ~~Issue flood development permits to develop in special flood hazard areas when the provisions of this Code have been met, or refuse to issue the same in the event of noncompliance;~~
  - iv. ~~Inspect buildings and lands to determine whether any violations of this Code have been committed;~~
  - v. ~~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;~~
  - vi. ~~Enforce the provisions of these regulations;~~
  - vii. ~~Provide information, testimony, or other evidence as needed during variance hearings;~~
  - viii. ~~Coordinate map maintenance activities and FEMA follow up; and~~
  - ix. ~~Conduction 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.~~
- F. Maintain permanent and current records of all public improvements and improvement drawings that are part of major subdivision applications; ~~and~~
- ~~F.~~ **G.** Inspect, or cause to be inspected, all construction or installation work related to public improvements as required by **this Code** ~~these regulations.~~

(2) ~~(3)~~ *Decisions of the City Engineer:* A decision ~~by~~ ~~on~~ the City Engineer **issued pursuant** ~~with regard~~ to this Code may be appealed to the BZA in accordance with Section 1220.12: Appeals, unless another appeals board is established in this Code.

1220.10 VARIANCES.

(b) Prohibition of Certain Variance Requests. ~~(1) Variances from standards of this code may be considered in most cases with the exception that variances are prohibited in any designated floodway if their will be an increase in flood levels during the base flood discharge. (2) Applications for a use variance are prohibited. Use variances are defined as a variance application to request allowing a use in a zoning district where it is otherwise prohibited. Such requests shall be reviewed as a zoning map or code text amendment as established in Section 1220.03: Code Text and Map Amendments.~~

1220.11 ZONING PERMIT.

(a) Purpose. A zoning permit shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of this Code and to otherwise protect the public health, safety, and general welfare of the citizens of the City.

(b) Applicability.

- (1) No building or other structure shall be erected, moved, altered, or added to, nor shall any building, structure or land be used or changed in use without a zoning permit issued by the City Planner. A change in tenancy or ownership of a residential dwelling unit shall be exempt from the zoning permit requirement.
- (2) A zoning permit may be required for the establishment of certain temporary or accessory use as established in Chapter 1224: Accessory and Temporary Use Regulations.
- (3) The use of vacant land shall require the issuance of a zoning permit.
- (4) Unless otherwise specifically exempted in ~~Section~~ Chapter 1236: Signage, signs shall require a zoning permit.
- (5) Demolition of any building or structure that has a footprint of seven hundred square feet (700 ft.<sup>2</sup>) or more in a locally or nationally designated historic district shall require a zoning permit. Structures that are subject to a City-issued order to demolish shall be exempt from the demolition permit requirements of this section; except that the Greene County Historical Society may be invited to photograph and document the structures for historical recording.
- (6) Zoning Permits for Activities in Special Flood Hazard Areas.
  - ~~A. It shall be unlawful for any person to begin construction or other development activity including, but not limited to, filling, grading, construction, alteration, remodeling, or expanding any structure, or alteration of any watercourse wholly within, partially within, or in contact with any identified special flood hazard area, as established in Section 12206 Floodplain Regulations, until a zoning permit is obtained in accordance with this section.~~
  - ~~B. Where it is unclear whether a development site is in a special flood hazard area, the City Engineer may require an application for a floodplain development permit to determine the development's location.~~
  - ~~C. An application for a zoning permit in a special flood hazard area shall not be required for:
    - i. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities, except for filling and grading;~~

- ~~ii. Development activities in an existing or proposed manufactured home park. Such activities are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code §3701;~~
  - ~~iii. Major utility facilities permitted by the Ohio Power Siting Board under ORC Chapter 4906;~~
  - ~~iv. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under ORC Chapter 3734;~~
  - ~~v. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 Floodplain Management; and~~
  - ~~vi. Any other exemptions from the flood protection regulations of Section 1226.06 Floodplain Regulations.~~
- (7) Zoning permits shall be issued only in conformity with the provisions of this Code unless the application is subject to approval by the BZA or PZC providing for additional standards, conditions, or modifications, in which case the zoning permit shall be issued in conformity with the provisions of those approvals, as applicable.
- (7) ~~(8)~~ Failure to obtain a zoning permit shall be a violation of this Code subject to the provisions of Chapter 1242: Enforcement and Penalties.
- (c) Zoning Permit Review. The review procedure for a zoning permit shall be as follows:
- (1) *Step 1 – Application:* The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements and with the provisions of this section.
  - (2) *Step 2 – City Planner Review and Decision:*
    - A. The City Planner may distribute the application to other staff members and other City departments to solicit comment on the zoning permit application.
    - B. ~~For any zoning permit application for development or applicable activities in a special flood hazard area, the City Engineer shall be required to also review and make a decision on the zoning permit application. In such cases, if either the City Planner or the City Engineer deny the application, the entire application shall be denied.~~
    - C. Within thirty (30) days after the application is determined to be complete, the City Planner shall make a decision on the zoning permit application **by approving or denying**. In making its decision, the City Planner may approve or deny the application. The City Planner shall have sixty (60) days to make a decision on zoning permit applications for demolition to allow for proper notice to other agencies have review authority. In both cases, an extension on the decision may be granted with approval from the applicant.
    - C. ~~D.~~ Prior to finalizing approval of the application, the City Planner shall have the authority to provide comments to the applicant regarding necessary revisions to bring the application into full compliance **with the provisions of this Code**. The application shall not be ~~deemed formally~~ approved **by the City Planner** until the applicant makes all of the appropriate changes and submits all necessary revised forms, maps, and documents ~~to the City Planner~~.
- (d) Review Criteria.
- (1) *Review Criteria for All Zoning Permits:* In order to approve any zoning permit, the City Planner shall determine the following:
    - A. The application complies with all applicable provisions of this Code and the applicable zoning district; and

- B. The application complies with all approved plans, conditions, or other development approvals.
- (2) ~~*Additional Review Criteria for Zoning Permits in a Special Flood Hazard Area.*~~ Zoning permit applications for development or applicable activities in special flood hazard areas shall demonstrate:
- ~~A. The application complies with Section 1226.06 Floodplain Regulations of this Code; and~~
- ~~B. That all necessary permits have been received from those federal, state, or local governmental agencies from which proper approval is required. The applicant shall be responsible for obtaining such permits as required, including permits issued by the U.S. Army Corps of Engineers under § 10 of the Rivers and Harbors Act, being 33 USC § 577; and § 404 of the Clean Water Act, being 33 USC §1344; and the Ohio Environmental Protection Agency under § 401 of the Clean Water Act, being 33 USC § 1341.~~
- (3) *Additional Review Criteria for Zoning Permits for Demolition:* In addition to the general review criteria applicable to all zoning permits in Section 1220.11(d)(1), any zoning permit application for demolition shall be subject to the following conditions:
- A. Demolition may not commence until a demolition permit has also been issued from the Greene County Department of Building Regulation.
- B. The Greene County Historical Society shall be given the opportunity to review each demolition permit application, for a period not exceeding thirty (30) days, to determine if the structure proposed for demolition is a contributing or significant structure as defined in Section 1220.08(f). If the Greene County Historical Society determines that the structure is a contributing structure and ~~it~~ is of aesthetic interest that continues to contribute to the historic development or heritage of the City, it shall so advise the City Planner. The applicant shall then be requested to use available rehabilitation funds, if any, to repair and restore the structure or offer the structure for relocation or seek alternatives to save the structure. If all avenues and available resources have been exhausted and the only recourse is to demolish the structure, then a demolition permit may ~~shall~~ be issued.
- (e) Administrative Waiver Requests.
- (1) *Applicability:*
- A. The City Planner may grant administrative waivers for any area or dimensional regulation that does not exceed ten percent (10%) of the applicable minimum or maximum regulation. Area and dimensional regulations include, but are not limited to, minimum front, side, and rear yard setbacks; maximum height of structures; maximum sign height; maximum sign area; etc.
- B. An administrative waiver for minimum lot area or lot width requirement is prohibited.
- C. The applicant shall be required to apply for a variance for any waiver request that exceeds ten percent (10%) or other variations from the Code that do not qualify for administrative waivers.
- (2) *Administrative Waiver Review Procedure and Decision:*
- A. Administrative waivers shall be reviewed as part of the zoning permit review procedure.
- B. In making a decision on the administrative waiver, the City Planner may approve or deny the waiver request application.

- (3) *Review Criteria:* Decisions on an administrative waiver shall be based on consideration of the following criteria:
  - A. The waiver will allow the proposed development to reflect the predominant development character of surrounding, similar uses and properties (e.g., similar setbacks, similar sign areas, etc.);
  - B. Special circumstances exist that make precise compliance with subject standards impractical or unreasonable;
  - C. The waiver request is minor in nature;
  - D. The waiver request does not substantially alter characteristics found in the development character of the surrounding properties; and
  - E. The waiver request does not deviate from the overall purpose of this Code or the intent and objective of the original regulation.
  
- (f) Time Limit and Abandoned or Suspended Work.
  - (1) The applicant shall obtain an approved building permit within one (1) year of the date the zoning permit was approved or the approval shall be revoked. The date of approval shall be the date the City Planner provides a signed copy of the permit to the applicant.
  
  - (2) For activities that do not require a building permit, the activity shall have been substantially begun within one (1) year of approval and is thereafter pursued to completion, as determined by the City Planner.
  
  - (3) The deadlines in ~~paragraph~~ **division (f)(1)** or **(f)(2)** may be reduced if the work is mandated by this Code or by order of the City Planner, City Engineer, Code Enforcement Officer, or BZA. In such cases, the deadline for construction shall be noted on the zoning permit.
  
  - (4) Time limits for permitted temporary uses and structures shall be as authorized in Section 1224.02: Temporary Uses and Structures. An approval of a zoning permit for a temporary use shall include the approved start and end dates for the proposed temporary use.
  
  - (5) If construction activities for which a zoning permit has been issued is abandoned or suspended for a period of six (6) months after the time of commencing the work, the zoning permit approval shall be revoked. Abandonment shall be defined as the lack of building activity or progress towards achieving the scope of work defined in the zoning permit.
  
  - (6) Upon written request, up to two (2) extensions of six (6) months may be granted by the City Planner if the applicant can show good cause for a delay.
  
  - (7) The City Planner shall notify the **applicant** ~~application~~ of the revocation of a zoning permit, including notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.
  
  - (8) Upon revocation of a zoning permit approval, a new application, including all applicable fees, shall be required before a new zoning permit application will be reviewed.
  
  - (9) The above time limits shall not apply if alternative time limits that have been approved by the City Planner or PZC in accordance with the applicable review procedure.

~~(g) Inspections and Post Construction Certifications for Zoning Permit Activities in Special Flood Hazard Areas.~~

- ~~(1) For zoning permit activities subject to the flood regulations of this Code, the City Engineer may make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.~~
- ~~(2) The following as built certifications are required after a zoning permit has been issued subject to the flood regulations of this Code:
  - ~~A. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency elevation certificate completed by a registered surveyor to record as built elevation data. For elevated structures in Zone A areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.~~
  - ~~B. For all development activities subject to the standards of Section 1226.06(g)(1) Requirement to Submit New Technical Data, a letter of map revision is required.~~~~

~~(h) Revoking a Zoning Permit. A zoning permit shall be revocable if, among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to BZA in accordance with Section 1220.12: Appeals of this Code.~~

~~(h) Appeals. Any person or entity claiming to be injured or aggrieved by any final action of the City Planner shall have the right to appeal the decision to BZA, as established in Section 1220.12: Appeals.~~



1226.06 FLOODPLAIN REGULATIONS.

(a) ~~(b)~~ General Provisions.

- (1) **Statutory Authorization:** **This section of the Land Development Code is adopted pursuant to** Article XVIII, Section 3, of the Ohio Constitution, **which** grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. **This section adopts regulations for areas of special flood hazard that are necessary for participation in the National Flood Insurance Program.**
  
- (2) **Findings of Fact and Intent:** The City of Xenia has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, flood proofed, or otherwise protected from flood damage also contribute to the flood loss. **The floodplain regulations contained in this section are intended** ~~In order~~ to minimize the threat of such damages and to achieve the purposes hereinafter set forth, ~~these regulations are adopted.~~
  
- (3) ~~(a)~~ **Statement of Purpose:** It is the purpose of these regulations to promote the public health, safety, and general welfare and to:
  - A.** ~~(1)~~ Protect human life and health;
  - B.** ~~(2)~~ Minimize expenditure of public money for costly flood control projects;
  - C.** ~~(3)~~ Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - D.** ~~(4)~~ Minimize prolonged business interruptions;
  - E.** ~~(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;
  - F.** ~~(6)~~ Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
  - G.** ~~(7)~~ Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
  - H.** ~~(8)~~ Minimize the impact of development on adjacent properties within and near flood prone areas;
  - I.** ~~(9)~~ Ensure that the flood storage and conveyance functions of the floodplain are maintained;
  - J.** ~~(10)~~ Minimize the impact of development on the natural, beneficial values of the floodplain;
  - K.** ~~(11)~~ Prevent floodplain uses that are either hazardous or environmentally incompatible; and
  - L.** ~~(12)~~ Meet community participation requirements of the National Flood Insurance Program.
  
- (4) ~~(e)~~ **Methods of Reducing Flood Loss:** In order to accomplish its purposes, these regulations include methods and provisions for:
  - A.** ~~(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;

- B.** ~~(2)~~ Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
  - C.** ~~(3)~~ Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  - D.** ~~(4)~~ Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
  - E.** ~~(5)~~ Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards in other areas.
- (5)** **Lands to Which These Regulations Apply:** ~~(d) Applicability~~ These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Xenia as identified in Section **1226.06(a)(6)** ~~1220.06(e): Basis for Establishing the Areas of Special Flood Hazard~~, including any additional areas of special flood hazard annexed **to the** ~~by~~ City of Xenia.
- (6)** ~~(e) Basis for Establishing the Areas of Special Flood Hazard:~~ ~~(4)~~ For the purposes of these regulations, the following studies and/or maps are adopted:
- A. Flood Insurance Study Greene County, Ohio and Incorporated Areas and Flood Insurance Rate Map Greene County, Ohio and Incorporated Areas, both effective **March 8, 2022** ~~3-17-2014~~.
  - B. Other studies and/or maps that may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard, as indicated by the Floodplain Administrator.**
  - C.** Any hydrologic and hydraulic engineering analysis authored by a registered professional engineer in the State of Ohio that ~~which~~ has been approved by the City of Xenia, as required by Section **1226.06(g)(3)** ~~1226.06(j)(4) Subdivisions and Large Developments~~.
  - D.** ~~(2)~~ 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 City of Xenia, 107 E. Main Street, Xenia, Ohio 45385.**
- (7)** **Abrogation and Greater Restrictions: These floodplain regulations are not intended to repeal any existing subdivision, zoning or building regulations or codes. In the event of a conflict between these regulations and any other subdivision, zoning or building regulation, the more restrictive shall be followed. These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where these regulations and an easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.**
- (8)** **Interpretation: In the interpretation and application of these floodplain regulations, all provisions shall be:**
- A. Considered as minimum requirements;**
  - B. Liberally construed in favor of the City; and,**
  - C. Deemed neither to limit nor repeal any other powers granted under the Ohio Constitution or state statutes. Where a provision of these regulations may conflict with a state or federal law, such state or federal law shall take precedence over these regulations.**
- (9)** ~~(f) Warning and Disclaimer of Liability:~~ The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and

engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Xenia, any officer or employee thereof, or ~~the Federal Emergency Management Agency~~ FEMA for any flood damage that results from reliance on these regulations, or any administrative decision lawfully made hereunder.

**(10) Severability: Should any section or provision of these floodplain regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.**

**(b) Administration.**

**(1) Designation of the Floodplain Administrator: The City Engineer, or his designee, is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.**

**(2) Duties and Responsibilities of the Floodplain Administrator: The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:**

**A. Evaluate applications for permits to develop in special flood hazard areas;**

**B. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information;**

**C. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance;**

**D. Inspect buildings and lands to determine whether any violations of these regulations have been committed;**

**E. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, floodproofing certificates, variances, and records of enforcement actions taken for violations of these regulations;**

**F. Enforce the provisions of these floodplain regulations;**

**G. Provide information, testimony, or other evidence as needed during variance hearings;**

**H. Coordinate map maintenance activities and FEMA follow-up; and**

**I. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.**

**(3) Floodplain Development Permits: It shall be unlawful for any person to begin construction or other development activity including, but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure, or alteration of any watercourse wholly within, partially within, or in contact with any identified special flood hazard area, as established in Section 1226.06(a)(6), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such floodplain development**

permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(4) Application Required: An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished by the City for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a Floodplain Development Permit to determine the development's location. Such applications shall include, but not be limited to:

A. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing;

B. Elevation of the existing, natural ground where structures are proposed;

C. Elevation of the lowest floor, including basement, of all proposed structures;

D. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations; and

E. Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable, including:

i. Floodproofing certification for nonresidential floodproofed structure, as required in Section 1226.06(g)(5);

ii. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Sections 1226.06(g)(4)E. are designed to automatically equalize hydrostatic flood forces;

iii. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1226.06(g)(9)C.;

iv. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot (1') in special flood hazard areas where FEMA has provided base flood elevations but no floodway, as required by Section 1226.06(g)(9)B.;

v. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway, as required by Section 1226.06(g)(9)A.; and/or

vi. Generation of base flood elevation(s) for subdivisions and other new developments, as required by Section 1226.06(g)(3).

F. A floodplain development permit application fee, as set forth in the City's Fee Schedule, Chapter 298 of the Xenia City Code.

(5) Review and Approval of a Floodplain Development Permit Application:

A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1226.06(b)(4) has been received by the Floodplain Administrator.

- B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state, or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required, including permits issued by the U.S. Army Corps of Engineers under § 10 of the Rivers and Harbors Act and § 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section § of the Clean Water Act.**
- C. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If the Floodplain Administrator is satisfied that the development proposed in the floodplain development application conforms to the requirements of this Section 1226.06, the Floodplain Administrator shall issue the permit. All floodplain development permits shall be conditional upon the commencement of work beginning within one hundred eighty (180) days of issuance. A floodplain development permit shall expire one hundred eighty (180) days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.**
- (6) Inspections: The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.**
- (7) Post-Construction Certifications Required: The following as-built certifications are required after a floodplain development permit has been issued:**
- A. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a FEMA Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.**
- B. For all development activities subject to the standards of Section 1226.06(c)(1), a Letter of Map Revision.**
- C. For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Nonresidential Structures, completed by a registered professional engineer or architect, together with associated documentation.**
- (8) Revoking a Floodplain Development Permit: A floodplain development permit shall be revocable if, among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to BZA in accordance with Section 1226.06(h).**
- (9) Exemption from Filing a Development Permit: An application for a floodplain development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than two thousand five hundred dollars (\$2,500).**

**(10) State and Federal Development:**

- A. Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NFIP criteria.**
- B. Before awarding funding or financing or granting a license, permit or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable regulations contained in this Section 1226.06, as required by ORC Section 1521.13. This includes, but is not limited to:**
  - i. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of Ohio Administrative Code Chapter 4781-12.**
  - ii. Major utility facilities permitted by the Ohio Power Siting Board under ORC Chapter 4906.**
  - iii. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under ORC Chapter 3734.**
- C. Development activities undertaken by a federal agency that are subject to Federal Executive Order 11988 – Floodplain Management. Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of Executive Order 11988.**

~~(c) (g)~~ Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City's of Xenia flood maps, studies, and other data identified in Section ~~1226.06(a)(6)~~ 1226.06(e) Basis for Establishing the Areas of Special Flood Hazard accurately represent flooding conditions (so appropriate floodplain management criteria are based on current data) the following map maintenance activities are identified:

**(1) Requirement to Submit New Technical Data:**

- A. For all development proposals that impact floodway delineations or base flood elevations, the Floodplain Administrator community shall ensure that technical data reflecting such changes be submitted to FEMA within six (6) months of the date such information becomes available. These development proposals include:**
  - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;**
  - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;**
  - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and**
  - iv. Subdivision or other new development large-scale development proposals requiring the establishment of base flood elevations in accordance with Section 1226.06(g)(3) ~~1226.06(j)(4)~~ Subdivisions and Large Developments.**
- B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1226.06(c)(1) ~~1226.06(j)(4)~~ Subdivisions and Large Developments prepared in a format required for a CLMOR or LOMR, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.**
- C. The Floodplain Administrator City Engineer shall require a CLMOR prior to the issuance of a floodplain development zoning permit for:**
  - i. Proposed floodway encroachments that increase the base flood elevation; and**

- ii. Proposed development which increases the base flood elevation by more than one foot (1') in riverine areas where FEMA has provided base flood elevations but no floodway.

D. **Floodplain development permits issued by the Floodplain Administrator** ~~Zoning permit applications subject to these regulations that are issued by the City Planner and signed off on by the City Engineer~~ shall be conditioned upon the applicant obtaining a LOMR from FEMA for any development proposal subject to Section **1226.06(c)(1)A.** ~~1226.06(g)(1)(a)~~

- (2) *Right to Submit New Technical Data:* The **Floodplain Administrator** ~~City Engineer~~ may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made, in writing, by the City Manager and may be submitted at any time.
- (3) *Annexation or Detachment:* Upon occurrence, the **Floodplain Administrator** ~~City Engineer~~ shall notify FEMA in writing whenever the boundaries of the City of Xenia have been modified by annexation or when the **City community** has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Xenia's Flood Insurance Rate Map accurately represent the City's boundaries, the **Floodplain Administrator** ~~City Engineer~~ shall include within such notification a copy of a map of the City of Xenia suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Xenia has assumed or relinquished floodplain management regulatory authority.

**(d) (h) Data Use and Flood Map Interpretation.** The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

- (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the **Floodplain Administrator** ~~City Engineer~~ shall review and reasonably utilize any other flood hazard data available from a federal, state, or other sources.
- (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the **Floodplain Administrator** ~~City Engineer~~.
- (3) ~~When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:~~
  - A. ~~Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations; or~~
  - B. ~~Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and /or floodway areas exist or where the preliminary base flood elevations or floodway 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** ~~City Engineer~~ 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 **1226.06(h)** ~~1220.12 Appeals~~.~~

**(4) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this Section 1226.06 applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.**

~~(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, and the like) shall prevail.~~

**(e) Use of Preliminary Flood Insurance Rate Map and/or Flood Insurance Study Data.**

**(1) Zone A:**

**A. Within Zone A areas designated on an effective FIRM, data from preliminary FIRM and/or FIS shall be reasonably utilized as best available data.**

**B. When all appeals have been resolved and a notice of final flood elevation determination has been provided in a Letter of Final Determination (LFD), BFE and floodway data from the preliminary FIRM and/or FIS shall be used for regulating development.**

**(2) Zones AE, A1-30, AH, and AO:**

**A. BFE and floodway data from a preliminary FIS or FIRM restudy are not required to be used in lieu of BFE and floodway data contained in an existing effective FIS and FIRM; however,**

**i. Where BFEs increase in a restudied area, the City will ensure that new or substantially improved structures are protected. The City will reasonably utilize preliminary FIS or FIRM data in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of the citizens of the City are protected.**

**ii. Where BFEs decrease, preliminary FIS or FIRM data should not be used to regulate floodplain development until the LFD has been issued or until all appeals have been resolved.**

**B. If a preliminary FIRM or FIS has designated floodways where none had previously existed, the City will reasonably utilize this data in lieu of applying the encroachment performance standard of Section 1226.06(g)(9)B. since the data in the draft or preliminary FIS represents the best data available.**

**(3) Zones B, C, and X: Use of BFE and floodway data from a preliminary FIRM or FIS are not required for areas designated as Zones B, C, or X on the effective FIRM that are being revised to Zone AE, A1-30, AH, or AO. The City will reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and property of its citizens are protected.**



**(f) (±) Substantial Damage Determinations.**

- (1) Damages to structures may result from a variety of causes including tornado, wind, heavy snow, flood, fire, etc. After such a damage event, the **Floodplain Administrator** ~~City Engineer~~ shall:
  - A. Determine whether damaged structures are located in special flood hazard areas;
  - B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
  - C. **Require** ~~Make reasonable attempt to notify~~ owners of substantially damaged structures ~~of the need to obtain a~~ **floodplain development** ~~zoning~~ permit prior to repair, rehabilitation, or reconstruction.
- (2) Additionally, the **Floodplain Administrator** ~~City Engineer~~ may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the **floodplain development** ~~zoning~~ 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.

**(g) (±) Use and Development Requirements for Flood Hazard Reduction.** The following use and development requirements apply to development wholly within, partially within, or in contact with any special flood hazard area as established in **Sections 1226.06(a)(6), (d)(1), or (e)** ~~Section 1226.06(e) Basis for Establishing the Areas of Special Flood Hazard and Section 1226.06(h)(1).~~

- (1) *Permitted Uses:* All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Xenia are allowed provided they meet the provisions of these **floodplain** regulations.
- (2) *Prohibited Uses:*
  - A. ~~Private water supply systems in all special flood hazard areas identified by FEMA, permitted under ORC 3701.~~
  - B. ~~Infectious waste treatment facilities in all special flood hazard areas, permitted under Ohio R.C. 3734.~~
  - C. ~~Storage of hazardous materials within the 100-year floodplain is prohibited. For the purposes of this code, hazardous materials shall be defined as those material listed in Chapter 1620 of the City of Xenia Code of Ordinances or any other similar materials as determined by the City of Xenia Fire Chief, or his/her designee.~~
- (±) *Water and Wastewater Systems:* The following requirements apply to all water supply, sanitary sewerage and waste disposal systems **in the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules** ~~not otherwise regulated by the ORC:~~
  - A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
  - B. 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,
  - C. Onsite waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

- (3)** ~~(4)~~ *Subdivisions and **Other New Large Developments**:*
- A. All subdivision ~~applications~~ **proposals and all other proposed new development** shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
  - B. All subdivision ~~applications~~ **proposals and all other proposed new development** shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - C. All subdivision ~~applications~~ **proposals and all other proposed new development** shall have adequate drainage provided to reduce exposure to flood damage; and
  - D. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least fifty (50) lots or five (5) acres, whichever is less.
  - E. The applicant shall meet the requirement to submit technical data to FEMA of Section ~~1226.06(c)(1)A.iv.~~ ~~1226.06(g)(1)A~~ when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by **Section 1226.06(g)(3)D.** ~~this Subsection 1226.06(j)(4).~~
  - ~~F. In platted subdivisions, all proposed lots or parcels that will be future building sites shall have a minimum buildable area outside the natural (non-filled) one percent chance annual floodplain. The buildable area shall be large enough to accommodate any primary structure and associated structures such as sheds, barns, swimming pools, detached garages, onsite sewage disposal systems, and water supply wells, if applicable.~~
  - ~~G. Approval shall not be given for streets within a subdivision which would be subject to flooding. All street surfaces must be located at or above the base flood elevation.~~
- (4)** ~~(5)~~ *Residential Structures: **The requirements of this Section 1226.06(g)(4) apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the City's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1226.06(e).***
- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring **(1226.06(g)(4)A.)** and construction materials resistant to flood damage **(1226.06(g)(4)B.)** ~~as required herein~~ are satisfied.
  - B. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
  - C. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - D. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. **In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet (2') above the highest adjacent natural grade.**
  - E. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to

allow **the automatic equalization of hydrostatic pressure** ~~unimpeded movement of flood waters~~ may have an enclosure below the lowest floor provided the enclosure meets the following standards:

- i. Be used only for the parking of vehicles, building access, or storage; and
  - ii. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
  - iii. Have a minimum of two (2) openings on different walls having a total net area not less than one square inch (1 in.<sup>2</sup>) for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot (1') above grade. The openings may be equipped with screens, louvers, or other coverings or devices if they permit the automatic entry and exit of floodwaters.
- F. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- G. Repair or rehabilitation of historic structures, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of **Section 1226.06(g)(4)** ~~this section~~.
- H. **In AO and AH Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.**

**(5) (6) Nonresidential Structures: The requirements of this Section 1226.06(g)(5) apply to new construction and to substantial improvements of nonresidential structures in Zones A, A1-30, AE, AO, and AH when designated on the City's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1226.06(e).**

- A. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet the requirements of **Section 1226.06(g)(4)A. – C. and E. – G.** ~~Subsections 1226.06(j)(5)A through 1226.06(j)(5)C and 1226.06 (j)(5)E through 1226.06(j)(5)G.~~
- B. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
- i. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
  - 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, through the use of a FEMA Elevation Certificate, that the design and methods of construction are in accordance with **Section 1226.06(g)(5)B.i. and B.ii.** ~~Subsections (i) and (ii), above.~~
- C. **In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet (2') above the highest adjacent natural grade.**

- (6)** ~~(7)~~ *Accessory Structures*: **Structures that are six hundred square feet (600 ft.<sup>2</sup>) or less that are used for parking and storage only are exempt from elevation or dry floodproofing standards within Zones A, A1-30, AE, AO, and AH designated on the City's FIRM** Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than six hundred square feet. Such structures must meet the following standards:
- A. They shall not be used for human habitation;
  - B. They shall be constructed of flood resistant materials;
  - C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
  - D. They shall be firmly anchored to prevent flotation;
  - E. Service facilities such as electrical and heating equipment shall be elevated or flood proofed to or above the level of the flood protection elevation; and
  - F. They shall meet the opening requirements of **Section 1226.06(g)(4)E.iii.** ~~Subsection 1226.06(j)(5)E.iii.~~
- (7)** ~~(8)~~ *Recreational Vehicles*: Recreational vehicles **on sites within Zones A, A1-30, AE, AO, and AH** must meet at least one (1) of the following standards:
- A. They shall not be located on sites in special flood hazard areas for more than one hundred eighty (180) days, or
  - B. They must be fully licensed and ready for highway use, or
  - C. **They must be placed on the site pursuant to a floodplain development permit issued under Sections 1226.06(b)(3) and (b)(4), and meet all standards of Section 1226.06(g)(4)** ~~They must meet all standards of Section 1226.06(j)(5).~~
- (8)** ~~(9)~~ *Above Ground Gas or Liquid Storage Tanks*: **Within Zone A, A1-30, AE, AO, or AH new or substantially improved** ~~AH~~ above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (9)** ~~(10)~~ *Assurance of Flood Carrying Capacity*: Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
- A. Development in Floodways –
    - i. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a **floodplain development zoning** permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
    - ii. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
      - a. Meet the requirements to submit technical data in Section **1226.06(c)(1)** ~~1226.06(g)(1)A;~~
      - b. An evaluation of alternatives **that** ~~which~~ would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
      - c. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;

- d. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
  - e. **Concurrence of the City Manager and the chief executive officer of any other communities impacted by the proposed actions.**
- B. Development in Riverine Areas with Base Flood Elevations but No Floodways –
- i. In riverine special flood hazard areas identified by FEMA where base flood elevation data ~~is~~ ~~are~~ provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than one foot (1') at any point. Prior to issuance of a **floodplain development zoning** permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
  - ii. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data ~~is~~ ~~are~~ provided but no floodways have been designated causing more than one foot (1') increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
    - a. An evaluation of alternatives which would result in an increase of one foot (1') or less of the base flood elevation and an explanation why these alternatives are not feasible; **and**
    - b. **Section 1226.06(g)(9)A.ii.a. and A.ii.c. – d. Subsection 1226.06(j)(10)A.ii of this section.**
- C. Alterations of a Watercourse – For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the “bankfull stage.” The field determination of “bankfull stage” shall be based on methods presented in Chapter 7 of the “USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique,” or other applicable publication available from a federal, state, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
- i. 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 zoning** 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.
  - ii. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water **Resources**, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to **FEMA** ~~the Federal Emergency Management Agency~~.
  - iii. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Xenia specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the **floodplain development zoning** permit.
  - iv. The applicant shall meet the requirements to submit technical data in **Section 1226.06(c)(1)A.iii.** ~~1226.06(g)(1)A.iii.~~ when an alteration of a watercourse

results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

~~D. Fill—~~

- ~~i. Fill sites, upon which structures will be constructed or placed, must be compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test method or an acceptable equivalent method.~~
- ~~ii. Fill slopes shall not be steeper than one foot vertical to two feet horizontal.~~
- ~~iii. Adequate protection against erosion and scour shall be provided for fill slopes. When expected velocities during the occurrence of the base flood of more than five feet per second, armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less, protection shall be provided by covering fill slopes with vegetative cover.~~
- ~~iv. Fill shall be composed of clean granular or earthen material.~~

**(h) Appeals and Variances.**

**(1) Powers and Duties of the Board of Zoning Appeals (BZA):**

- A. The Board of Zoning Appeals (BZA) shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these floodplain regulations.**
- B. The BZA may authorize variances to these floodplain regulations in accordance with Section 1226.06(h)(3).**

**(2) Appeals:**

- A. Any person affected by any notice, order or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the BZA; provided, however, that such person shall file, within thirty (30) days of the date of such notice and order or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and shall be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the BZA.**
- B. Upon receipt of the notice of appeal, the BZA shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.**

**(3) Variances: Any person believing that the use and development standards of these floodplain regulations would result in undue hardship may file an application for a variance. The BZA shall have the power to authorize, in specific cases, such variance from the standards of these regulations, not inconsistent with federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel (and not due to the actions of the owner) a literal enforcement of the provisions of these regulations would result in an undue hardship.**

**A. Application for a Variance –**

- i. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance application shall transmit it to the BZA.**



Upon consideration of the above factors and the purposes of these regulations, the BZA may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

**E. Other Conditions for Variances –**

- i. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.**
- ii. 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 the applicable standards in Section 1226.06(h)C. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.**
- iii. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.**

**(4) Procedure at Hearings:**

- A. All testimony shall be given under oath.**
- B. A complete record of the proceedings shall be kept, except confidential deliberations of the BZA, but including all documents presented and a verbatim record of the testimony of all witnesses.**
- C. The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.**
- D. The Floodplain Administrator may present evidence or testimony in opposition to the appeal or variance.**
- E. All witnesses shall be subject to cross-examination by the adverse party or their counsel.**
- F. Evidence that is not admitted may be proffered and shall become part of the record for appeal.**
- G. The BZA shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.**
- H. The BZA shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing within a reasonable time after the hearing.**

**(5) Appeal to the Court: Those aggrieved by the decision of the BZA may appeal such decision to the Greene County Court of Common Pleas, pursuant to ORC Chapter 2506.**

**(i) Enforcement.**

**(1) Compliance Required:**

- A. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a floodplain development permit, as stated in Section 1226.06(b)(9).**



- B. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1226.06(i)(3).**
- C. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1226.06(i)(3).**
- (2) 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 herein provided.**
- A. Such notice and order shall:**
- i. Be put in writing on an appropriate form;**
  - ii. Include a list of violations, referring to the division(s) of this Section 1226.06 that have been violated, and order remedial action that, if taken, will affect compliance with the provisions of these regulations;**
  - iii. Specify a reasonable time for performance;**
  - iv. Advise the owner, operator, or occupant of the right to appeal; and**
- B. The notice and order shall be served on the owner, occupant, or agent in person; however, the 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 affected property.**
- (3) Violations and Penalties:**
- A. Any person who violates any provisions of this Section 1226.06 or who fails to comply with any of its requirements, or any order issued hereunder, is guilty of an unclassified misdemeanor and the offender shall be sentenced pursuant to ORC 2929.21 – 2929.28, except that the offender shall not be sentenced to a jail term nor sentenced to a community residential sanction pursuant to ORC 2929.26. Notwithstanding ORC 2929.28(A)(2)(a), the offender may be fined up to one thousand dollars (\$1,000), and notwithstanding ORC 2929.27(A)(3), the offender may be ordered pursuant to ORC 2929.27(C) to serve a term of community service of up to five hundred (500) hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under ORC 2705.02(A) and may be filed in the underlying case.**
- B. Each and every day such violation or failure to comply continues shall be deemed to be a separate offense.**
- (4) Penalties Not Exclusive: The penalties provided in this Section 1226.06(h) are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the City to seek cumulative remedies. If any person has violated or continues to violate the provisions of this Section 1226.06, the City may institute an appropriate action, whether in law or in equity, to restrain, correct or abate a violation, or petition for an injunction, to any court of competent jurisdiction.**

1244.02 GENERAL DEFINITIONS.

**AMEND THE FOLLOWING DEFINITIONS:**

Accessory Structure/Facilities. **A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.**

**Accessory Facilities.** Any building, shed, shelter, cabinet or similar structure used for the purpose of storing telecommunications equipment including, but not limited to, computer equipment and equipment necessary for the tower or antenna to perform its intended operation.

Base (100-Year) Flood Elevation (BFE). The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in feet mean sea level (MSL). In Zone AO areas, the base flood elevation is the **lowest adjacent** natural grade elevation plus the depth number (from one to three feet [1'-3']).

Basement. The portion of a building ~~that which~~ is partially or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, except the portion of a building having more than one-half of its total vertical distance (height) above grade. **For the purposes of the floodplain regulations contained in Section 1226.06, a basement is defined as any area of a building having its floor subgrade (below ground level) on all sides.**

Development. Any manmade change to improved or unimproved **real estate land** including, but not limited to, the construction of buildings or other structures, mining, dredging, **filling** ~~filling~~, grading, paving, excavation or drilling **operations or storage of equipment or materials.**

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle." For the purposes of **this Code's floodplain** ~~these regulations~~, a manufactured home includes manufactured homes and mobile homes as defined in **ORC Chapter 4781** ~~Ohio R.C. Chapter 3733~~.

National Flood Insurance Program (NFIP). 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 (Floodplain Regulations). Structures for which the "start of construction" commenced on or after the initial effective date of the City's **floodplain regulations** ~~of Xenia Flood Insurance Rate Map, 4-1-1981~~, and includes any subsequent improvements to such structures. **For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM (April 1, 1981) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structure.**

Special Flood Hazard Area. Also known as “areas of special flood hazard,” any land in the floodplain that is subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated and defined 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, or 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. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. **For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.**

Structure. Anything constructed or erected on the ground or attached to the ground or onsite utilities including, but not limited to, buildings, fences, signs, sheds, detached garages, cabins, and manufactured homes. **For the purposes of the floodplain regulations contained in Section 1226.06 of this Code, “structure” means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.**

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures **that** ~~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 fifty percent (50%) of a structure's market value, that structure is considered a substantial improvement. The term does not, however, include:~~

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

**ADD THE FOLLOWING DEFINITIONS:**

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

**Executive Order 11988 (Floodplain Management).** Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

**Flood Hazard Boundary Map (FHBM).** Usually the initial map, produced by FEMA or the U.S. Department of Housing and Urban Development for a community depicting approximate special flood hazard areas.

**Flood Insurance Rate Map (FIRM).** An official map on which FEMA or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

**Flood Insurance Risk Zones.** Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community, defined as follows:

- A. Zone A:** Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.
- B. Zones A1-30 and Zone AE:** Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.
- C. Zone AO:** Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of one to three feet (1'- 3'), usually sheet flow on sloping terrain; average depths are determined.
- D. Zone AH:** Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of one to three feet (1'- 3'), usually areas of ponding; base flood elevations are determined.
- E. Zone A99:** Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a federal flood protection system under construction; no base flood elevations are determined.
- F. Zone B and Zone X (shaded):** Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than one foot (1') or with contributing drainage area less than one square mile (1 mile<sup>2</sup>); and areas protected by levees from the base flood.
- G. Zone C and Zone X (unshaded):** Areas determined to be outside the 500-year floodplain.

**Flood Insurance Study (FIS).** 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.

**Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**Flood Protection Elevation.** The Flood Protection Elevation, or FPE, is the base flood elevation plus [X] feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

**Freeboard.** A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that

could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Historic Structure. Any structure that is:

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

Hydrologic and Hydraulic Engineering Analysis. An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

Letter of Map Change (LOMC). A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

- A. Conditional Letter of Map Revision (CLOMR): A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- B. 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.
- C. Letter of Map Revision (LOMR): A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

Manufactured Home Park. As specified in the Ohio Administrative Code 3701-27-01(k), a manufactured home park means any tract of land upon which three (3) 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 oriented 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 (3) or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. "Manufactured Home Park" does not include any tract of land used solely for the storage or display for sale of manufactured homes.

**Mean Sea Level.** **For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the City's Flood Insurance Rate Map are referenced.**

**ORC.** **ORC means the Ohio Revised Code.**

**Recreational Vehicle.** **A vehicle which is built on a single chassis; four hundred square feet (400 sq. ft.) or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.**

**Registered Professional Architect.** **A person registered to engage in the practice of architecture under the provisions of ORC Sections 4703.01 to 4703.19.**

**Registered Professional Engineer.** **A person registered as a professional engineer pursuant to ORC Chapter 4733.**

**Registered Professional Surveyor.** **A person registered as a professional surveyor pursuant to ORC Chapter 4733.**

1220.10 VARIANCES.

(d) Review Criteria.

~~(2) Variance Review Criteria Related to Floodplain Development.~~

- ~~A. The BZA shall have the authority to review variances to the floodplain development regulations of Section 1226.06 Floodplain Regulations, provided such request is not inconsistent with federal regulations and in such cases when the request will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.~~
- ~~B. In considering such variance applications, the BZA shall consider the following factors. Not all factors may be applicable in each case so each case shall be determined on its own facts.~~
- ~~i. The danger that materials may be swept onto other lands to the injury of others;~~
  - ~~ii. The danger to life and property due to flooding or erosion damage;~~
  - ~~iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
  - ~~iv. The importance of the services provided by the proposed facility to the community;~~
  - ~~v. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
  - ~~vi. The necessity to the facility of a waterfront location, where applicable;~~
  - ~~vii. The compatibility of the proposed use with existing and anticipated development;~~
  - ~~viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
  - ~~ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
  - ~~x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and~~
  - ~~xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~
- ~~C. A variance to the floodplain development regulations 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 due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations do not constitute an exceptional hardship to the applicant;~~
  - ~~iii. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, or conflict with existing local laws;~~
  - ~~iv. A determination that the structure or other development is protected by methods to minimize flood damages; and~~
  - ~~v. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~