

CODIFIED ORDINANCES OF FAIRPORT HARBOR
PART THIRTEEN - BUILDING CODE

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CODIFIED ORDINANCES OF FAIRPORT HARBOR
PART THIRTEEN - BUILDING CODE

CHAPTER 1305
House Trailers

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restrictions and exceptions. | 1305.04 | Trailer camps limited to
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CROSS REFERENCES

- Trailer parks - see Ohio R.C. Ch. 3733
Licensing and fees by Board of Health - see Ohio R.C. 3733.03
et seq.
State license plate fee - see Ohio R.C. 4503.04(C)
Tax levy upon house trailers - see Ohio R.C. 4503.06 et seq.
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1305.01 OCCUPYING TRAILERS; RESTRICTIONS AND EXCEPTIONS.

No person shall occupy any house trailer in the Village unless such occupied trailer is located upon an area of land, not occupied by any other buildings or trailers, of not less than 7,500 square feet, excluding, however, such existing trailers as have been occupied continually for a period of at least one year prior to February 3, 1953.
(Ord. 2268. Passed 2-3-53.)

1305.02 SEWER CONNECTIONS REQUIRED.

No person shall occupy a house trailer in the Village unless such house trailer is completely and directly connected with sewer and other sanitary facilities. (Ord. 2268. Passed 2-3-53.)

1305.03 PARKING TRAILERS; LAND AREA REQUIRED.

No person shall park any house trailer upon any area of land in the Village having a ground area of less than 7,500 square feet for each house trailer. (Ord. 2268. Passed 2-3-53.)

1305.04 TRAILER CAMPS LIMITED TO ONE TRAILER.

No person, firm, corporation or partnership owning or leasing land within the limits of the Village shall permit, place, keep or maintain a trailer camp in the Village which is in excess of one trailer upon any land so owned, rented or leased. (Ord. 2268. Passed 2-3-53.)

1305.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. Any such violation shall constitute a separate offense on each successive day continued.

CHAPTER 1306
Satellite Earth Stations and Antennas

1306.01	Definitions.	1306.05	Inspection of installation.
1306.02	Permit required.	1306.06	Location.
1306.03	Permit application and plans.	1306.07	Construction support structures.
1306.04	Permit fee.	1306.08	Prohibitions.

1306.01 DEFINITIONS.

(a) "Satellite earth station" means a signal-receiving device of any size, shape or description designed for the purpose of receiving microwave transmissions or other signals, directly or indirectly, from satellite's in the earth orbit.

(b) "Usable satellite signal" means a satellite signal which when viewed on a conventional television set is comparable in picture quality to that received from local commercial television stations or by way of cable television. (Ord. 1996-54. Passed 6-4-96.)

1306.02 PERMIT REQUIRED.

No person, firm, partnership, corporation, trust or other legal entity shall construct or erect a satellite earth station in the Village without first obtaining a permit. No installation or erection shall commence before such permit is issued in accordance with the provisions of this chapter.

(Ord. 1996-54. Passed 6-4-96.)

1306.03 PERMIT APPLICATION AND PLANS.

(a) Any person, property owner or contractor who desires to construct or erect a satellite earth station shall apply to the Zoning Inspector for the permit described in Section 1306.02 and pay the required fee. A part owner, occupant, renter or contractor shall obtain the written permission of the owner of the lot, premises or parcel of land on which such satellite earth station construction or erection is proposed.

(b) The Zoning Inspector may issue a permit provided the applicant submits a written application upon forms provided by the Village, along with plans and specifications, including a plot plan, drawn to scale, of the property or parcel of land showing the exact location of the proposed satellite earth station and all other buildings located on the subject property and adjacent property; a description of the kind of satellite earth station proposed; construction plans showing specifications of the proposed satellite earth station; and sufficient details to show the method of assembly and construction.

(c) The application shall indicate the owner and/or owners of the subject property, the occupant of the premises and the contractor or other persons who shall be permitted to construct or erect the proposed satellite earth station. (Ord. 1996-54. Passed 6-4-96.)

1306.04 PERMIT FEE.

The fee required for each satellite earth station permit in excess of one meter in diameter shall be twenty dollars (\$20.00) for residential, commercial and industrial installations.

(Ord. 2007-069. Passed 8-14-07.)

1306.05 INSPECTION OF INSTALLATION.

The Zoning Inspector shall be responsible for the inspection of satellite earth stations during construction. The Zoning Inspector may reinspect erected and/or installed satellite earth stations for any structural or electrical deficiencies which become apparent or develop with regard to such satellite earth station, and the Zoning Inspector shall require correction of any such deficiencies.

(Ord. 1996-54. Passed 6-4-96.)

1306.06 LOCATION.

(a) All satellite earth stations shall be located and designed so as to reduce the visual impact when viewed from surrounding properties and at the street level of the nearest public street. All satellite earth stations shall have an unobtrusive color and nonglare finish. Appropriate screening and/or an evergreen landscaping plan shall be submitted to the Zoning Inspector before construction of a satellite earth station may be commenced.

(b) No satellite earth station shall be linked physically or electronically to any receiver not located on the same lot or parcel of land as is the satellite earth station.

(c) No satellite earth station shall be constructed in the front of any dwelling nor closer than ten feet of any side lot line.

(d) Satellite earth stations may only be constructed in the rear yard of any property unless a usable satellite signal cannot be obtained from the required rear yard location in which case, the satellite earth station may then be located on the side yard of the property, subject to the requirements of this chapter. (Ord. 1996-54. Passed 6-4-96.)

1306.07 CONSTRUCTION SUPPORT STRUCTURES.**(a) Ground Mounted.**

- (1) The maximum diameter of any free-standing satellite earth station shall not exceed seven feet.
- (2) The maximum height of any free-standing satellite earth station shall be ten feet from natural ground level.
- (3) Only corrosion - resistant material shall be used in the support structure.
- (4) The structure and installation shall be in conformance with Article 810 of the National Electrical Code and any other applicable Village Building, Zoning and Fire Codes.
- (5) Only a concrete base or caissons, depending on soil conditions, extending not less than three feet below the surface shall be used.
- (6) If guy wires are used, they shall be confined within a fenced area or be protected by suitable shields.
- (7) The structure, including the foundation, shall be designed to withstand a wind force of up to ninety miles per hour in accordance with generally-accepted engineering practice.

(b) Roof Mounted.

- (1) Roof-mounted satellite earth stations shall be mounted directly upon the roof.
- (2) The maximum diameter of any roof-mounted satellite earth station shall not exceed twenty-four inches.
- (3) Only corrosion-resistant material shall be permitted in the support structure.
- (4) The structure and installation shall be in conformance with Article 810 of the National Electrical Code and any other applicable Village Building, Zoning and Fire Codes.
- (5) The roof-mounted satellite earth station shall be bonded to an eight foot grounding rod in accordance with the requirements provided in the National Electrical Code.
- (6) A roof-mounted satellite earth station shall be designed to withstand a wind force of up to ninety miles per hour without the use of supporting guy wires and in accordance with generally-accepted engineering practice.
(Ord. 1996-54. Passed 6-4-96.)

1306.08 PROHIBITIONS.

(a) No person, firm or corporation shall erect or maintain a satellite earth station unless in compliance with the provisions of this chapter.

(b) No property owner, part owner, occupant, renter, contractor or satellite earth station manufacturer shall place any lettering, numbers of numerals, symbols, pictorial displays, signs, designs or any form of advertising or means of identification on a satellite earth station dish or framework other than manufacturer's small identification name plates.
(Ord. 1996-54. Passed 6-4-96.)

CHAPTER 1307
Fences

1307.01	Definitions.	1307.05	Planning Commission approval required in Neighborhood Business, Community Business, Industrial, Marine Industrial and Marine Recreation Districts.
1307.02	Fence permit; application; fee.	1307.06	Fences for swimming pools.
1307.03	Fences permitted in Residential ("R") and Multi-Family ("MF") Districts.	1307.07	Strict conformity required.
1307.04	Electrically charged fences prohibited; restricted use of barbed wire and chain link fences in residential districts; orientation of "finished" side of fence.	1307.08	Appeals.
		1307.99	Penalty.

CROSS REFERENCES

Barricades - see GEN. OFF. 521.03

1307.01 DEFINITIONS.

As used in this chapter:

- (a) "Fence" means a predominantly vertical and continuous man-made structure or device intended to enclose or delineate an otherwise open area of land. Hedges, trees, bushes, shrubs and plants or ornamental fences are not included within the meaning of the word "fence".
- (b) "Ornamental fence" means a predominantly vertical and continuous structure or device intended primarily for ornamentation and not for enclosing an area, not exceeding three and one-half feet in height, with no two lineal dimensions in different directions exceeding twelve feet each.
(Ord. 1987-96. Passed 12-21-87.)

1307.02 FENCE PERMIT; APPLICATION; FEE.

(a) Fences shall be permitted in any district, subject to the provisions of these Codified Ordinances. Such fences shall be maintained in good condition at all times and no advertising shall be permitted to be placed thereon. No fence or ornamental fence shall be constructed, erected, installed, and/or substantially modified without first obtaining a permit for same from the Zoning Inspector. Fences or ornamental fences that shall be permitted are as follows: basket weave, picket, board of batten, baffle, stockade, split rail, estate rail, solid wood, chain link, woven picket, hinge joint or masonry. Application for a fence permit shall be made in writing on forms furnished by the Zoning Inspector and shall be accompanied by a diagram showing location, size, style and type of proposed construction.

- (b) Fees for fence permits shall be as follows:
- (1) \$25.00 for all residential fence permits:
 - (2) \$50.00 for all other fence permits: (Ord. 2000-118. Passed 9-26-00.)

(c) The Zoning Inspector is authorized to issue residential fence permits where the applicant is in full compliance with the terms, conditions and restrictions contained in this chapter. (Ord. 1990-90. Passed 10-1-90.)

1307.03 FENCES PERMITTED IN RESIDENTIAL ("R") AND MULTI-FAMILY ("MF") DISTRICTS.

In Residential "R" and Multi-Family "MF" Districts a fence not exceeding six feet in height may be located in any side or rear yard provided that the fence shall not project into any required front yard, and provided further that on a corner lot such fence shall not extend beyond the main building line on the side street side. In such districts, ornamental fences as defined herein may be located in required front yard areas. (Ord. 1987-96. Passed 12-21-87.)

1307.04 ELECTRICALLY CHARGED FENCES PROHIBITED; RESTRICTED USE OF BARBED WIRE AND CHAIN LINK FENCES IN RESIDENTIAL DISTRICTS; ORIENTATION OF "FINISHED" SIDE OF FENCE.

(a) No electrically charged fence shall be constructed, erected or maintained in the Village.

(b) No barbed wire fence shall be constructed, erected or maintained in any residential district.

(c) No chain link or mesh wire fences shall be constructed in any residential district unless the barbs, unfinished and sharp edges on the fence are pointing toward the ground. The top edges of all metal fences construed, erected or maintained in any residential district shall be of a smooth finish continuous material and corner posts are either flat or rounded with no sharp points upward.

(d) On any fence or ornamental fence, the supporting rails, poles, or posts shall face the interior of the property of the owner of such fence or ornamental fence; the finished side of such fence or ornamental fence, as contrasted with the rough, unfinished side, shall face the property of the adjacent property owner. Double sided fences or ornamental fences shall only be permitted when the same material, devise, and style is used in the construction, erection, installation and/or modification of both sides of same. (Ord. 2000-117. Passed 9-26-00.)

1307.05 PLANNING COMMISSION APPROVAL REQUIRED IN NEIGHBORHOOD BUSINESS, COMMUNITY BUSINESS, INDUSTRIAL, MARINE INDUSTRIAL AND MARINE RECREATION DISTRICTS.

No fence shall be constructed in any use district, and no fence permit shall be issued until the same has been approved by the Zoning Inspector. Application for a fence permit shall be submitted in writing to the Zoning Inspector, accompanied by drawings showing the location, character and extent of the fence. The application and data shall be reviewed by the Zoning Inspector, and the Zoning Inspector may require from the applicant additional data reasonably related for a determination to be made hereunder. The Zoning Inspector shall approve such application if it is found that the fence is consistent with the safety of pedestrians, vehicular traffic and persons normally coming into the area in proximity to such fence; will not impair light or the movement of air in a manner tending to cause unhealthy condition; will not adversely affect the reasonable use of abutting properties; or will adequately screen the operations on the property of the applicant from abutting properties; or will adequately screen the operations on the property of the applicant from abutting properties in the event that such shall be necessary to the normal enjoyment of the abutting property. Upon approval by the Zoning Inspector, a permit shall be issued to construct a fence on the location, as approved. (Ord. 1997-50. Passed 4-15-97.)

1307.06 FENCES FOR SWIMMING POOLS.

In order to protect the safety of the inhabitants of the Village, the Zoning Inspector may issue permits for the construction of fences for the purpose of enclosing swimming pools which may have height and/or locations other than prescribed in this chapter. (Ord. 1987-96. Passed 12-21-87.)

1307.07 STRICT CONFORMITY REQUIRED.

No fence or ornamental fence shall be constructed except as shall be strictly in accordance with the location, character and extent of the fence covered by the fence permit issued therefor. (Ord. 1987-96. Passed 12-21-87.)

1307.08 APPEALS.

Any person who is denied a permit for the construction of a fence by the Zoning Inspector in any Residential or Multi-Family District may appeal to the Planning Commission. If the Planning Commission finds that the proposed fence is substantially in accordance with the requirements described in this chapter notwithstanding insubstantial variances therefrom, and determines that the fence will not in any way be inconsistent with the safety of pedestrians, vehicular traffic and persons normally coming into the area in proximity to such fence; will not impair light or the movement of air in a manner tending to cause an unhealthy condition; will not adversely affect the reasonable use of abutting properties; or will adequately screen the operations on the property of the applicant from the abutting properties in the event that such shall be necessary to the normal enjoyment of the abutting property, the Planning Commission may reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from and shall make the order, requirement, decision or determination as in its opinion should be made under the circumstances and to that end shall have all the powers of the Zoning Inspector from whose decision the appeal was taken. (Ord. 1987-96. Passed 12-21-87.)

1307.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 1987-96. Passed 12-21-87.)

CHAPTER 1309
Moving Buildings

1309.01	Permit and fee required.	1309.03	Insurance required for traversing public ground.
1309.02	Required police escort and conditions.	1309.99	Penalty.

CROSS REFERENCES

Power to license house movers - see Ohio R.C. 715.27

Permit for commercial and heavy vehicles - see TRAF. 339.01

1309.01 PERMIT AND FEE REQUIRED.

When any person shall desire to move any structure or building across any sidewalk, street, highway or public place within the Village, he shall apply to the Mayor for a permit for that purpose, and, before the same is issued, shall pay a fee of twenty-five dollars (\$25.00). (Ord. 63-70. Passed 12-30-63.)

1309.02 REQUIRED POLICE ESCORT AND CONDITIONS.

Whenever it is deemed necessary in the public interest, the Mayor may require that such moving operations be conducted under the supervision of such number of patrolmen as shall reasonably be required to safeguard life and property during the course of moving operations. A reasonable charge shall be made therefor. The Mayor may prescribe in writing reasonable conditions, requirements, routes and precautions, and the day and hours of the day during which such moving operations shall be conducted, as deemed necessary in the public interest. All moving operations shall be performed in conformity therewith. (Ord. 63-70. Passed 12-30-63.)

1309.03 INSURANCE REQUIRED FOR TRAVERSING PUBLIC GROUND.

Before any permit for moving any structure or building across any sidewalk, street, highway or public place within the Village shall be issued, the applicant or his agent shall furnish an insurance policy, in an amount of one hundred thousand dollars (\$100,000) for injury or death to one person, three hundred thousand dollars (\$300,000) for injury or death to more than one person and fifty thousand dollars (\$50,000) property damage. The insurance policy shall provide that the Village be named as insured and further that the applicant and his insurer shall hold the Village harmless against any liabilities, judgments, damages, costs and expenses which may in any way accrue or arise against the Village in consequence of the granting of such a permit or the performance of any work pursuant thereto. (Ord. 63-70. Passed 12-30-63.)

1309.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree. Any such violation shall constitute a separate offense on each successive day continued.

CHAPTER 1313
Unsafe Structures

1313.01	Definitions.	1313.06	Emergency action.
1313.02	Unsafe buildings declared a nuisance.	1313.07	Repair or removal of structure by Village; costs to constitute a lien.
1313.03	Inspection; right of entry; search warrant.	1313.99	Penalty.
1313.04	Service of notice.		
1313.05	Appeals; orders.		

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261
Repair or removal fund - see Ohio R.C. 3929.86

1313.01 DEFINITIONS.

Insecure, unsafe or structurally defective buildings or other structures are those which have any or all of the following defects:

- (a) Those having interior walls or other vertical structural members which list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members, or fifty percent (50%) of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the inhabitants of the Village.
- (e) Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- (f) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- (h) Those which have parts which are so attached that they may fall and injure members of the public or property.
- (i) Those which because of their conditions are unsafe, insanitary or dangerous to the health, morals, safety or general welfare of the people of this Village.
- (j) Those buildings existing in violation of any provision of the Building, Housing or Fire Prevention Codes, or other ordinances of this Village. (Ord. 77-53. Passed 7-5-77.)

1313.02 UNSAFE BUILDINGS DECLARED A NUISANCE.

All insecure, unsafe or structurally defective buildings or structures are hereby declared to be public nuisances and shall be repaired or removed as hereinafter provided. (Ord. 77-53. Passed 7-5-77.)

1313.03 INSPECTION; RIGHT OF ENTRY; SEARCH WARRANT.

(a) The Fire Inspector is hereby authorized and directed to inspect buildings and other structures located within the Village in order that he may perform his duty of safeguarding the health and safety of the occupants and the general public. For the purpose of such inspection, the Fire Inspector is hereby authorized to enter, examine and survey, at all reasonable times, buildings or other structures. Prior to performing the inspection and survey as herein provided, the Fire Inspector shall give notice to the owner or occupant of any building or structure that he wishes to inspect, such notice to be in writing by certified mail, return receipt requested, and to state therein the Fire Inspector's request for such inspection stating therein his reasons for performing such inspection. After receipt of such notice, the owner or occupant of every building or structure, or the person in charge thereof, shall give the Fire Inspector free access to the building or structure and its premises, at all reasonable times, for the purpose of such inspection, examination and survey.

(b) Every occupant of a building or other structure shall give the owner thereof, or his agent or employee, access to any part of such building or structure or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant thereto.

(c) If the Fire Inspector is refused entry to any building, structure or property for the purpose of making the inspection authorized by this section, he shall apply to the Judge of the Municipal Court for a search warrant. The search warrant shall be issued without delay and shall state the time or times when the building or property may be inspected. (Ord. 77-53. Passed 7-5-77.)

1313.04 SERVICE OF NOTICE.

(a) Whenever the Fire Inspector determines that there are reasonable grounds to believe that a building or other structure is insecure, unsafe or structurally defective, he shall give notice of such alleged condition to the person or persons responsible therefor as hereinafter provided. Such notice shall:

- (1) Be put in writing;
- (2) Include a statement of the reasons why it is being issued;
- (3) Allow a reasonable time for the performance of any act it requires;
- (4) Be served upon the owner or his agent, or the occupant as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him personally; if a copy thereof is sent by certified mail to his last known address; if a copy is posted in a conspicuous place in or about the dwelling affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of this State.

(b) Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter.
(Ord. 77-53. Passed 7-5-77.)

1313.05 APPEALS; ORDERS.

(a) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the Zoning Board of Appeals, provided that such person files in the office of the Fire Inspector a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days after the day the notice was served.

(b) Upon receipt of the petition for a hearing, the Fire Inspector shall set a time and place for the hearing and shall give the petitioner written notice thereof. At the hearing the petitioner shall be given an opportunity to be heard and to show why the notice should be modified or withdrawn. The hearing shall be commenced not later than thirty days after the day on which the petition was filed; provided that upon application of the petitioner the Fire Inspector may postpone the date of the hearing for a reasonable time beyond such thirty-day period, if in his judgment the petitioner has submitted a good and sufficient reason for such postponement. After such hearing the Zoning Board of Appeals shall sustain, modify or withdraw the notice, depending upon their finding as to whether the provisions of this chapter have been complied with.

(c) If the Zoning Board of Appeals sustains or modifies the notice, it shall be deemed to be an order. Any notice served pursuant to Section 1313.04 shall automatically become an order if a written petition for a hearing is not filed in the office of the Fire Inspector within ten days after such notice is served. The proceedings at such hearing, including the findings and decision of the Zoning Board of Appeals, shall be summarized, reduced to writing, and

entered as a matter of public record in the office of the Fire Inspector. The record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Zoning Board of Appeals may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this State.
(Ord. 77-53. Passed 7-5-77.)

1313.06 EMERGENCY ACTION.

Whenever the Fire Inspector finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Zoning Board of Appeals shall be afforded a hearing by the Board within ten days. After such hearing, depending upon its finding as to whether the provisions of this chapter have been complied with, the Zoning Board of Appeals shall continue such order in effect, or modify or revoke it.
(Ord. 77-53. Passed 7-5-77.)

1313.07 REPAIR OR REMOVAL OF STRUCTURE BY CITY; COSTS TO CONSTITUTE A LIEN.

If the owner, occupant or person in charge of an insecure, unsafe or structurally defective building or structure fails to comply with an order of the Fire Inspector or the Zoning Board of Appeals within ten days, the Fire Inspector shall cause the building or structure to be repaired or removed. The total cost of such repair or removal, whether such costs are incurred due to the use of the employees, materials and equipment, of the Village or by contract for labor, materials and equipment, or both, and the cost of service or publication of notice, together with a proper description of the premises, shall be certified by the Fiscal Officer to the County Auditor and placed by him upon the tax duplicate. Such costs shall be a lien upon such lands from and after the date of entry and shall be collected as other taxes and returned to the Village. (Ord. 77-53. Passed 7-5-77.)

1313.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree.

CHAPTER 1315
Flood Damage Prevention

1315.01	Authorization.	1315.08	Interpretation.
1315.02	Findings of fact.	1315.09	Warning and disclaimer of liability.
1315.03	Statement of purpose.	1315.10	Severability.
1315.04	Methods of reducing flood loss.	1315.11	Definitions.
1315.05	Lands to which these regulations apply.	1315.12	Administration.
1315.06	Basis for establishing the areas of special flood hazard.	1315.13	Use and development standards.
1315.07	Abrogation and greater restrictions.	1315.14	Appeals and variances.
		1315.15	Enforcement.

CROSS REFERENCES

Basis of zoning districts - see Ohio R. C. 713.10
Levees - see Ohio R. C. 717.01
Marking flood areas - see Ohio R. C. 1521.14
Conservancy districts, purpose - see Ohio R. C. 6101.04

1315.01 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 Council of Fairport Harbor, State of Ohio, does ordain as follows:

(Ord. 2006-110. Passed 9-5-06.)

1315.02 FINDINGS OF FACT.

The Village of Fairport Harbor 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. 2006-110. Passed 9-5-06.)

1315.03 STATEMENT OF PURPOSE.

It is the purpose of these regulations to promote the public health, safety and general welfare, and 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. 2006-110. Passed 9-5-06.)

1315.04 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. 2006-110. Passed 9-5-06.)

1315.05 LANDS TO WHICH THESE REGULATIONS APPLY.

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the Village of Fairport Harbor as identified in Section 1315.06, including any additional areas of special flood hazard annexed by the Village of Fairport Harbor. (Ord. 2006-110. Passed 9-5-06.)

1315.06 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(a) For the purposes of these regulations, the following studies and/or maps are adopted: Flood Insurance Study Lake County, Ohio and Incorporated Areas, effective February 3, 2010 and Flood Insurance Rate Map Lake County, Ohio and Incorporated Areas, effective February 3, 2010.

(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 the Fairport Village Hall.

(Ord. 2009-090. Passed 11-17-09.)

1315.07 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 (resolution), the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations.

(Ord. 2006-110. Passed 9-5-06.)

1315.08 INTERPRETATION.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(b) 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.

(Ord. 2006-110. Passed 9-5-06.)

1315.09 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 Village of Fairport Harbor, 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. 2006-110. Passed 9-5-06.)

1315.10 SEVERABILITY.

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. 2006-110. Passed 9-5-06.)

1315.11 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" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) "Appeal" means 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" means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one percent (1%) chance annual flood or one-hundred (100) year flood.
- (d) "Base (100-Year) Flood Elevation (BFE)" means the water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).
- (e) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- (f) "Development" means any manmade 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".
- (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)" means the agency with the overall responsibility for administering the National Flood Insurance Program.
- (j) "Fill" means a deposit of earth material placed by artificial means.
- (k) "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters, and/or
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (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)” means 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” means 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; base flood elevations are not determined.
 - (2) Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
 - (3) Zone AO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - (4) Zone AH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
 - (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 1 foot or with contributing drainage area less than 1 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)” means 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. (Ord. 2006-110. Passed 9-5-06.)
- (p) “Flood Protection Elevation” means the Flood Protection Elevation, or FPE, is the base flood elevation plus one foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator. (Ord. 2009-090. Passed 11-17-09.)
- (q) “Floodway”.
- (1) A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one-half foot at any point within the community.
 - (2) 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.

- (r) “Freeboard” means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (s) “Historic structure” means any structure that is:
- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
 - (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
 - (4) Individually listed on the inventory of historic places maintained by the Fairport Harbor Historical Society whose historic preservation program has been certified by the Ohio Historic Preservation Office.
- (t) “Hydrologic and hydraulic engineering analysis” means an analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- (u) “Letter of Map Change (LOMC)” means 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:
- (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 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.
 - (3) Conditional Letter of Map Revision (CLOMR). A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

- (v) “Lowest floor” means 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.
- (w) “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.
- (x) “Manufactured home park”, as specified in the Ohio Administrative Code 3701-27-01, means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.
- (y) “National Flood Insurance Program (NFIP)” means 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.
- (z) “New construction” means structures for which the "start of construction" commenced on or after the initial effective date of floodplain management regulations adopted by the Village of Fairport Harbor, February 25, 1988, and includes any subsequent improvements to such structure.
- (aa) “Person” includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general’s department, or any court.

- (bb) "Recreational vehicle" means a vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (cc) "Registered Professional Architect" means a person registered to engage in the practice of architecture under the provisions of Ohio R.C. 4703.01 to 4703.19.
- (dd) "Registered Professional Engineer" means a person registered as a professional engineer under Ohio R.C. Chapter 4733.
- (ee) "Registered Professional Surveyor" means a person registered as a professional surveyor under Ohio R.C. Chapter 4733.
- (ff) "Special Flood Hazard Area." Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent 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.
- (gg) "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.
- (hh) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (ii) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- (jj) "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

- (1) Any improvement to a structure which is considered "new construction",
 - (2) 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
 - (3) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- (kk) "Variance" means a grant of relief from the standards of these regulations consistent with the variance conditions herein.
- (ll) "Violation" means the failure of a structure or other development to be fully compliant with these regulations.
(Ord. 2006-110. Passed 9-5-06.)

1315.12 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Village Engineer or his/her designee is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

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

- (1) Evaluate applications for permits to develop in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (3) 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.
- (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- (5) 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.
- (6) Enforce the provisions of these regulations.
- (7) Provide information, testimony, or other evidence as needed during variance hearings.
- (8) Coordinate map maintenance activities and FEMA follow-up.
- (9) 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.

(c) 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 1315.06, 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.

(d) 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/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished 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:

- (1) 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.
- (2) Elevation of the existing, natural ground where structures are proposed.
- (3) Elevation of the lowest floor, including basement, of all proposed structures.
- (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- (5) 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:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Section 1315.13(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1315.13(d)(5) are designed to automatically equalize hydrostatic flood forces.
 - C. 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 1315.13(i)(3).
 - D. 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-half foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1315.13(i)(2).

- E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1315.13(i)(1).
 - F. Generation of base flood elevation(s) for subdivision and large scale developments as required by Section 1315.13(c).
- (6) A flood plain development permit application fee in the amount of one hundred dollars (\$100.00) shall be paid by the applicant. The Village Engineer shall estimate the cost of the review. If the estimated cost exceeds the one hundred dollar (\$100.00) deposit, the applicant shall be informed of the estimated cost and shall be directed to deposit the difference between the Engineer's estimate and the applicant's original one hundred dollar (\$100.00) deposit, which difference shall be deposited prior to the Engineer's examination of the application.
- (e) Review and Approval of a Floodplain Development Permit Application.
- (1) Review.
 - A. After receipt of a complete application, the Floodplain Administrator 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 subsection (d) hereof 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 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.
 - (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.
- (f) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(g) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:

- (1) 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 and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- (2) For all development activities subject to the standards of subsection (j)(1) hereof, a Letter of Map Revision.

(h) 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 (Variance Board for Counties) in accordance with Section 1315.14

(i) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:

- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than five thousand dollars (\$5,000).
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
- (3) Major utility facilities permitted by the Ohio Power Siting Board under Ohio R.C. Chapter 4906.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Ohio R.C. Chapter 3734.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.

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

(j) 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 Village of Fairport Harbor flood maps, studies and other data identified in Section 1315.06 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 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:
 1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 2. 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;
 3. Alteration of watercourses that result in dislocation or elimination of the special flood hazard area, including the placement of culverts; and
 4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1315.13(c).
 - B. It is the responsibility of the applicant to have technical data, required in accordance with subsection (j)(1) hereof, 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.
 - C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 1. Proposed floodway encroachments that increase the base flood elevation; and
 2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
 - D. 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 subsection (j)(1)A. hereof.
- (2) Right to submit new technical data. The Floodplain Administrator 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 Mayor of Fairport Harbor, and may be submitted at any time.

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

(k) 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 shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
- (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood 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.
- (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 the 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.
 - 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 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 1315.14, Appeals and Variances.
- (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

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

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

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These 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. 2006-110. Passed 9-5-06.)

1315.13 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1315.06 or 1315.12(k)(1):

(a) Use Regulations.

- (1) Permitted uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the Village of Fairport Harbor are allowed provided they meet the provisions of these regulations.
- (2) Prohibited uses.
 - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Ohio R.C. Chapter 3701.
 - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Ohio R.C. Chapter 3734.

(b) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

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

- (c) Subdivisions and Large Developments.
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - (4) 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 50 lots or 5 acres, whichever is less.
 - (5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1315.12(j)(1)D. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by subsection (c)(4).
- (d) 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.
 - (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. (Ord. 2006-110. Passed 9-5-06.)
 - (4) 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. (Ord. 2009-090. Passed 11-17-09.)
 - (5) 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 unimpeded movement of flood waters 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 floodwaters; 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 floodwaters.
- (6) 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.
 - (7) 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 subsection (d) hereof.
 - (8) (EDITOR'S NOTE: Former subsection (d)(8) was repealed by Ordinance 2009-090, passed November 17, 2009.)
- (e) Nonresidential Structures.
- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection (d)(1) - (3) and (5) - (7).
 - (2) 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:
 - 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 subsection (e)(2) A. and B.
 - (3) (EDITOR'S NOTE: Former subsection (e)(3) was repealed by Ordinance 2009-090, passed November 17, 2009.)

- (f) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
- (1) They shall not be used for human habitation;
 - (2) They shall be constructed of flood resistant materials;
 - (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
 - (4) They shall be firmly anchored to prevent flotation;
 - (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
 - (6) They shall meet the opening requirements of subsection (d)(5)C. hereof.
- (g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
- (1) They shall not be located on sites in special flood hazard areas for more than 180 days, or
 - (2) They must be fully licensed and ready for highway use, or
 - (3) They must meet all standards of subsection (d) hereof.
- (h) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (i) 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:
- (1) Development in floodways
 - A. 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 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
 - 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 1315.12(j)(1);
 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 which 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; and

5. Concurrence of the Mayor of Fairport Harbor and the Chief Executive Officer of any other communities impacted by the proposed actions.
- (2) 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 increase the base flood elevation more than 0.5 (one-half) foot 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 more than one-half foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 1. An evaluation of alternatives which would result in an increase of one-half foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 2. Subsection (i)(1)B., items.
- (3) 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:
- A. 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.
 - B. 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.

- C. 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 Fairport Harbor specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
- D. The applicant shall meet the requirements to submit technical data in Section 1315.12(j)(1)A.3. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.
(Ord. 2006-110. Passed 9-5-06.)

1315.14 APPEALS AND VARIANCES.

(a) Appeals Board Established.

- (1) The Board of Zoning Appeals shall serve as the Appeals Board for this Flood Damage Reduction chapter.
- (2) The chairperson of the Board of Zoning Appeals shall be the Chairperson for the Appeals Board for this Flood Damage Reduction chapter. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasi-judicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in the Village Hall.

(b) Powers and Duties.

- (1) The Appeals Board 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.
- (2) Authorize variances in accordance with subsection (d) hereof.

(c) Appeals.

- (1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 15 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 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 Appeals Board.
- (2) Upon receipt of the notice of appeal, the Appeals Board 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.

(d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall 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.

(1) Application for a variance.

- A. 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 Appeals Board.
- B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; 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.
- C. All applications for a variance shall be accompanied by a variance application fee of twenty-five dollars (\$25.00)

(2) Notice for public hearing. The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

(3) Public hearing.

- A. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:
 1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger to life and property due to flooding or erosion damage.
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 4. The importance of the services provided by the proposed facility to the community.
 5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 6. The necessity to the facility of a waterfront location, where applicable.
 7. The compatibility of the proposed use with existing and anticipated development.
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 10. 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.
 11. 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.
- B. Variances shall only be issued upon:
1. A showing of good and sufficient cause.
 2. 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.
 3. 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.
 4. A determination that the structure or other development is protected by methods to minimize flood damages.
 5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. 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.
- (4) Other conditions for variances.
- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (d)(3)A. 1 to 11. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
 - C. 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.

(e) Procedure at Hearings.

- (1) All testimony shall be given under oath.
- (2) 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.
- (3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- (4) The administrator may present evidence or testimony in opposition to the appeal or variance.
- (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- (7) 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.
- (8) The Board 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.

(f) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Lake Court of Common Pleas, as provided in Ohio R.C. Chapter 2506. (Ord. 2006-110. Passed 9-5-06.)

1315.15 ENFORCEMENT.

(a) Compliance Required.

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1315.12(i).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (c) hereof.
- (3) 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 subsection (c) hereof.

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

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person.

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

(c) 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 misdemeanor of the fourth degree. 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 Village of Fairport Harbor. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Fairport Harbor from taking such other lawful action as is necessary to prevent or remedy any violation. The Village of Fairport Harbor shall prosecute any violation of these regulations in accordance with the penalties stated herein.
(Ord. 2006-110. Passed 9-5-06.)

CHAPTER 1317
Property Maintenance Code

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CROSS REFERENCES

Unsafe structures - see BLDG. Ch. 1313

1317.01 PURPOSE AND INTENT.

This chapter shall be known as the "Property Maintenance Code of the Village of Fairport Harbor". The purpose of this chapter is to protect the public health, safety and general welfare by establishing minimum standards governing the exterior maintenance, condition and appearance of residential and nonresidential structures and premises; to fix responsibilities and duties upon owners and occupants of structures with respect to sanitation, repair and maintenance; to authorize and establish procedures for the inspection of premises; and to fix penalties for violation of this chapter.

(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.02 VALIDITY.

(a) The provisions in this chapter shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein. In the event of conflict between any provisions of this chapter, including any rules and regulations adopted pursuant to this chapter, and any provisions of the ordinances of the Village, including rules and regulations adopted pursuant to such ordinances, the more restrictive provisions shall prevail.

(b) Any repairs or alterations to a structure, or change of use herein, which may be caused directly or indirectly by the enforcement of this chapter shall be done in accordance with the procedures and provision of the Village Maintenance Code.

(c) If any section, subsection, paragraph, sentence, clause or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.03 APPLICABILITY.

This chapter shall apply to all structures and premises within the Village.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.04 DEFINITIONS.

For the purpose of this chapter, certain terms and words are hereby defined: words used in the present tense shall include the future; the singular number shall include the plural and the plural, the singular; the word "building" shall include the word "structure"; and the word "shall" is mandatory and not directory.

- (a) "Deterioration" means the condition or appearance of the exterior of a building or part thereof, characterized by holes, breaks, rot, crumbling, or cracking, peeling, rusting or other evidence of physical decay, neglect or lack of maintenance.
- (b) "Exterior of the premises" means those portions of a building which are exposed to public view and the open space of any premises outside of any building.
- (c) "Garbage" means animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (d) "Infestation" means the presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.
- (e) "Nuisance" means that which is defined by the statutes of the State and declared thereby to be a nuisance, and also includes conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist, and where the conditions are perilous by active and negligent operation thereof, and unsanitary conditions or anything offensive to the senses or dangerous to health.

- (f) "Occupant" means any person living and sleeping in a dwelling unit or having actual possession of such dwelling unit or any person who leases or rents a nonresidential building, structure or any portion thereof.
- (g) "Owner" means any person, who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without the accompanying actual possession thereof, or shall have charge, care or control as owner or agent of the owner; or as executor, administrator, trustee, receiver or guardian of an estate, or as a mortgagee in possession.
- (h) "Person" includes any individual, corporation, association, partnership, trustee, lessee, agent or assignee.
- (i) "Premises" means a lot, plot or parcel of land, including the buildings or structures thereon.
- (j) "Zoning Inspector" means a duly appointed representative as chosen by the Mayor.
- (k) "Refuse" means all putrescible and nonputrescible solid wastes, except body wastes, including but not limited to garbage, rubbish, ashes, dead animals, and industrial wastes; and accumulation of brush, broken glass, stumps and roots that present a safety hazard, and includes garbage, trash and debris which present an unsanitary and/or safety hazard.
- (l) "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible waste, such as paper, wrapping, tin cans, yard clippings, leaves, wood, glass, crockery, plastic, and similar materials.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.05 MAINTENANCE RESPONSIBILITY.

(a) No owner, agent or occupant of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any condition which deteriorates or debases the appearance of the neighborhood; or creates a fire, safety or health hazard; or which is a public nuisance.

(b) The owner shall be responsible for ensuring that premises are maintained in good repair and appearance in compliance with this chapter. Occupants shall be responsible for maintaining in a safe and sanitary condition these premises or portion thereof which they occupy and/or control. In the case of commonly held properties associated with condominiums, or similar projects, it shall be the responsibility of the designated homeowner association or similar organization to maintain those items which are under their direct ownership or control.

(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.06 MAINTENANCE REQUIRED.

(a) All exterior parts of every dwelling structure and accessory structures, including decorative additions, chimneys, fences and all other exterior structures either above or below the roof line, shall be maintained in a safe condition, weathertight, and so as to resist decay or deterioration from any cause.

(b) Any dwelling structure or accessory structure whose exterior surface is deteriorated must be repaired or razed.

(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.07 FOUNDATIONS.

All foundations of every dwelling structure shall be structurally sound.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.08 STAIRS, PORCHES, BALCONIES AND WINDOWS.

(a) Every stair, porch, balcony and all appurtenances attached thereto shall be kept in sound condition and good repair so as to be safe to use and capable of supporting the loads to which it is subjected.

(b) Windows shall be fully supplied with window glass, glass block or plexiglass without open cracks or holes.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.09 ROOFS, GUTTERS AND DOWNSPOUTS.

All roofs of every dwelling structure shall be maintained weathertight and shall be equipped with gutters and downspouts which outlet in an approved manner.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.10 EXTERIOR WALLS.

(a) All buckled, rotted or decayed walls, doors, windows, porches, floors, steps, trim, railing and their missing members, must be replaced and put in good condition. All replacements must be permanent.

(b) All exterior wood or exterior unfinished surfaces must be sealed and painted or surface coated with other approved protective coating or treated to prevent rot or decay.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.11 HANDRAILS.

Every handrail and guardrail shall be firmly fastened and capable of safely supporting intended live loads and shall be maintained in good condition.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.12 INFESTATION.

All dwelling structures and the premises thereof shall be maintained free from sources of breeding and infestation by insects, vermin or rodents.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.13 MAINTENANCE RESPONSIBILITY.

(a) No owner, agent or occupant of any nonresidential premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any condition which deteriorates or debases the appearance of the neighborhood; or creates a fire, safety or health hazard; or which is a public nuisance.

(b) The owner shall be responsible for ensuring that structures and premises are maintained in good repair and appearance in compliance with this chapter. Owner and occupants shall be responsible for maintaining in a safe and sanitary condition those premises or portions thereof which they occupy and/or control.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.14 STORAGE OF COMMERCIAL AND INDUSTRIAL MATERIAL.

There shall not be stored or used at a location visible from the sidewalk, street, or other public area, equipment and materials relating to commercial or industrial uses, unless specifically permitted under provisions of the Zoning Ordinance.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

IN ADDITION TO THE ABOVE, THE FOLLOWING ARE REQUIRED OF COMMERCIAL, MULTI-FAMILY AND INDUSTRIAL STRUCTURES.**1317.15 EXITWAYS.**

All stairs, landings and porches shall be provided with handrails or guardrails properly maintained to minimize the hazard of falling and shall be kept structurally sound, in good repair and free from defects.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.16 AWNINGS AND MARQUEES.

Any awning or marquee and its accompanying structural members shall be maintained in good repair and shall not constitute a nuisance or safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event such awnings or marquees are made of cloth, plastic or similar materials, such cloth or plastic shall be maintained in good condition.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

EXTERIOR PROPERTY AREAS**1317.17 PREMISES TO BE MAINTAINED.**

No owner or occupant of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any broken, dilapidated or unusable furniture, mattresses or other household furniture, broken glass, plastic materials, paints, miscellaneous coverings, and/or any other materials, including those described in this section, placed at or on the premises in such a manner as to be patently unsightly, grotesque or offensive to the senses.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.18 RANK VEGETATION.

Lawns and landscaping on private property and as well as within a public right of way shall be kept from becoming overgrown and unsightly in accordance with Section 521.05(a) of the Codified Ordinances.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.19 DEAD TREES AND BRANCHES.

No owner or occupant of any premises shall permit a dead tree to stand so near to a public sidewalk or roadway as to endanger users thereof, should all or part of it fall. No such owner or occupant shall permit a dead branch to overhang a public sidewalk or roadway.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.20 PARKING LOTS.

(a) Parking lots shall be kept in a safe condition, free from chuck holes, depressions, large cracks, and disintegrated or deteriorated areas.

(b) Driveway aprons shall be a minimum of six inches Class C concrete and shall be kept in good repair and safe condition.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.20.01 POINT OF SALE REQUIREMENTS FOR DRIVEWAY APRONS AND SIDEWALKS.

(a) Upon the sale of any land within the Village upon which an existing sidewalk and/or driveway apron is located, no transfer of such real estate shall be effective unless and until a zoning certificate is issued to the new owner. No such zoning certificate shall be issued to the new owner unless and until the seller of the property provides evidence satisfactory to the Village Administrator that the sidewalk(s) and/or driveway apron(s) situated thereupon are in good and a safe condition, and in compliance with the current requirements, standards and policies kept on file with the Office of the Clerk-Treasurer of the Village.

(b) No person, agent, firm or corporation shall sell any interest in any land containing existing sidewalk(s) and/or driveway apron(s) without furnishing the buyer, prior to sale, proof that the sidewalk(s) and/or driveway apron(s) upon said property satisfy the requirements of subsection (a) hereof; and, when the escrow is established to provide for the delivery of instruments, documents, and funds in connection with the sale, the seller shall deposit in escrow, prior to the delivery of possession or transfer of title, the written statement from the buyer acknowledging receipt of a statement from the Village Administrator confirming that the subject sidewalk(s) and/or driveway apron(s) are in a good and safe condition, or a sum of money not less than one and one-half times the cost of correcting those specific violations listed on the certificate of inspection and which remain uncorrected and for which the seller is primarily responsible. (Ord. 2006-07. Passed 2-28-06.)

1317.21 DOCKS AND DOCK AREAS.

Docks and dock areas shall be kept in a safe and debris-free condition. Entrance areas to docks shall be maintained in such a manner as to allow unencumbered access to docks. Docks shall be checked periodically for safety by owner. Docks shall provide a flat walkway and listing conditions shall not be allowed. Steel docks shall not be allowed to be maintained in a rusty condition, including poles. Wood docks shall be periodically checked to ensure that the wood is in a safe condition and is not rotting. Dock owners shall comply with the reasonable requests of the appropriate Zoning Inspector in charge.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.22 ZONING INSPECTOR.

It shall be the responsibility and duty of the Zoning Inspector to enforce and administer the provisions of this chapter.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.23 RIGHT OF ENTRY.

(a) The Zoning Inspector is hereby authorized and directed to make inspections to determine the condition of exterior structures and premises located within the Village in order that he may perform his duty of safeguarding the health and safety of dwellings and of the general public.

(b) In the event of the refusal of the owner or occupant to voluntarily permit entry as requested, the Zoning Inspector shall consult the Solicitor and the Solicitor shall determine whether the facts are such as to support the application for a search warrant in a Court of Law to enable the Zoning Inspector to gain entry to the premises for the purpose of inspection. In the event the Solicitor determines, based upon the facts presented that application for a search warrant for inspection purposes should be made, the Solicitor is authorized to proceed with an application for a search warrant enabling the Zoning Inspector to conduct his inspection. (Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.24 RESPONSIBILITIES OF OWNER.

Owners shall have the duties and responsibilities as prescribed in this chapter and no owner shall be relieved from any such duty and responsibilities nor entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible therefor and in violation thereof.

(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.25 VACANT BUILDINGS.

If any structure or part thereof is vacant, the Zoning Inspector may order the structure secured so it will not be an attractive nuisance. The owner and/or agent shall not secure exterior doors or windows by using boards, plywood, or similar means or materials. Door and/or windows that are deemed insecure shall be secured by their replacement with similar, new doors or window units equipped with locking hardware. Such order shall be served as set forth in Section 1317.27 and shall specify a reasonable time for compliance. Upon failure of the owner and/or agent to comply within the specified time, the Zoning Inspector shall cause the building to be secured using Village forces or by contract with a private person or firm and the costs thereof shall be charged against the owner of the property as set forth in Section 1317.31. (Ord. 2010-039. Passed 7-6-10.)

1317.26 EXISTING BUILDINGS.

Except where hazards to life, limb, sanitation or adjoining properties are involved, nothing in this Maintenance Code shall require changes in any building which were built in full compliance with the applicable codes in force at the time of their construction or alteration, provided such buildings have been properly maintained and used for only such use as originally permitted. However, the Inspector has authority to require safe exits in accordance with such other codes as may be applicable.

(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.27 NOTICE OF VIOLATION; EMERGENCY ORDER.

(a) Where a violation of this chapter is found to exist, a written notice from the Zoning Inspector shall be served upon the person or persons responsible for the corrections thereof. Such notice shall specify the violation or violations committed, and a reasonable period of time to correct or abate such violation such time period not to exceed thirty days.

(b) Service of the notice shall be by certified mail addressed to the owner and/or occupant at his residence or to the tax mailing address as indicated by records of the Lake County Treasurer, or by delivery to the residence of the owner and/or occupant or by delivery to such individuals at the premises.

(c) Whenever the Zoning Inspector finds that an emergency exists which requires immediate action to protect the health and safety or welfare of the residents, occupants or of the public, he shall proceed forthwith to issue an order reciting the existence of the emergency and order such remedial action necessary to meet the emergency.

(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.28 TIME EXTENSIONS FOR COMPLIANCE.

Where the owner and/or occupant of a premises is unable to comply with a notice of violation within the time period specified, the owner, within ten days of the notice of nonconformance, may enter into an agreement with the Zoning Inspector detailing a program to abate nonconformance within a reasonable time limit.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.29 FAILURE TO COMPLY.

Whenever the owner and/or occupant of a structure or premises fails, neglects, or refuses to comply with any notice of the Zoning Inspector within the time period specified in such notice, the Zoning Inspector shall proceed as provided in Sections 1317.31 or 1317.32, whichever is applicable.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.30 ABATEMENT OF VIOLATIONS.

Where the owner and/or occupant of any premises fails to comply with a notice of violation of any of the provisions of Section 1317.24 inclusive, within the time period specified in such notice, the Zoning Inspector shall cause such violation to be corrected removed or abated. This Zoning Inspector may contract with a private person or firm to accomplish the task. The actual cost of bringing the property into compliance plus fifteen percent (15%) for inspections and administrations shall be billed to the owner. If such bill is not paid within thirty days after submission, then the Fiscal Officer shall certify such costs together with a twenty percent (20%) penalty to the Lake County Auditor for placement on the tax duplicate to be collected as other taxes for return to the Village.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.31 PROSECUTION OF VIOLATIONS.

Where the owner and/or occupant of any premises fails to comply with a notice of violation of any of the provisions of Sections 1317.05 through 1317.19 inclusive, the owner or occupant shall be considered to be in violation of this chapter and the Zoning Inspector shall proceed at law to compel compliance and to prosecute such violation.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.32 APPEALS.

(a) Any owner and/or occupant who is served a notice of a violation of any of the provisions of Sections 1317.05 through 1317.19, inclusive, may within ten days of receipt of such notice, appeal the findings of the Zoning Inspector. Such appeal shall be made by filing with the Fiscal Officer a notice of appeal on forms provided for such purpose. The appeal shall be scheduled for a hearing before the Board of Zoning Appeals. Fees, notice requirements, procedures for the appeals and hearing shall be as set forth in Chapter 1141 of the Planning and Zoning Code.

(b) Where no codes existed at the time of the construction or alteration of a building within the scope of this section, the provisions of this Code shall apply.

(c) This Maintenance Code establishes minimum requirements for the initial and subsequent occupancy of all buildings used for human habitation, commercial, or industrial purposes and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of building, equipment or facilities except as provided in this section.
(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

1317.99 PENALTY.

(a) Any person, firm or corporation or his or their agents who violates any provision of this chapter or who fails or refuses to obey a lawful order of the Zoning Inspector issued pursuant to this chapter is guilty of a minor misdemeanor for each offense.

(b) A separate offense shall be deemed committed each day during or on which a violation continues.

(Ord. 90-48. Passed 7-9-90; Ord. 90-72. Passed 8-6-90.)

CHAPTER 1318
Inspection of Rental Dwelling Units

<p>1318.01 Purpose and intent. 1318.02 Application; interpretation. 1318.021 Definitions. 1318.022 Certificate of Registration required. 1318.03 Administration and enforcement. 1318.04 Minimum standards for rental dwelling units.</p>	<p>1318.05 Occupancy in multiple family dwellings. 1318.06 Right of entry. 1318.07 Appeals. 1318.08 Penalty; equitable remedies.</p>
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CROSS REFERENCES

Venting of heaters and burners - see GEN. OFF. 521.02
Trimming of trees, shrubs and weeds required - see GEN. OFF. 521.05
Duty to keep sidewalks in repair and clean - see GEN. OFF. 521.06
General zoning regulations - see P. & Z. Ch. 1125
Occupying trailers; restrictions and exceptions - see BLDG. 1313.05
Unsafe structures - see BLDG. Ch. 1313
Property Maintenance Code - see BLDG. Ch. 1317
Fire Prevention Code - see FIRE PREV. Ch. 1501

1318.01 PURPOSE AND INTENT.

The purpose of this Chapter is to ensure that the minimum standards set forth in the Council of America Building Officials One and Two Family Dwelling Code (CABO), the Building Code of the State of Ohio (OBBC) and the BOCA National Property Maintenance Code (as adopted by Ordinance No. 1978-58 and Ordinance No.1992-36), the International Property Maintenance Code and all other applicable statutes, laws, codes, ordinances, resolutions, rules and regulations are followed so as to make all rental dwelling units safe, sanitary, free from fire and health hazards, fit for human habitation and beneficial to the public welfare; to establish inspection periods for inspecting rental dwelling units within the Village so as to protect property values and to maintain the character and appearance of the community; to fix responsibilities of owners, agents, persons having charge and occupants of rental dwelling units with respect to sanitation, repair and maintenance; to provide for rehabilitation and reuse of existing structures and the application of this Chapter's requirements to alterations and repairs; to fix the responsibilities of owners, agents, persons having charge and occupants of all such rental dwelling units; and to provide for the administration, enforcement and penalties for this Chapter.
(Ord. 2002-116. Passed 11-12-02.)

1318.02 APPLICATION; INTERPRETATION.

(a) All rental dwelling units in the Village shall comply with the minimum standards that are established in the CABO One and Two Family Dwelling Code and the BOCA National Property Maintenance Code, the International Property Maintenance Code as well as all other applicable statutes, laws, codes, ordinances, resolutions, rules and regulations, including those that have been promulgated by the Village under this PART THIRTEEN - the Building Code, PART ELEVEN - the Planning and Zoning Code and PART FIFTEEN - the Fire Prevention Code.

(b) This Chapter shall be construed liberally and justly to insure the public health, safety and welfare insofar as they are affected by the continued use and maintenance of rental dwelling units and premises. (Ord. 2002-116. Passed 11-12-02.)

1318.021 DEFINITIONS.

As used in this chapter, the following terms shall have the following meanings respectively ascribed to them in this section:

- (a) “Lease” means any written or oral agreement that sets forth any and all conditions concerning the use and occupancy of rental dwellings or rental units. (Ord. 2008-005. Passed 1-15-08.)
- (b) Lease or Rent - Any written or oral agreement that sets forth any and/or all conditions concerning the use and/or occupancy of rental dwellings or rental units or rental dwelling units. (Ord. 2007-110. Passed 10-2-07.)
- (c) “New Rental Units” includes:
- (1) New construction of a rental unit or units and
 - (2) Any property that is new to the rental market, including any property that has not paid the inspection fees that are required by this chapter as of the date of the passage of this section. (Ord. 2008-005. Passed 1-15-08.)
- (d) Notice of Violation - A notice issued to the owner or agent or person having charge of any rental dwelling unit stating that there has been a violation of a provision of this chapter of the ordinances or any other applicable codes, ordinances, rules or regulations concerning said premises.
- (e) Premises - Any lot or parcel of land.
- (f) Owner - The individual or individual(s), natural or corporate or in the form of limited liability entity or partnership, in possession of lawful title to property. In the absence of substantial evidence to the contrary, the ownership records of the Lake County Auditor’s office used for property tax purposes shall be conclusive evidence of the ownership of property regulated pursuant to this chapter.
- (g) Rental Unit or Rental Dwelling Unit or Rental Dwellings - Any real property that is being leased, subleased, assigned or otherwise being occupied by an individual or individuals who is/are not the owner of the rental unit or the premises. (Ord. 2007-110. Passed 10-2-07.)
- (h) “Transferred Rental Units” includes the sale of the rental property by transferring the legal or equitable title of the property to a third party by a deed or by a land contract or a lease in excess of ten years long. (Ord. 2008-005. Passed 1-15-08.)

1318.022 CERTIFICATE OF REGISTRATION REQUIRED.

(a) For all New Rental Units, no person shall lease, rent or cause to be occupied a rental unit unless there is a valid Certificate of Registration issued by the Zoning Administrator in the name of the owner/responsible local agent and issued for the specific rental unit.

(b) A new Certificate of Registration for a rental unit(s) is also required for all Transferred Rental Units. Any new owner, agent or person having charge of the Transferred Rental Units shall apply for a new Certificate of Registration within 10 days of the date that the legal or equitable title to the Transferred Rental Units is transferred to the new legal or equitable owner. The Zoning Administrator shall issue the new Certificate of Registration in the name of the new owner/responsible local agent and the Certificate of Registration shall be issued for the specific rental unit.

(c) The Certificate of Registration shall remain on file with the owner or responsible local agent and a copy of the Certificate of Registration shall be provided upon request to any tenant or prospective tenant. In case of a written lease, the certificate holder shall include a copy of the Certificate of Registration in the lease agreement.
(Ord. 2008-005. Passed 1-15-08.)

1318.03 ADMINISTRATION AND ENFORCEMENT.

(a) Certificate of Occupancy Required. No owner, agent or person having charge of any rental dwelling unit shall rent, lease or permit to be occupied, any rental dwelling unit without a current and valid Certificate of Occupancy issued by the Zoning Inspector or his duly designated representative. An application for the issuance of said Certificate of Occupancy shall be made by said owner, agent or person having charge of any rental dwelling unit in accordance with the provisions of subsection (f) hereof. The Certificate of Occupancy is in addition to the Certificate of Registration that is set forth in Section 1318.022 above.
(Ord. 2008-005. Passed 1-15-08.)

(b) Application and Issuance of Certificates of Occupancy Generally.

- (1) Application for a Certificate of Occupancy shall be made biennially to the Zoning Inspector, or his duly designated representative, on forms provided for said purpose by the office of the Zoning Inspector. Said application shall be accompanied by the required fees as set forth in subsection (g) hereof. Applications to renew valid Certificates of Occupancy shall be filed with the Zoning Inspector, or his duly designated representative, not less than sixty (60) days prior to the expiration date of the current Certificate of Occupancy.
- (2) Upon receipt of an application for a Certificate of Occupancy, the Zoning Inspector, or his duly designated representative, shall schedule inspections of the rental dwelling unit as necessary to determine its compliance with this Chapter.

(c) If a rental dwelling unit is found to be in compliance with this Chapter, a Certificate of Occupancy shall be issued for said rental dwelling unit, which shall be valid for a period not to exceed two (2) years.

(d) If upon inspection of the rental dwelling unit, it is determined that a violation of this Chapter exists, notice of said violation shall be given to the owner, agent or person having charge of the rental dwelling unit. The owner, agent or person having charge shall obtain the proper permits as required by these Codified Ordinances, the Lake County Building Department and the laws of the State of Ohio to correct the noted violations. No Certificate of Occupancy shall be issued until the violations have been corrected and the repairs inspected and approved.
(Ord. 2007-67. Passed 7-10-07.)

(e) In addition to the aforesaid biennial inspection and the Certificate of Registration, an application for a Certificate of Occupancy shall also be made to the Zoning Inspector, or his duly designated representative, not less than ten (10) days after a change in ownership has been completed. (Ord. 2008-005. Passed 1-15-08.)

(f) Application and Issuance of Certificates of Occupancy For Existing Occupancies. On or before the 1st day of March, 2003, the owner, agent or person having charge of each rental dwelling unit shall submit to the Zoning Inspector, or his duly designated representative, an application for a Certificate of Occupancy for each rental dwelling unit. Units occupied at the time of the adoption of this Chapter may continue to be occupied until such time as an inspection has been made by the Zoning Inspector, or his duly designated representative, after which all rental dwelling units shall comply with all of the provisions of this Chapter.
(Ord. 2007-67. Passed 7-10-07.)

(g) Fees.

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|-----|---|----------------------|
| (1) | Initial inspection and issuance of a new Certificate of Occupancy for a New Rental Unit | \$100.00 per unit |
| (2) | Biennial inspection fee for previously inspected rental units (Renewals) | \$100.00 per unit |
| (3) | Re-inspection fee per visit for all units that require more than one reinspection trip by the Village to determine compliance with this chapter of the ordinances | \$50.00 per unit |
| (4) | Initial fee for a Certificate of Registration for all New Rental Units | \$200.00 per unit |
| (5) | Fee for Certificate of Registration for all Transferred Rental Units | \$50.00 per landlord |

(Ord. 2008-005. Passed 1-15-08.)

(h) Duties of the Zoning Inspector. It shall be the duty of the Zoning Inspector, or his duly designated representative, to enforce the provisions of this Chapter as herein provided.

(i) Notice of Violations.

- (1) Whenever the Zoning Inspector, or his duly designated representative, determines that a rental dwelling unit, or any part thereof, is in violation of any provision of this Chapter, said inspector shall give written notice, either by personal service or by certified mail, return receipt requested, to the owner or agent responsible for the subject rental dwelling unit. Such delivery or mailing shall be deemed legal service of notice.
- (2) If the owner, agent or person having charge to whom a notice of violation is addressed cannot be found after a reasonable and diligent search, then notice shall be sent by certified mail, return receipt requested, to the last known tax mailing address of the owner of the premises, and a copy of the notice shall be posted in a conspicuous place at the rental dwelling unit to which it relates. If the notice is returned undelivered, a copy of the notice shall be published once in a newspaper of general circulation within Lake County, Ohio, and a copy of such notice shall be posted at the subject rental dwelling unit as aforesaid. No person shall remove or deface such copy of notice so posted without the written permission of the Zoning Inspector. Such mailing, publishing and posting shall be deemed legal service of notice.
- (3) The aforesaid notice shall include, but need not be limited to, a description of the rental dwelling unit deemed in violation of this Chapter, a statement of the particulars which makes said structure in violation, and an order, in sufficient particulars, requiring the owner or agent to repair, improve or demolish the rental dwelling unit as the facts may warrant.

(j) Correction of Violation. All alterations or repairs to an existing rental dwelling unit which are caused directly or indirectly by the enforcement of this Chapter shall be completed in accordance with the applicable procedures and provisions of these Codified Ordinances, the Lake County Building Department, and all other applicable laws, statutes, codes, ordinances, resolutions, rules, regulations, and/or guidelines.

(k) Failure to Correct or Comply. Whenever the owner, agent or person having charge of a rental dwelling unit fails, neglects or refuses to comply with any notice of the Zoning Inspector, or his duly designated representative within the time period specified in any notice of violation, said owner, agent or person having charge shall be considered to be in violation of this Chapter, and the Village of Fairport Harbor, Ohio, shall proceed at law and/or equity to compel compliance and/or prosecute said violation. (Ord. 2002-116. Passed 11-12-02.)

1318.04 MINIMUM STANDARDS FOR RENTAL DWELLING UNITS.

(a) Occupancy. Every rental dwelling unit situated within the Village shall not be permitted to be occupied until such time as the same has been found to be in full compliance with the following:

(b) Square Footage Requirements.

- (1) Every rental dwelling unit shall have not less than 300 square feet of habitable floor area and shall contain at least one room which has not less than 120 square feet of habitable floor area and which is not less than ten feet in width, provided that no room used to compute compliance with such 300 square feet minimum limitation shall be less than seven feet in width nor have less than seventy square feet of habitable floor area.
- (2) No portion of any room that is less than seven feet in width shall be included in determining habitable floor area.
- (3) All habitable rooms shall have a clear ceiling height of not less than seven feet, provided that rooms with sloping ceilings shall have a clear height of not less than seven feet, six inches, in at least one-half of their habitable floor area. In determining the habitable floor area of rooms with sloping ceilings, all portions of less than four feet in height shall be disregarded.
- (4) Every rental dwelling unit shall contain at least 300 square feet of habitable floor area for the first occupant thereof and at least 120 additional square feet of habitable floor space for every two (2) additional occupants thereof. In no case shall any rental dwelling unit contain less than 300 square feet of habitable floor area.
- (5) Every room for sleeping purposes shall contain not less than 120 square feet of habitable floor area.

(c) Standards for Habitable Rooms Below Grade.

- (1) No room that has its floor level below grade shall be occupied as a habitable room unless it conforms to the following standards set forth in this Chapter, in addition to all other requirements of this Code for habitable room.
- (2) The room shall be originally designed and constructed, or legally converted, for use as a habitable room.
- (3) The walls and floor enclosing the room shall be maintained in such condition as to prevent the entrance of moisture into the habitable space.
- (4) All required openings for light and ventilation shall be located entirely above the average adjoining grade.
- (5) The height of the finished ceiling of such room above the average adjoining ground level shall be at least fifty percent of the finished ceiling height of the room.

- (6) The room shall also comply with all other provisions of the State building and fire codes.

(d) Required Windows; Required Window Area. Every habitable room shall be provided with natural light by one or more windows or approved equivalent facing upon an approved open space. The aggregate glass area of such required windows shall be not less than four percent of the habitable floor area of the room served by them.

(e) Required Ventilation Area.

- (1) Every habitable room shall be provided with natural ventilation by one or more operable windows or approved equivalent. The aggregate operable area of such ventilation openings shall be not less than four percent of the habitable floor area of the room served by them.
- (2) Every operable window shall be fully supplied with insect screening.

(f) Required Light and Ventilation and Facilities for Kitchens, Bathrooms, and Water-Closet Compartments.

- (1) Every kitchen, bathroom and water closet compartment located within a rental dwelling unit shall be provided with light and ventilation as prescribed for habitable rooms, except that in no case shall the aggregate glass area in each room be less than three square feet. Where an approved exhaust ventilation system and approved artificial light are installed in such a manner as to be in operation at all times when any such room is occupied, no natural light or ventilation shall be required.
- (2) Every rental dwelling unit shall be provided with not less than the following sanitary facilities contained within a room that shall afford privacy to any occupant thereof:
- A. A water closet contained within a bathroom or water closet compartment enclosed in such a manner as to ensure privacy. A water closet or bathroom may be installed in the cellar of any rental dwelling structure only when it is supplementary and additional to those other water closets and/or water closet compartments required by the provisions of this Chapter.
 - B. A bathtub or shower contained within a bathroom and enclosed in such a manner as to ensure privacy.
 - C. A lavatory sink.
 - D. A kitchen sink installed in connection with the main cooking facilities of the rental dwelling unit. No such kitchen sink shall be placed within any water-closet compartment or within any bathroom containing a water closet.
 - E. Every rental dwelling unit shall be provided with one, and only one, complete kitchen or kitchenette with approved cooking, refrigeration and sink facilities. No such kitchen facilities shall be placed within any water-closet compartment or within any bathroom.
 - F. Communal kitchens and/or bathrooms are strictly prohibited.
 - G. All plumbing fixtures in a rental dwelling unit shall be supplied with running water from the Village water system.
 - H. Every rental dwelling unit shall have an approved supply of running hot water properly connected to all plumbing fixtures requiring hot water.
 - I. All plumbing fixtures in a rental dwelling unit shall be so designed and installed as to prevent contamination of the Village water system.

- J. All plumbing fixtures in a rental dwelling unit shall be connected to a public sanitary sewer.
- (g) Heating Facilities and Supply of Heat.
- (1) Every rental dwelling unit shall be provided with approved heating facilities capable of maintaining an average temperature of seventy degrees Fahrenheit (70°F) in all habitable rooms, kitchens, bathrooms and water-closet compartments when the outdoor temperature is minus five degrees Fahrenheit (-5°F), without forcing the facilities to operate in excess of their design capacity.
 - (2) The owner, agent or person having charge of a rental dwelling unit, who rents or leases any dwelling unit therein under an agreement, express or implied, to supply or furnish heat to the occupants thereof shall supply heat adequate to maintain an inside temperature of not less than seventy degrees Fahrenheit (70°F) for the entire twenty-four hour period of each day in all habitable rooms, bathrooms, water-closet compartments and kitchens whenever the outside temperature falls below fifty degrees Fahrenheit (50°F). Such inside temperature shall be measured in the approximate center of each room approximately three feet above the floor.
 - (3) Every appliance or piece of equipment burning solid, liquid or gaseous fuel, where permitted, shall be properly connected to an approved smoke pipe and flue. However, any appliance approved for use without such connections is exempted from the requirements of this section.
 - (4) No heating equipment, including water heaters, which burns solid, liquid or gaseous fuel shall be located in any bedroom, bathroom or toilet room, under stairways or in any room used for sleeping purposes, unless specifically approved for such use.
- (h) Electrical Facilities Required.
- (1) Every dwelling structure shall be provided with approved electrical service, outlets and fixtures that shall be installed and maintained so as to be free of any potential source of ignition of combustible material or electrical hazard.
 - (2) Such facilities shall be approved as being adequate to supply the requirements of lighting, appliances and equipment of the structure concerned.
- (i) Rubbish and Garbage Disposal.
- (1) Every occupant of a rental dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in approved receptacles or in other suitable, approved, rubbish disposal facilities.
 - (2) Every occupant of a rental dwelling unit shall dispose of all his garbage and other organic waste, which might provide food for varmints, insects or rodents, in a clean and sanitary manner by placing it in approved nonleakable, nonabsorbent, covered garbage storage receptacles or in other approved garbage disposal facilities.
 - (3) In every rental dwelling unit, the owner, agent or person having charge shall be responsible for providing and maintaining suitable, approved receptacles, for the disposal of rubbish, garbage, refuse or other waste matter. The owner, agent or person having charge of every rental dwelling unit, shall provide suitable screening to cause dumpsters that are one and one-half yards or more used for the disposal of rubbish, garbage, refuse or other waste matter to be not visible to the public at large from ground level.

(j) Maintenance Responsibilities.

- (1) The owner, agent or person having charge of every rental dwelling unit shall be responsible for the maintenance thereof in good repair and safe condition as required by the terms of this Code. The owner, agent or person having charge shall also be responsible for maintaining in a clean and sanitary condition the shared or common areas of the premises.
- (2) The occupant of a rental dwelling unit shall be responsible for maintaining in a clean and sanitary condition that part of the rental dwelling unit, dwelling structure or premises that he or she occupies and controls. In addition, the occupant shall be responsible for maintaining in good and safe working order the equipment and appliances that he or she owns.
(Ord. 2002-116. Passed 11-12-02.)
- (3) All rental dwelling structures and all parts thereof, both exterior and interior, including, but not limited to, all sidewalks and/or driveway aprons situated thereupon, shall be maintained in good repair and shall be capable of performing the function for which said structure or part or any feature thereof was designed or intended to be used.
(Ord. 2006-24. Passed 3-7-06.)
- (4) All equipment and facilities appurtenant to a rental dwelling unit shall be maintained in good and safe working order.
- (5) The requirements of Chapter 1317 shall be considered in determining compliance of a rental dwelling unit with this section, such determination shall not be limited by the requirements of said section when it is determined by the Zoning Inspector or his duly designated representative, that there exists any other condition that is contrary to the intent and purpose of this section.

(k) Identification of Dwelling Units.

- (1) Each rental dwelling unit must be identified with permanent numerals or letters placed on the front entrance to such dwelling unit and clearly visible from the street.
- (2) Each rental dwelling unit having more than one garage unit shall have such garage units marked with permanent numerals or letters clearly visible from the street. (Ord. 2002-116. Passed 11-12-02.)

1318.05 OCCUPANCY IN MULTIPLE FAMILY DWELLINGS.

(a) Every new tenancy or occupancy entered into after the effective date of this Chapter shall comply with the following occupancy standards:

- (1) The provisions of this Chapter and any amendments thereto.
- (2) No more than one person shall occupy an efficiency unit.
- (3) No more than two persons shall occupy the same bedroom.
- (4) No room within a rental dwelling unit, other than a bedroom, as defined herein, shall be occupied for sleeping purposes.
- (5) "Bedroom" as used in this section, shall mean any room within a dwelling unit, if such room has been specifically designed, constructed and intended primarily for sleeping purposes and is in fact used for such purposes.
- (6) "Efficiency Unit" as used in this section, shall mean any rental dwelling unit that consists of an area that is commonly used as both a living room and a bedroom, has no distinct bedroom and consists of no more than 600 square feet of total floor space.

- (7) A variance from the strict application of the provisions of this section, with respect to the occupancy limits of particular rental dwelling units, may be granted upon application, if and only if the Board of Zoning Appeals finds that due to unexpected circumstances arising after tenancy or occupancy is established, the strict application of this section would impose an undue hardship. An application for a variance shall be submitted to the Board for review, and may be granted only if the variance will not create a safety hazard, damage neighborhood property values or be contrary to the purposes of this Chapter. If granted, such variance shall subsist for a period determined by the Board, not to exceed one year.
(Ord. 2002-116. Passed 11-12-02.)

1318.06 RIGHT OF ENTRY.

(a) The Zoning Inspector, or his duly authorized agent, is hereby authorized and directed to make a biennial inspection of every rental dwelling unit located within the Village of Fairport Harbor in order that he may determine the condition of same.

(b) In the event the owner, agent or person having charge of a rental dwelling unit located within the Village refuses to voluntarily permit entry as may be requested by the Zoning Inspector or his duly authorized agent to conduct the inspection authorized by subsection (a) hereof, then the Zoning Inspector or his duly authorized agent shall consult the Solicitor, and the Solicitor shall take all steps legally necessary to gain entry to the subject premises for the purpose of conducting said biennial inspection. (Ord. 2002-116. Passed 11-12-02.)

1318.07 APPEALS.

(a) Any owner, agent or person having charge who is served a notice of violation of a provision of this Chapter, may, within ten days of receipt of such notice, appeal the findings of Zoning Inspector, or his duly designated representative to the Board of Zoning Appeals. Such appeal shall be made by filing with the Board of Zoning Appeals, a Notice of Appeal on forms provided for such purpose by the Zoning Inspector. Said appeal shall be based upon a claim that the true intent of the CABO One and Two Family Dwelling Code, the BOCA National Property Maintenance Code, the International Maintenance Code, the rules of the Lake County Building Department, the laws of the State of Ohio, the ordinances and resolutions of the Village, or other applicable code, law, or statute, or the rules adopted thereunder, have been incorrectly interpreted, do not fully apply, or the requirements of this Chapter have been adequately satisfied by other means. The fee for filing said appeal shall be set by Council.

(b) Said appeal shall be scheduled for a hearing before the Board of Zoning Appeals not later than fifteen (15) days after receipt of the aforesaid notice by the Zoning Inspector, and he shall notify the appellant in writing of the time and place of the hearing at least seven (7) days in advance of said hearing, at the address that appears on the form. The appellant may waive the right to such written notice.

(c) The appellant shall have the right to appear in person, and with legal counsel. The hearing before the Board of Zoning Appeals shall be conducted pursuant to these Codified Ordinances and general law. A record of the hearing and decision of the Board of Zoning Appeals shall be made according to Chapter 1141.03 and other applicable provisions of these Codified Ordinances. (Ord. 2002-116. Passed 11-12-02.)

1318.08 PENALTY; EQUITABLE REMEDIES.

(a) Any person, firm or corporation violating any regulation in or any provision of this chapter or any amendment or supplement thereto shall be guilty of a minor misdemeanor and subject to not more than a one hundred fifty dollar (\$150.00) fine. This penalty is in addition to any inspection or registration fees that were not paid by the person who has violated this chapter.

(b) Any person, firm or corporation who fails to obtain a Certificate of Registration as is required by Section 1318.022 shall be guilty of a special misdemeanor and said person, firm or corporation shall pay a fine of one hundred fifty dollar (\$150.00). This penalty is in addition to any fee required to be paid for the Certificate of Registration.

(c) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues after due notice has been served, in accordance with this chapter or other applicable law.

(d) The imposition of any penalty, as provided in subsections (a) or (b) hereof, shall not preclude the Solicitor from instituting any appropriate action or proceeding, at law or in equity, in a court of proper jurisdiction; to prevent an unlawful repair or maintenance; to restrain, correct or abate a violation; to prevent the occupancy of a building; or to require compliance with provisions of this chapter or other applicable laws, statutes, codes, ordinances, resolutions, rules, regulations or the orders or determinations of the Zoning Inspector, his duly authorized representative, or the Board of Zoning Appeals.
(Ord. 2008-005. Passed 1-15-08.)

CHAPTER 1321
Registration of Contractors

1321.01	Registration.	1321.07	Expiration and renewals.
1321.02	Eligibility for certificates of registration.	1321.08	Revocation and suspension of registration.
1321.03	Installations of public utility companies.	1321.09	Permits issued only to registered contractors.
1321.04	Firms or corporations installing work.	1321.10	Homeowner's exception.
1321.05	Insurance.	1321.99	Penalty.
1321.06	Fees.		

1321.01 REGISTRATION.

(a) No person, firm or corporation shall engage in the business or act in the capacity of a contractor, as herein defined, except pursuant to a certificate of registration or license issued by the Lake County Building Department in conformity with the provisions of this chapter by the Zoning Inspector, unless such person, firm or corporation is particularly exempted by the provisions of this chapter.

(b) All persons, prior to engaging in or being employed as responsible for the installation, replacement, and/or construction within the Village, including, but not limited to any of the following, shall obtain the required certificate of registration or license or show proof of a license as issued by the Lake County Building Department.

- (1) Contractors.
 - A. General
 - B. Owner/Limited Premises General
 - C. Fence
 - D. Siding
 - E. Roofing
 - F. Signs
 - G. Concrete/asphalt paving
 - H. Excavation/sewers
 - I. Demolition
- (2) Electrical.
 - A. General
 - B. Limited premises
 - C. Residential
- (3) Plumbing (includes gas piping).
- (4) Mechanical.
 - A. Fire suppression systems
 - B. Ventilation
 - C. Air conditioning

(5) Fire Protection Systems.

A. Fire suppression systems

B. Fire alarm systems

NOTE: Boiler contractors registration, permits and inspections must obtain same from the Division of Boiler Inspection, Department of Industrial Relations' Columbus, Ohio.

(c) The term "Contractor", for the purposes of this section, means any individual, firm, corporation, co-partnership, association or other organization or any combination thereof, who or which, by himself or by itself, or by or through others, constructs, alters, repairs, adds to, subtracts from, reconstructs or remodels any building, structure or appurtenance thereto, including the pavement of walkways, driveways, driveway aprons, curbs, patios and sidewalks or who or which undertake to submit a bid to do so. The term "contractor" includes the subcontractor and also a special contractor whose operations, as such, are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

(d) Every applicant for registration shall make written application therefor on forms furnished by the Zoning Inspector. (Ord. 1998-97. Passed 9-15-98.)

1321.02 ELIGIBILITY FOR CERTIFICATES OF REGISTRATION .

(a) No applicant shall be registered under the provisions of this chapter unless the applicant:

- (1) Is at least eighteen years of age;
- (2) Is of good moral character;
- (3) Is able to read and write the English language;
- (4) Has previously been engaged in the applicable trade for a minimum period of two years;
- (5) Provides a chronological list of projects and names of contact person(s) pursuant to subsection (a)(4) hereof;
- (6) Passes the appropriate examination by the Board of Building Code Appeals with respect to electrical or plumbing licenses as issued or has been approved by the Lake County Building Department.

(b) Fire Protection Systems. Every applicant to be eligible for registration as an installer of fire protection systems shall have and present a valid, active certificate from the State Department of Commerce, Division of State Fire Marshall.

(c) Limited Premises General Contractor. Every applicant for a limited premises general contractor registration shall provide:

- (1) A list of properties under ownership; and
- (2) A notarized affidavit that all work authorized by the permit is to be performed by permanent employees of the company.

Limited Premises General Contractors may not obtain permits involving an increase in building area, building height or new buildings/additions.

NOTE: Electrical, plumbing and work by subcontractors must be performed by separate permits issued to licensed/registered contractors.
(Ord. 1998-97. Passed 9-15-98.)

1321.03 INSTALLATIONS OF PUBLIC UTILITY COMPANIES.

(a) No provision of the within regulation shall be interpreted to require licenses, registration or certificates of qualification for officials or employees of public utility organizations to engage in the installation, alteration, repair, maintenance or utilization of any device, appliance, installation or appurtenance forming part of the equipment for generation, transmission, or distribution of any commodity or service which such public utility organization is authorized by law to furnish or provide.

(b) Electrical utility companies holding active franchises within the Village shall be permitted to install outdoor illumination lights on private property pursuant to contract or agreement with the owner or person in charge thereof without obtaining any permits from the Village and without the necessary of having licensed electricians as defined herein, provided that such installation is performed at all times by the utility company using its personnel regularly employed on a full-time basis. No such utility company shall be permitted to assign or subcontract all or any portion of such outdoor lighting installation of any light or lights which may create a nuisance to adjoining residents or inhabitants, or to any light or lights which may create a hazardous condition in the community.
(Ord. 1998-97. Passed 9-15-98.)

1321.04 FIRMS OR CORPORATIONS INSTALLING WORK.

No firm or corporation shall engage in the business of making installations for which registration is required by this regulation, unless at least one responsible member, officer or employee of such firm or corporation has a valid license issued by the Lake County Building Department and is registered with the Village to make such installations. All such work performed by such firm or corporation shall be under direct supervision of the licensed person. Revocation or suspension of the license or registration of such person shall prohibit the right of such firm or corporation to engage in the business authorized by such license.
(Ord. 1998-97. Passed 9-15-98.)

1321.05 INSURANCE.

Every applicant for registration shall, upon approval of the application, furnish evidence of liability insurance for bodily injury in the amount of one million dollars (\$1,000,000), and for property damage in the amount of two hundred fifty thousand dollars (\$250,000). (Ord. 2005-85. Passed 8-9-05.)

1321.06 FEES.

The following fees shall be charged for licensing and/or registration pursuant to this chapter:

Application and Registration fee \$40.00

(Ord. 2006-60. Passed 7-18-06.)

1321.07 EXPIRATION AND RENEWALS.

All licenses and registration certificates shall expire on December 31 in the year in which such license or certificate of registration was issued and shall be renewed within the thirty days prior to the expiration of the existing license or registration. If such license or registration is not renewed for the ensuing year prior to the expiration date, then such license or registration thereafter shall not be renewed unless and until the former registrant complies with the within requirements of this Code Section. (Ord. 1998-97. Passed 9-15-98.)

1321.08 REVOCATION AND SUSPENSION OF REGISTRATION

A certificate of registration may be suspended by the Zoning Inspector for a prescribed period not to exceed ninety days whenever it has been determined that the holder thereof:

- (a) Has not performed the duties required of him by the Building Codes or by the rules or regulations of the Board of Building Code Appeals; or
- (b) Has been lax, incompetent, negligent or derelict in the prescribed performance or in the performance of work or furnishing of services authorized by such certificate; or
- (c) Has violated or participated in the violation of any provision of the Building Codes. (Ord. 1998-97. Passed 9-15-98.)

1321.09 PERMITS ISSUED ONLY TO REGISTERED CONTRACTORS.

No permit required by the provisions of this Building Code shall be issued for work to be undertaken by contract except for those to a registered or licensed contractor as outlined by this Code Section. (Ord. 1998-97. Passed 9-15-98.)

1321.10 HOMEOWNER'S EXCEPTION.

(a) No provision of this Code Section or any regulation adopted by authority of this Village shall be interpreted to require that the owner of an existing one or two family dwelling to be licensed or registered personally to perform work upon the premises. All such work shall be done by such owner with the assistance of any member of his family or household and such work shall be done in conformity with the provisions of the Lake County Building Code and Village Zoning rules or regulations promulgated thereunder, and no work shall be done unless all permits, inspections, and approvals as required by Codified Ordinances or State Law are secured.

(b) No work shall be performed by contractors or subcontractors under a homeowner's exemption permit. (Ord. 1998-97. Passed 9-15-98.)

1321.99 PENALTY.

(a) Any person, firm or corporation or his or their agents who violates any provision of Chapter 1321 of the Fairport Harbor Ordinances and/or who fails to register as a Contractor as is required by this Chapter is guilty of a misdemeanor for each such offense and shall be fined not more than two hundred fifty dollars (\$250.00).

(b) A separate offense shall be deemed committed each day during or on which a violation continues. (Ord. 2006-60. Passed 7-18-06.)

CHAPTER 1323
Illicit Discharge and Illegal Connection Control

1323.01	Purpose and scope.	1323.08	Monitoring of illicit discharges and illegal connections.
1323.02	Applicability.	1323.09	Enforcement.
1323.03	Definitions.	1323.10	Remedies not exclusive.
1323.04	Disclaimer of liability.	1323.99	Penalty.
1323.05	Conflicts, severability, nuisances and responsibility.		
1323.06	Responsibility for administration.		
1323.07	Discharge and connection prohibitions.		

1323.01 PURPOSE AND SCOPE.

The purpose of this regulation is to provide for the health, safety and general welfare of the citizens of the Village of Fairport Harbor through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This regulation establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

- (a) To prohibit illicit discharges and illegal connections to the MS4.
 - (b) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.
- (Ord. 2008-026. Passed 4-1-08.)

1323.02 APPLICABILITY.

This regulation shall apply to all residential, commercial, industrial or institutional facilities responsible for discharges to the MS4 and on any lands in the Village of Fairport Harbor, except for those discharges generated by the activities detailed in Section 1323.07(a)(1) to (a)(3) of this regulation.

(Ord. 2008-026. Passed 4-1-08.)

1323.03 DEFINITIONS.

The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:

- (a) Best Management Practices (BMPs): means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water, BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (b) Village of Fairport Harbor: means the Village of Fairport Harbor, its designated representatives, boards, or commissions.
- (c) Environmental Protection Agency or United States Environmental Protection Agency (USEPA): means the United States Environmental Protection Agency, including, but not limited to the Ohio Environmental Protection Agency (Ohio EPA) or any duly authorized official of said agency.
- (d) Floatable Material: in general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles and paper products.
- (e) Hazardous Material: means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (f) Illicit Discharge: as defined at 40 C.F.R. 122.26(b)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in Section 1323.07 of this regulation.
- (g) Illegal Connection: means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.
- (h) Municipal Separate Storm Sewer System (MS4): as defined at 40 C.F.R. 122.26(b)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - (1) Owned or operated by a State, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over sewage, industrial wastes, including special districts under State law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;
 - (2) Designed or used for collecting or conveying storm water;
 - (3) Which is not a combined sewer; and
 - (4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.

- (i) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 U.S.C. §1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general areawide basis.
- (j) Off-Lot Discharging Home Sewage Treatment System: means a system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.
- (k) Owner/Operator: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
- (l) Pollutant: means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.
- (m) Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (n) Wastewater: The spent water of the Village of Fairport Harbor. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions. (Ord. 2008-026. Passed 4-1-08.)

1323.04 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property. (Ord. 2008-026. Passed 4-1-08.)

1323.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the Village of Fairport Harbor, shall prevail.

(b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the Village of Fairport Harbor to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village of Fairport Harbor, its officers, employees or agents being responsible for any condition or damage resulting therefrom. (Ord. 2008-026. Passed 4-1-08.)

1323.06 RESPONSIBILITY FOR ADMINISTRATION.

The Village of Fairport Harbor shall administer, implement and enforce the provisions of this regulation. The Village of Fairport Harbor may contract with the Lake County Board of Health to conduct inspections and monitoring and to assist with enforcement actions. (Ord. 2008-026. Passed 4-1-08.)

1323.07 DISCHARGE AND CONNECTION PROHIBITIONS.

(a) Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:

- (1) Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the Village of Fairport Harbor to be significant contributors of pollutants to the MS4.
- (2) Discharges specified in writing by the Village of Fairport Harbor as being necessary to protect public health and safety.
- (3) Discharges from off-lot discharging household sewage treatment systems permitted by the County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29, or other applicable Lake Board of Health regulations, until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for Household Sewage Treatment Systems existing prior to January 1, 2007. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Lake County Board of Health.
When such permit coverage is available, discharges from off-lot discharging home sewage treatment systems will no longer be exempt from the requirements of this regulation.

(b) Prohibition of Illegal Connections. The construction, use, maintenance or continued existence of illegal connections to the MS4 is prohibited.

- (1) The prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.
(Ord. 2008-026. Passed 4-1-08.)

1323.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS.

(a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The Village of Fairport Harbor shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and home sewage treatment systems; the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial and institutional facilities for the sources of any dry weather flows found as the result of these inspections.

(b) Inspection of Residential, Commercial, Industrial or Institutional Facilities.

- (1) The Village of Fairport Harbor shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.
- (2) The Village of Fairport Harbor shall have the right to set up at facilities subject to this regulation such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the Village of Fairport Harbor.
- (3) The Village of Fairport Harbor shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner's/operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the Village of Fairport Harbor to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the Village of Fairport Harbor and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.
- (5) Unreasonable delays in allowing the Village of Fairport Harbor access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.
- (6) If the Village of Fairport Harbor is refused access to any part of the facility from which storm water is discharged, and the Village of Fairport Harbor demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety and welfare, the Village of Fairport Harbor may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.
- (7) Any costs associated with these inspections shall be assessed to the facility owner/operator.
(Ord. 2008-026. Passed 4-1-08.)

1323.09 ENFORCEMENT.

(a) Notice of Violation. When the Village of Fairport Harbor finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the Village of Fairport Harbor may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered, and/or sent by registered mail, to the owner/operator of the facility. Such notice may require the following actions:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit discharges or illegal connections;
- (3) That violating discharges, practices, or operations cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; or
- (5) The implementation of source control or treatment BMP's.

(b) If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. Said Notice shall further advise that, should the facility owner/operator fail to remediate or restore within the established deadline, a legal action for enforcement may be initiated.

(c) Any person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.

(d) Administrative Hearing. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the Village of Fairport Harbor shall schedule an administrative hearing to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent by certified mail.

Any person aggrieved by any order, requirement, determination or any other action or inaction by the Village of Fairport Harbor, Ohio in relation to this regulation may appeal to the Village Board of Zoning Appeals and then if not satisfied may appeal to the Court of Common Pleas. Such an appeal shall be made in conformity with Ohio Revised Code. Written notice of appeal shall be served on the Village of Fairport Harbor, Ohio.

(e) Injunctive Relief. It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to Ohio R.C. 3709.211. If a owner/operator has violated or continues to violate the provisions of this regulation, the Village of Fairport Harbor may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation. (Ord. 2008-026. Passed 4-1-08.)

1323.10 REMEDIES NOT EXCLUSIVE.

The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the Village of Fairport Harbor to seek cumulative remedies. (Ord. 2008-026. Passed 4-1-08.)

1323.99 PENALTY.

(a) Any person, firm, entity or corporation, including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars (\$500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the Village of Fairport Harbor, Ohio instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules or regulations, or the orders of the Village of Fairport Harbor, Ohio. (Ord. 2008-026. Passed 4-1-08.)

CHAPTER 1375
Vacant Property/Building Registration

1375.01	Purpose.	1375.05	Vacant building fees.
1375.02	Definitions.	1375.06	Exemptions.
1375.03	Vacant property/building registration.	1375.07	Appeals.
1375.04	Inspections.	1375.99	Penalty.

CROSS REFERENCES
Property Maintenance Code - see BLDG. Ch. 1317

1375.01 PURPOSE.

The purpose of this chapter is to establish a program for identifying and registering vacant commercial buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of the vacant buildings. Shifting the cost of burden from the general citizenry to the owners of the blighted buildings will be the result of this chapter. Further, the adoption of this chapter will help prevent blight and it will contribute to the preservation of the public peace, health, safety and welfare of the inhabitants of the Village of Fairport Harbor.

(Ord. 2012-061. Passed 9-4-12.)

1375.02 DEFINITIONS.

Unless otherwise expressly stated, the following terms shall for the purpose of this chapter, have the meanings indicated in this section.

- (a) "Secured by other than normal means." A building secured by means other than those used in the design of the building.
- (b) "Unoccupied." A building which is not being used for the occupancy authorized by the owner.
- (c) "Unsecured." A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.
- (d) "Vacant building." A building (excluding government-owned buildings) which is:
 - (1) Unoccupied and unsecured; or
 - (2) Unoccupied and secured by other than normal means; or
 - (3) Unoccupied and an unsafe building as determined by the Fire Inspector; or

- (4) Unoccupied and having utilities disconnected; or
 - (5) Unoccupied and has housing or building code violations; or
 - (6) Illegally occupied, which shall include loitering and vagrancy; or
 - (7) Unoccupied for a period of time over 90 days and having an existing code violation issued by a Zoning Inspector; or
 - (8) Unoccupied with a mortgage status of abandonment (i.e. deceased or foreclosed); or
 - (9) Unoccupied and abandoned by the property owner.
- (e) "Evidence of vacancy." Any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to: significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statement(s) by governmental employee(s) that the property is vacant.
- (f) "Blighted." A building or other structure that is so poorly maintained that its condition, directly or indirectly, represents a threat to the health or safety of the general public or to persons living on adjoining property or in the area; constitutes an unsanitary condition; lends itself to habitation or infestation by rodents, termites or other vermin; or represents a threat to property values or to the residential or commercial desirability of adjoining property or other property within the area. (Ord. 2012-061. Passed 9-4-12.)

1375.03 VACANT PROPERTY/BUILDING REGISTRATION.

(a) The owner shall register with the Zoning Department not later than 90 days after any building located in an area zoned for, or abutting an area zoned for commercial use in the Village becomes a vacant building or not later than 30 days of being notified by the Zoning Department of the requirement to register based on evidence of vacancy, whichever event first occurs.

(b) The registration shall be submitted on forms provided by the Zoning Department and shall include the following information supplied by the owner:

- (1) The name(s) and address(es) of the owner or owners;
- (2) If the owner does not reside in Lake County or within ten miles of the Fairport Harbor Village limits, the name and address of any third party who the owner has entered into a contract or agreement for property management. By designating an authorized agent under the provisions of this section, the owner is consenting that the third party is authorized to receive any and all notices relating to the property and conformance of any and all ordinances;
- (3) The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
- (4) A telephone number where a responsible party can be reached at all times during business and non-business hours; and
- (5) A vacant building plan as described in subsection (c) hereof.

(c) The owner shall submit a vacant building plan which must meet the approval of the Village Administrator or the Zoning Inspector. The plan, at a minimum, must contain information from one of the following three choices:

- (1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition which includes starting within 30 days of acceptance of the proposed demolition timeline and does not exceed one year in accordance with the Ohio Building Code; or
- (2) If the building is to remain vacant, a plan for the ensuring the building is secured in accordance with Section 1317.25 along with the procedure that will be used to maintain the property, and a statement of the reasons why the building will be left vacant (e.g., building is for sale, etc.); or
- (3) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the building and grounds. The rehabilitation plan shall not exceed 12 months from the time they obtain permits, unless the Village Administrator or Village Zoning Inspector grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes, and the property must be secured during the rehabilitation.

(d) All applicable laws and codes shall be complied with by the owner. The owner shall notify the Village Administrator or Zoning Inspector of any changes in information of their vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revision(s) must be in writing and must meet the approval of the Village Administrator or Zoning Inspector.

(e) The owner and subsequent owners shall keep the building secured and safe and the building and grounds properly maintained in accordance with all applicable Property Maintenance Codes.

(f) A new owner(s) shall register or re-register the vacant building with the Zoning Inspector within 30 days of any transfer of an ownership interest in the vacant building if the building continues to remain vacant after transfer. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the Village Administrator or Zoning Inspector.

(g) The failure of the owner of the vacant building to obtain a deed for the property or to file the deed with the County Recorder shall not excuse the property owner from registering the property.

(h) Failure of the owner or any subsequent owners to maintain the building and premises that result in remedial action taken by the Village shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by the law.

(i) The Village Administrator or Zoning Inspector shall include in the file any property specific written statements from community organizations, other interested parties, or citizens regarding the history, problems, status, or blighting influence of a vacant building.

(j) The registration and all associated processes must be completed in its entirety annually for as long the property remains vacant.
(Ord. 2012-061. Passed 9-4-12.)

1375.04 INSPECTIONS.

The Zoning Department shall inspect any premises in the Village for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of the Village Administrator or Zoning Inspector, an owner may provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Village Administrator or Zoning Inspector or his or her designee in order to enable such inspection. The Village Administrator or Zoning Inspector shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises. The following shall apply:

- (a) Vacant properties will be externally inspected by the Zoning Inspector a minimum of twice per year to ensure the compliance of property maintenance codes;
- (b) Vacant properties will be both internally and externally inspected at the start of each registration period (new and renewal) and when the registration is terminated by the property owner;
- (c) Vacant properties will be both internally and externally inspected upon acquisition of the property by a new owner and prior to an issuance of an Occupancy Certificate as set forth in Section 1137.05 of the Planning and Zoning Code;
- (d) Any inspection that is to take place within 30 days of a previous inspection may or may not be conducted at the discretion of the Village Administrator or Zoning Inspector.

(Ord. 2012-061. Passed 9-4-12.)

1375.05 VACANT BUILDING FEES.

The fees shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form and for the costs incurred by the Village in monitoring the vacant building site. The annually increased fee amounts shall be reasonably related to the costs incurred by the Village for demolition and hazard abatement of or repairs to vacant buildings, as well as the continued normal administrative costs stated above.

- (a) The owner of a vacant commercial building shall pay an annual fee of fifty dollars (\$50.00) for each year the building remain vacant.
- (b) The first annual fee shall be paid at the time the building is registered. If the fee is not paid, the owner shall be subject to prosecution as prescribed in Section 1317.31 of the Property Maintenance Code.
- (c) The fee shall be paid in full prior to the issuance of any zoning or building permits unless the property is granted an exemption. The fee shall be prorated and a refund may be issued if the building is no longer deemed vacant under the provisions of this chapter within 180 days of its registry.
- (d) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A lien may be placed on the property to collect delinquent fees.
- (e) Late fees shall be paid in addition to the annual registration and will be equal to the annual fee. (Ord. 2012-061. Passed 9-4-12.)

1375.06 EXEMPTIONS.

(a) A building under active construction/renovation and having a valid building permit(s) at the time of initial inspection shall be exempt from registration until the expiration of the longest running, currently active building permit.

(b) A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Zoning Department. This request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

(c) A building that is for sale and listed with a licensed State of Ohio realtor or for lease shall be exempted for a period of 12 months from the start of vacancy, provided that the owner submits proof to the Zoning Department of such listing and for the sale or lease status.

(d) A building that has been granted an exemption pursuant to the following. Any owner of a vacant building may request an exemption from the provisions of this chapter by filing a written application with the Zoning Inspector who shall timely consider same. In determining whether a request for exemption should be granted, the Village Zoning Inspector shall consider the following: the applicant's prior record as it pertains to Village Housing Code, Building Code, or Property Maintenance Code violations; the amount of vacant property the applicant currently has within the Village; and the length of time that the building for which the exception is sought has been vacant.
(Ord. 2012-061. Passed 9-4-12.)

1375.07 APPEALS.

Any owner who is served a notice of vacant property registration may, within ten calendar days of receipt of such notice, apply for an exemption or appeal the findings of the Village Administrator or Zoning Inspector. Such appeal shall be made by filing with the Fiscal Officer a notice of appeal on forms provided for such purpose. The appeal shall be scheduled for a hearing before the Planning Commission. The Planning Commission shall fix a reasonable time for the hearing of an appeal. Notice of the time and place of hearings shall be mailed by first class mail, at least ten (10) days prior to the hearing to the party who filed the appeal. At the hearing before the Commission, the party who filed the appeal may appear in person or through legal counsel. The hearings shall be public. However, the Commission may go into executive session for discussion but not for a vote on any case that is before the Commission. Appeals from the decision of the Commission shall be in accordance with the laws of the State. (Ord. 2012-061. Passed 9-4-12.)

1375.99 PENALTY.

Any person violating any provision of the Vacant Building Registry shall be punished as provided by Section 1317.99 of the Property Maintenance Code.
(Ord. 2012-061. Passed 9-4-12.)