

EXHIBIT A TO ORDINANCE NO. 10-21

CHAPTER 1464

FLOOD DAMAGE PREVENTION REGULATION UPDATES

REVISED 2/11/2021

EXHIBIT A

CITY OF AVON

FEDERAL EMERGENCY MANAGEMENT
AGENCY (FEMA)

CHAPTER 1464
FLOOD DAMAGE PREVENTION
REGULATIONS

UPDATES

REVISED 2/11/21
ODNR & FEMA APPROVAL 2/12/21

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CHAPTER 1464

Flood Damage Prevention

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CROSS REFERENCES

Flood control by soil conservation district supervisors - see Ohio R.C. 1515.08

Flood insurance - see Ohio R.C. 3925.34(C), 3941.02(A)(1)

Water supply, sanitation, ditches - see Ohio R.C. 6101.01 et seq.

Altering, polluting, and diverting watercourses - see GEN. OFF. 660.04

Preservation of wetlands - see P. & Z. 1218.01

1464.01 STATUTORY AUTHORIZATION.

Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City Council of Avon, State of Ohio, does ordain the following flood damage regulations.

(Ord. 96-08. Passed 7-14-08.)

1464.02 FINDINGS OF FACT.

The City of Avon has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(Ord. 96-08. Passed 7-14-08.)

1464.03 STATEMENT OF PURPOSE.

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

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;

(g) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

(h) Minimize the impact of development on adjacent properties within and near flood-prone areas;

(i) Ensure that the flood storage and conveyance functions of the floodplain are maintained;

(j) Minimize the impact of development on the natural, beneficial values of the floodplain;

(k) Prevent floodplain uses that are either hazardous or environmentally incompatible; and

(l) Meet community participation requirements of the National Flood Insurance Program.

(Ord. 96-08. Passed 7-14-08.)

1464.04 METHODS OF REDUCING FLOOD LOSS.

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

(a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;

(b) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(d) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and

(e) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

(Ord. 96-08. Passed 7-14-08.)

1464.05 LANDS TO WHICH THESE REGULATIONS APPLY.

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City as identified in Section 1464.06, including any additional areas of special flood hazard annexed by City.

(Ord. 96-08. Passed 7-14-08.)

1464.06 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(a) For the purposes of these regulations, the following studies and/or maps are adopted:

(1) Flood Insurance Study Lorain County, Ohio and Incorporated Areas and Flood Insurance Rate Map Lorain County, Ohio, and Incorporated Areas both effective March 9, 2021.

(2) Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways, or delineation of other areas of special flood hazard.

(3) Any hydrologic and hydraulic engineering analysis authored by a registered professional engineer in the State of Ohio which has been approved by the City as required by this Chapter 1464.

(b) 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 36080 Chester Road, Avon, Ohio 44011.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

1464.07 ABROGATION AND GREATER RESTRICTIONS.

These regulations are not intended to repeal any existing ordinances, including Subdivision Regulations, Zoning or Building Codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations are not intended to repeal, abrogate, or impair any existing ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 96-08. Passed 7-14-08.)

1464.08 INTERPRETATION AND SEVERABILITY.

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

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.
- (d) Where a provision of these regulations may be in conflict with a State or Federal law, such State or Federal law shall take precedence over these regulations
- (e) Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ord. 96-08. Passed 7-14-08.)

1464.09 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, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage

that results from reliance on these regulations or any administrative decision lawfully made thereunder.

(Ord. 96-08. Passed 7-14-08.)

1464.10 DEFINITIONS.

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

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

(b) "Appeal." A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.

(c) "Base flood." The flood having a 1% chance of being equaled or exceeded in any given year. The "base flood" may also be referred to as the 1% chance annual flood or 100-year flood.

(d) "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).

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

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

(g) "Enclosure Below the Lowest Floor." See "Lowest Floor" as defined in this section.

(h) "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.

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

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

(k) "Flood" or "flooding." A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

(m) "Flood Insurance Rate Map (FIRM)." An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

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

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

(2) Zones AI-30 and Zone AE. Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.

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

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

(5) 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.

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

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

(o) "Flood Insurance Study (FIS)." The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on flood boundary and floodway maps), and the water surface elevations of the base flood.

(p) "Floodproofing." Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. (q) "Flood Protection Elevation (FPE)." The base flood elevation plus one- and one-half 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.

(r) "Floodway." A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A "floodway" is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community. The floodway is an extremely hazardous area and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

(s) "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.

(t) "Historic structure." Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or

(4) Individually listed on the inventory of historic places maintained by the City's historic preservation program, which program is certified by the Ohio Historic Preservation Office.

(u) "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.

(v) "Letter of Map Change (LOMC)." An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. "LOMCs" are broken down into the following categories:

(1) "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.

(2) "Letter of Map Revision (LOMR)." A revision based on technical data that, usually due to man-made changes, shows changes to flood zones, flood elevations, floodplain, and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

(3) "Conditional Letter of Map Revision (CLOMR)." A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A "CLOMR" does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

(w) "Lowest floor." The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

(x) "Manufactured home." A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent

foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a "manufactured home" includes manufactured homes and mobile homes as defined in Ohio R.C. Chapter 4781.

(y) "Mean Sea Level (MSL)." For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. (z) "Manufactured home park." As specified in Ohio Adm. Code 4781-12-01(K), any tract of land upon which three or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a "manufactured home park," even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes. (aa) "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.

(bb) "New construction." Structures for which the "start of construction" commenced on or after the initial effective date of the floodplain regulation adopted by the City of Avon and includes 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 (June 18, 1980) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

(cc) "Person." Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies. An "agency" is further defined in Ohio Rev. Code §111.15(A)(2) as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or State community college. "Agency" does not include the general assembly, the controlling board, the Adjutant General's Department, or any court.

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

(ee) "Registered Professional Architect." A person registered to engage in the practice of architecture pursuant to Ohio Rev. Code §4703.01 and 4703.19.

(ff) "Registered Professional Engineer." A person registered as a professional engineer pursuant to Ohio Rev. Code Chapter 4733.

(gg) "Registered Professional Surveyor." A person registered as a professional surveyor pursuant to Ohio Rev. Code Chapter 4733.

(hh) "Special Flood Hazard Area (SFHA)." Also known as "area of special flood hazard", it is the land in the floodplain subject to a 1% or greater chance of flooding in any given year. "Special flood hazard areas" are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. "Special flood hazard areas" may also refer to areas that are 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.

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

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

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

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

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration would not preclude the structure's continued designation as a historic structure.

(mm) "Variance." A grant of relief from the standards of these regulations.

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

(Ord. 96-08. Passed 7-14-08.)

1464.11 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The Chief Building Inspector is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

(Ord. 96-08. Passed 7-14-08.)

1464.12 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(a) Work with the City Engineer to evaluate applications for permits to develop in special flood hazard areas. Applications for permits must be signed by both the Floodplain Administrator and the City Engineer.

(b) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.

(c) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.

(d) Inspect buildings and lands to determine whether any violations of these regulations have been committed.

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

(f) Enforce the provisions of these regulations and work with the City Engineer in the enforcement of this chapter.

(g) Provide information, testimony, or other evidence as needed during variance hearings.

(h) Coordinate map maintenance activities and FEMA follow-up.

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

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

1464.13 FLOODPLAIN DEVELOPMENT PERMITS.

(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 1464.06, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met. All floodplain permits shall be signed by both the Floodplain Administrator and the City Engineer.

(b) Permitting Sequence.

(1) For subdivisions or commercial developments that must have Planning Commission approval.

A. Floodplain Development Permit. An application must be submitted and Floodplain Development Permit approved prior to seeking Final Plat (subdivisions) or a Final Development Plan (commercial developments) approval by Planning Commission.

B. CLOMR/LOMR. If the BFE is indicated that it will be raised during the Floodplain Development Permit, then a CLOMR must be submitted and approved by FEMA prior to Floodplain Development Permit approval by the City. Within 6 months of the date that as-built technical data showing the increased BFE becomes available or completion of the development (whichever is first), the applicant must apply for and acquire a LOMR.

C. LOMR/LOMR-F/LOMR-FW. If any proposed development or project intends to remove an area from the SFHA through a LOMR, LOMR-F (if fill will be placed in the SFHA), or a LOMR-FW (if fill will be placed in the floodway), a CLOMR or CLOMR-F must first be submitted and approved by FEMA prior to receiving any building permits (this includes building permits for structures, not for subdivision site work).

D. Certificate of Compliance. Prior to final acceptance of a subdivision by Council or prior to the issuance of a final occupancy permit by the Building Department (commercial developments) for which a Floodplain Development Permit had been previously issued, a Certificate of Compliance must be issued by the Floodplain Administrator for the subdivision. This shall include verification that a LOMR/LOMR-F/LOMR-FW for the subdivision has been obtained from FEMA as well as reviewing the as-builts of the subdivision or commercial development for any roadways, Stormwater Control Measures (SCMs), storm sewer system, sanitary sewer system and final grading within the subdivision to verify that those items have been constructed in general conformance with the supporting documentation and plans upon which the current Floodplain Development Permit was issued.

(2) For structures.

A. Floodplain development permit. Must be submitted and approved prior to topography map approval. This may be omitted if a Floodplain Development Permit was issued for a house within a subdivision that had previously received a Floodplain Development Permit.

B. CLOMR/LOMR. If an increase in BFE is proposed in the Floodplain Development Permit application, then a CLOMR must be submitted and approved by FEMA prior to

Floodplain Development Permit approval by the City. Within 6 months of the date as-built technical data showing the increased BFE becomes available or completion of the development (whichever is first), the applicant must apply for and acquire a LOMR. A CLOMR may not be required if the subject structure is located within a subdivision that had previously received a CLOMR as determined by the Floodplain Administrator.

C. LOMR/LOMR-F/LOMR-FW. If any proposed development or project intends to remove an area from the SFHA through a LOMR, LOMR-F (if fill will be placed in the SFHA), or a LOMR-FW (if fill will be placed in the floodway), a CLOMR, CLOMR-F, or must first be submitted and approved by FEMA prior to receiving any Building Permits (this includes building permits for structures, not for subdivision site work). A LOMR or LOMR-F may not be required if the subject structure is located within a subdivision that had previously received a LOMR/LOMR-F as determined by the Floodplain Administrator.

D. Floodplain Landscaping Permit. Once the final grade has been accepted by the City, but before landscaping has been performed, a floodplain landscaping permit must be submitted to the City. Once the landscaping has been performed, another final grade check will be performed by the City. This is to check to ensure that the grading around a structure has not exceeded the limits of the floodplain development permit.

E. Certificate of compliance. Prior to final occupancy, a certificate of compliance must be issued by the City for the structure. This shall occur once the floodplain landscaping permit has been issued by the City.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12; Ord. 78-15. Passed 7-13-15.)

1464.14 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 or her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. The Floodplain Administrator shall require an application for a floodplain development permit to determine the development's location as it is associated with the FEMA floodplain maps. 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.

(e) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:

(1) Floodproofing certification for nonresidential floodproofed structure as required in this chapter.

(2) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of this chapter are designed to automatically equalize hydrostatic flood forces.

(3) Description of any watercourse alteration or relocation that the flood- carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in this chapter.

(4) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by this chapter.

(5) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by this chapter.

(6) Generation of base flood elevation(s) for subdivision and other new developments as required by this chapter.

(f) A floodplain development permit application fee set by the schedule of fees adopted by the City.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

1464.15 REVIEW AND APPROVAL OF A FLOODPLAIN DEVELOPMENT PERMIT APPLICATION.

(a) Review.

(1) After receipt of a complete application, the Floodplain Administrator and the City Engineer shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1464.14 has been received by the Floodplain Administrator.

(2) The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

(b) Approval. Within 30 days after the receipt of a complete application, the Floodplain Administrator and the City Engineer shall either approve or disapprove the application. If the Floodplain Administrator and City Engineer are satisfied that the development application conforms to the requirements of this ordinance, the Floodplain Administrator shall issue the permit. All floodplain development permits shall be conditional upon the commencement of work within one hundred and eighty (180) days. A floodplain development permit shall expire one hundred and eighty (180) days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

1464.16 INSPECTIONS.

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

(Ord. 96-08. Passed 7-14-08.)

1464.17 POST-CONSTRUCTION CERTIFICATIONS REQUIRED.

The following as-built certifications are required after a floodplain development permit has been issued, but before a Certification of Occupancy can be issued:

(a) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered professional 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 1464.20(a), a Letter of Map Revision.

(c) For new or substantially improved non-residential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed floodproofing certificate for non-residential structures completed by a registered professional engineer or architect together with associated documentation.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

1464.18 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 the Appeals Board in accordance with Sections 1464.33 through 1464.38.

(Ord. 96-08. Passed 7-14-08.)

1464.19 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 twenty-five hundred dollars (\$2,500.00).

(Ord. 96-08. Passed 7-14-08.)

1464.20 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 flood maps, studies and other data identified in Section 1464.06 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(a) Requirement to Submit New Technical Data.

(1) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

- A. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
- B. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
- C. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts;
- D. Subdivision or other new development proposals requiring the establishment of base flood elevations in accordance with this chapter; and
- E. Other items as indicated in this chapter.

(2) It is the responsibility of the applicant to have technical data, required in accordance with division (a) of this section or as required in this chapter, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(3) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- A. Proposed floodway encroachments that increase the base flood elevation; and
- B. Proposed development which increases the base flood elevation by more than one foot in riverine areas where FEMA has provided base flood elevations but no floodway.

(4) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to division (a)(1) of this section or as required in this chapter.

(b) Right to Submit New Technical Data. The Floodplain Administrator or the 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.

(c) Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City's Flood Insurance Rate Map accurately represent the City boundaries, include within such notification a copy of a map of the City suitable for reproduction, clearly showing the new corporate limits or the new area for which the City has assumed or relinquished floodplain management regulatory authority.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

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

(a) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a Federal, State, or other source.

(b) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.

(c) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 1464.33 through 1464.38, Appeals and Variances.

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

(e) Use of Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:

(1) Zone A:

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

(B) When all appeals have been resolved and a notice of final food 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,

(aa) Where BFEs increase in a restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected. Communities are encouraged to 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 their citizens are protected.

(bb) 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, communities should reasonably utilize this data in lieu of applying the encroachment performance standard, since the data in the draft or preliminary FIS represents the best data available.

(3) Zones B, C, and X:

(A) Use of BFE and floodway data from a preliminary FIRM or FIS are not required for areas designated as Zone B, C, or X on the effective FIRM which are being revised to Zone AE, A1-30, AH, AO, VE, or V1-30. The Floodplain Administrator may reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and welfare of citizens is protected.

(Ord. 96-08. Passed 7-14-08.)

1464.22 SUBSTANTIAL DAMAGE DETERMINATIONS.

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

- (1) Determine whether damaged structures are located in special flood hazard areas;
- (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and

(3) Owners of substantially damaged structures shall obtain a Floodplain Development Permit prior to repair, rehabilitation, or reconstruction.

(b) Additionally, the Floodplain Administrator 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 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.

(Ord. 96-08. Passed 7-14-08.)

1464.23 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

(a) The development standards in Section 1464.24 apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1464.06 or 1464.21(a).

(b) Subdivisions and other New Development.

(1) All subdivision 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;

(2) All subdivision 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;

(3) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood damage;

(4) In all areas of special flood hazard (floodway or 100-year floodplain) 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 50 lots or five acres, whichever is less. If a development is less than 50 lots or five acres, this hydrologic and hydraulic analysis may be required at the discretion of the City Engineer;

The hydraulic analysis shall consist of the following:

A. SWMM model (or other as agreed upon by the City Engineer) using tail water and back flow calculations;

B. Analysis of both the effects of the proposed development on the entire watershed and the adjacent parcels;

(5) In the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

(6) In the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules 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;

(7) In the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules on-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding; and

(8) The applicant shall meet the requirement to submit technical data to FEMA in Section 1464.20(a)(1) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1464.23(b)(4).

(9) All wet ponds or other SCMs (as deemed necessary by the City Engineer) within a 1% (100-year) floodplain or floodway shall have their top of banks at a minimum height of one foot above the 1% (100-year) floodplain elevation.

(c) Residential Structures.

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring and construction materials resistant to flood damage are satisfied, as long as all requirements of the LOMR-F are satisfied.

(2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.

(3) 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.

(4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to the Flood Protection Elevation (one and one-half feet above BFE)..

(5) If there is no flood protection elevation data available based on the County Flood Insurance Maps, then the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade unless approved by both the City Engineer and the Floodplain Administrator.

(6) 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 to allow the automatic equalization of hydrostatic pressure may have an enclosure below the lowest floor, provided the enclosure meets the following standards:

A. Be used only for the parking of vehicles, building access, or storage; and

B. 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 flood waters; or

C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one-foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of flood waters.

(7) 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.

(8) 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 this section.

(9) In AO and/or AH Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide flood waters around and away from the structure.

(10) If a new residential structure is being built into an existing residential subdivision after this chapter is enacted, then the final floor elevation of the new residential structure must be within one foot of the final floor elevation indicated on the final plat for the residential subdivision.

(11) Applicant shall adhere to the permitting requirement set forth in Section 1464.13(b)(2).

(d) Nonresidential Structures.

(1) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet the requirements of this Section 1464.23(d) unless it is superseded within Section 1464.23(e).

(2) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

A. 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;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

C. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 1464.23(d)(2)A. and (d)(2)B.

(e) Accessory Structures.

(1) Relief to the elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH may be granted for accessory structures containing no more than 600 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 flood waters;

D. They shall be firmly anchored to prevent flotation;

E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation (BFE);

F. They shall meet the opening requirements of Section 1464.23(c)(6)C.; and

G. They shall not be located within the floodway.

(f) Recreational Vehicles within zones A, A1-30, AE, AO, and AH.

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

A. They shall not be located on sites in special flood hazard areas for more than 180 days; or

B. They must be fully licensed and ready for highway use; or

C. They must meet all standards of Section 1464.23(c).

(g) Above-ground Gas or Liquid Storage Tanks.

(1) Within zones A, A1-30, AE, AO, and AH all above-ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads if they are located on a lot that is within 1,000 feet of a floodway, 100-year floodplain, or a 500-year floodplain.

(h) Assurance of Flood-carrying Capacity.

(1) Pursuant to the purpose and methods of reducing flood damage stated in these chapters, the following additional standards are adopted to assure that the reduction of the flood-carrying capacity of watercourses is minimized:

(2) Development in floodways.

A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge (i.e. there is no increase in the flood levels during a 100-year storm). Prior to issuance of a floodplain development permit, the applicant must

submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development activity within the floodplain would not result in any increase in the base flood elevation; or

B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. Meet the requirements to submit technical data in Section 1464.20(a);
2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
4. 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;
5. A CLOMR approval by FEMA prior to the acceptance of the Floodplain Development Permit;
6. A LOMR (or LOMR-F) approval by FEMA prior to issuance of any building permits for structures;
7. Certificate of compliance issued by the City prior to final occupancy permit issuance;
8. Concurrence of the Mayor of Avon and the Chief Executive Officer of any other communities impacted by the proposed actions; and
9. Concurrence of the City Engineer.

(3) Development in riverine areas with base flood elevations but no floodways.

A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not raise the base flood elevation at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or

B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing any increase in the base flood elevation is not permitted.

(4) Alterations of a watercourse.

A. For the purpose of these chapters, 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:

B. The bankfull flood-carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a

registered professional engineer that the bankfull flood-carrying capacity of the watercourse will not be diminished.

C. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency,

D. 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, specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

E. The applicant shall meet the requirements to submit technical data in Section 1464.20(a)(1)C. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(5) LOMAs/LOMRs/LOMR-Fs.

A. In areas that used to be in floodways or floodplains, but have been modified, with either a Letter of Map Amendment (LOMA), a Letter of Map Revision (LOMR), or a Letter of Map Revision - Based On Fill (LOMR-F) the following must be followed for residential and nonresidential structures.

1. The lowest level of the structure, including basements, must not be below the BFE unless the following is followed:

a. The ground surface around the building and within 20 feet from the edge of the SFHA must be one foot above the BFE.

b. The setback is the distance from the edge of the SFHA to the nearest wall of the basement.

c. The ground around the building must be suitable compacted fill; the fill material (or soil of similar classification and degree of permeability) must extend to at least five feet below the bottom of the basement floor slab if the soil below is not considered suitable.

d. The fill material must be compacted to at least 95% of Standard Laboratory Maximum Dry Density, according to ASTM Standard D-698. Fill soils must be fine-grained soils of low permeability, such as those classified as CH (clay of high plasticity), CL (clay of low plasticity, SC (sand with clayey fines), or ML (silt) according to ASTM Standard D-2487, Classification of Soils for Engineering Purposes.

e. The fill material must be homogeneous and isotropic; that is, the soil must be all of one material, and the engineering properties must be the same in all directions.

f. The elevation of the basement floor should be no more than five feet below the BFE.

g. A granular drainage layer beneath the floor slab, and a one-half HP sump pump (in accordance with Section 1050.14(a) with a backup power supply must be provided to remove the seepage flow. The pump must discharge above the BFE and away from the building. Sump pump discharge shall be routed above the BFE before down turning for discharge to gravity drainage.

h. The drainage system must be equipped with a positive means of preventing backflow.

i. Downspout collection systems must discharge via gravity to a storm sewer or other method as approved by the City Engineer. Foundation drains must discharge via a sump pump up to the gravity storm sewer system or other method as approved by the City Engineer.

j. The basement must be designed to withstand any hydrostatic pressures.

k. All work will be supervised by a licensed professional engineer. At the end of the project, a certified letter is required from said engineer stating that all work was done in compliance with this section.

l. A notarized letter, signed by the property owner, that acknowledges that there could be potential flooding of the basement and relieves the City from any and all responsibility, should flooding occur.

2. All other items indicated within Section 1464.23(c) must be adhered to.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12; Ord. 78-15. Passed 7-13-15.)

1464.24 USE REGULATIONS.

(a) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City are allowed provided they meet the provisions of these regulations.

(b) Prohibited Uses.

(1) Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Ohio R.C. Chapter 3701.

(2) Infectious waste treatment facilities in all special flood hazard areas, permitted under Ohio R.C. Chapter 3734.

(3) Storage of loose fill or debris in the SFHA is prohibited.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12; Ord. 78-15. Passed 7-13-15.)

1464.25 COMPENSATORY STORAGE.

(a) Development within the Special Flood Hazard Area shall result in no net loss of natural floodplain storage. The volume of the loss of flood water storage due to development shall be offset by providing an equal or greater volume of permanent flood storage by excavation or other compensatory measures at or adjacent to the development site. This compensatory floodplain storage shall be proposed and created in accordance with the following requirements.

(b) Prior to issuance of a Floodplain Development Permit, a plan and calculations prepared by a professional engineer shall be submitted for approval. This plan shall be based on a field survey, shall show the existing and proposed grades of the development and compensatory storage areas, and shall be accompanied by calculations which demonstrate the following:

(1) For all areas that drain via storm sewers and/or surface topography to tributaries of and including French Creek, and which are located east of State Route 83, that the proposed stage vs. storage volume relationship of the compensatory storage area would have a minimum of twice the storage volume at each one-foot contour increment as in the pre-development condition of the proposed development area; or

(2) For all other areas, that the proposed stage vs. storage volume relationship of the compensatory storage area would have the same or greater storage volume at each one-foot contour increment as in the pre-development condition of the proposed development area.

(3) 2:1 Compensatory Storage Map. The City shall create a map identifying the designated area where the 2:1 compensatory storage requirement is applicable. This map shall be maintained at City Hall in the office of the City Engineer. The following shall apply to the map:

A. Nothing herein shall prevent the City from making additions, amendments, revisions, or deletions from the 2:1 Compensatory Storage Map.

B. If any discrepancy is found at the time of application of this regulation between the 2:1 Compensatory Storage Map and the criteria for applicable areas as set forth in Section 1464.25(b)(1) and (2) of this regulation, Section 1464.25(b)(1) and (2) shall prevail.

(c) The compensatory storage area shall have a hydraulic connection to the effected watercourse which is equal to or greater than the pre-development conditions and shall provide the same or improved rate of flood storage capture and discharge over the course of the flood event as in the pre-development conditions, all as required per Section 1464.25(b)(1) or (2).

(d) Compensatory storage shall be located adjacent to the development area or on the opposite side of the stream across from the development area. In the case of filling for a new stream crossing, the compensatory storage shall be located upstream of the crossing.

(e) The compensatory storage area shall be a permanent component of the property and shall be repaired or replaced by the owner of the property if silted-in or otherwise compromised by activities other than natural movement of the stream.

(f) Where the applicant proposes compensatory storage on property owned by others, the applicant shall submit a written agreement between such landowner and the applicant wherein the landowner agrees to convey an easement or other property interest or right to the applicant allowing compensatory storage, and to permanently maintain such area for flood storage purposes, as described in division (d) above. Prior to construction, the applicant shall submit documentation showing that conveyance of easements, property interests or rights have been properly recorded with the County Recorder's Office.

(g) The design and creation of the development and compensatory storage areas shall incorporate best management practices as required by other City regulations or State or Federal agencies to minimize soil erosion and sediment impacts.

(h) Prior to grading or construction in development and compensatory storage areas, the applicant shall be responsible for obtaining any necessary permits or approvals from other involved agencies such as the U.S. Army Corps of Engineers and the Ohio EPA.

(i) Prior to grading or construction in development and compensatory storage areas, the applicant shall be required to submit technical data regarding the proposed flood boundary revision to FEMA and obtain a Conditional Letter of Map Revision (CLOMR) in accordance with Section 1464.20(a) of these regulations., based on determination by the Floodplain Administrator.

(j) After the development and compensatory storage areas are complete, an as-built topographic survey of the development area and the compensatory storage area shall be

prepared and stamped by a professional surveyor and submitted to the Floodplain Administrator. This survey shall be accompanied by as-built stage vs. storage volume calculations prepared by a professional engineer as described in division (a) above.

(k) After the development and compensatory storage areas are satisfactorily complete, the applicant shall submit technical data to and obtain a Letter of Map Revision from FEMA in accordance with Section 1464.20(a) of these regulations. When the development and compensatory storage areas are created for a new subdivision development, the Letter of Map Revision shall be obtained prior to the City Engineer's approval of the final subdivision plat.

(l) These regulations regarding compensatory storage specified in this section shall be applied in the following manner:

(1) Parcels of land one acre or less in size and existing in its current configuration as noted in Lorain County deed records prior to July 13, 2015 shall not be subject to any compensatory storage requirements specified in this section;

(2) Parcels of land greater than one acre but less than or equal to two acres in size and existing in its current configuration as noted in Lorain County deed records prior to July 13, 2015 shall only be subject to a stage vs. storage volume relationship of 1:1 no matter where the parcel is located within the city;

(3) Parcels of land greater than two acres in size shall be fully subject to the compensatory storage requirements specified in this section.

(m) These regulations regarding compensatory storage shall not apply to public highway, transportation, or drainage improvements or maintenance thereof undertaken by a government agency or political subdivision.

(Ord. 78-15. Passed 7-13-15; Ord. 59-16. Passed 5-16-16.)

1464.26 STATE AND FEDERAL DEVELOPMENT.

(a) Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NFIP criteria.

(b) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable local floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:

1. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781-12.
2. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
3. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.

(c) Before Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.

1. Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of EO 11988.

1464.27 RESERVED.

1464.28 RESERVED.

1464.29 RESERVED.

1464.30 RESERVED.

1464.31 RESERVED.

1464.32 RESERVED.

1464.33 APPEALS.

(a) The Avon Board of Zoning and Building Appeals (BZA) is hereby appointed to serve as the Appeals Board for these regulations as established by the Charter of the City of Avon and the Avon Codified Ordinances.

(b) Records of the BZA shall be kept and filed at 36080 Chester Road Avon, Ohio 44011. (Ord. 96-08. Passed 7-14-08.)

1464.34 POWERS AND DUTIES OF BOARD.

(a) The 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 regulations.

(b) The BZA shall follow the procedures set forth in ACO Chapter 1232 except that the Floodplain Administrator replaces the Zoning Enforcement Officer as the Administrative officer

(Ord. 96-08. Passed 7-14-08.)

1464.35 RESERVED.

1464.36 VARIANCES.

Any person believing that the implementation, use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The BZA shall follow the procedures and exercise the powers granted to it under Chapter 1232 of the ACO and have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be

contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(a) Application for a Variance.

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

(2) Such application at a minimum shall contain the following information: Name, address, and telephone number of the owner and applicant; proof of legal standing; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

(3) All applications for a variance shall be accompanied by a variance application fee of \$150 or as set forth in the schedule of fees adopted by the City whichever is later.

(b) Public Hearing.

(1) At such hearing, the applicant shall present such statements and evidence as the BZA requires. In considering such variance applications, the BZA shall consider all relevant factors, standards specified in other sections of these regulations and the following factors:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- J. 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.
- K. 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.

(2) Variances shall only be issued upon:

- A. A showing of good and sufficient cause.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.

C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.

D. A determination that the structure or other development is protected by methods to minimize flood damages.

E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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

(c) Other Conditions for Variances.

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

(2) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the provisions of divisions (b)(1)A. through K. of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 96-08. Passed 7-14-08.)

1464.37 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 Board, 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 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 Board 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) If requested, 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 or the decision may be issued in writing within a reasonable time after the hearing. (Ord. 96-08. Passed 7-14-08.)

1464.38 APPEAL TO THE COURT.

Those aggrieved by the decision of the Appeals Board may appeal such decision to the Lorain County Court of Common Pleas, as provided in Ohio R.C. Chapter 2506. (Ord. 96-08. Passed 7-14-08.)

1464.39 COMPLIANCE REQUIRED.

(a) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in 1464.19.

(b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1464.41.

(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 1464.41.

(Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

1464.40 NOTICE OF VIOLATION.

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

(a) Be put in writing on an appropriate form;

(b) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will affect compliance with the provisions of these regulations;

(c) Specify a reasonable time for performance;

(d) Advise the owner, operator, or occupant of the right to appeal;

(e) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(Ord. 96-08. Passed 7-14-08.)

1464.41 VIOLATIONS AND PENALTIES.

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense and shall constitute a fourth-degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City (See, ACO Chapter 698). Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. The City shall prosecute any violation of these regulations in accordance with the penalties stated herein. (Ord. 96-08. Passed 7-14-08; Ord. 129-12. Passed 11-26-12.)

