

## **1109.02 Floodplain Overlay District**

### (a) General Provisions:

- (1) **Statutory Authorization:** ~~This Section of the UDO is adopted pursuant to authorization contained in Ohio R.C. 1521.18, and ARTICLE XVIII, Section 3, of the Ohio Constitution which grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. This Section adopts regulations for areas of special flood hazard that are necessary for participation in the National Flood Insurance Program.~~ **ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City Council of the City of Franklin, State of Ohio, does ordain as follows:**
- (2) **Intent Findings of Fact:** ~~The City of Franklin has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, flood proofed, or otherwise protected from flood damage also contribute to the flood loss. The regulations contained in this Section are intended to minimize the threat of such damages and to achieve the purposes hereinafter set forth.~~ **In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.**
- (3) **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.

- (4) **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 that 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 that will unnaturally divert floodwaters or that may increase flood hazards in other areas.
- (5) **Lands to Which These Regulations Apply:** These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Franklin **as identified in Section 1109.02(a)(6)**, including any additional areas of special flood hazard annexed by City of Franklin, as identified on the Floodplain Overlay District Map attached at the end of this Chapter.
- (6) **Basis for Establishing the Areas of Special Flood Hazard:** For the purposes of these regulations, the following studies and/or maps are adopted, and may be referred to herein as the City's Floodplain Overlay District Map or Floodplain Map:
- (A) *Flood Insurance Study Warren County, Ohio and Incorporated Areas and Flood Insurance Rate Map Warren County, Ohio and Incorporated Areas*, both effective ~~December 17, 2010.~~ **April 23, 2025.**
  - (B) Other studies and/or maps that may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard, as indicated by the Floodplain Administrator.
  - (C) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio **which** ~~that~~ has been approved by the City of Franklin, as required in Chapter 1111 for Subdivisions, Chapter 1115.05 for PUDs, PRCs and/or Large Scale Developments, or in section 1109.02(c)(3).
  - (D) Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the **City Zoning Office, 1 Benjamin Franklin Way, Franklin, Ohio 45005** and/or the ~~County Building and Zoning Office.~~
- (7) **Abrogation and Greater Restrictions:** These regulations are not intended to repeal any existing **ordinances (resolutions) including subdivision regulations, zoning or building codes.** In the event of a conflict between these regulations and any other ordinance, resolution, ~~or building code~~, the more restrictive shall be followed. These regulations ~~shall are~~ **are** not intended ~~ed~~ to impair any deed restriction covenant or easement but ~~the land subject to such interests shall also be governed by the regulations~~ **repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflicts or overlap, whichever imposes the more stringent restriction shall prevail.**

- (8) **Interpretation:** In the interpretation and application of these regulations, all provisions shall be:
- (A) Considered as minimum requirements;
  - (B) Liberally construed in favor of the City; and
  - (C) Deemed neither to limit nor repeal any other powers granted under state statutes. 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.
- (9) **Warning and Disclaimer of Liability:** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Franklin, 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 hereunder.
- (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.

(b) Administration:

- (1) **Designation of the Floodplain Administrator:** The City Engineer, or his designee, is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.
- (2) **Duties and Responsibilities of the Floodplain Administrator:** The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
- (A) Evaluate applications for permits to develop in special flood hazard areas;
  - (B) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information;
  - (C) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance;
  - (D) Inspect buildings and lands to determine whether any violations of these regulations have been committed;
  - (E) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, **floodproofing certifications**, variances, and records of enforcement actions taken for violations of these regulations;
  - (F) Enforce the provisions of these regulations;
  - (G) Provide information, testimony, or other evidence as needed during variance hearings;

- (H) Coordinate map maintenance activities and FEMA follow-up; ~~and~~
  - (I) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- (3) **Floodplain Development Permits:** It shall be unlawful for any person to begin construction or other development activity including, but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1109.02(a)(6) by the City's Floodplain Map, 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.
- (4) **Application Required:** An application for a Floodplain Development Permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/~~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:
- (A) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing;
  - (B) Elevation of the existing, natural ground where structures are proposed;
  - (C) Elevation of the lowest floor, including basement, of all proposed structures;
  - (D) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations;
  - (E) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a Floodplain Development Permit when applicable:
    - (i) Flood-proofing certification for non-residential flood proofed structure as required in section 1109.02(c)(5);
    - (ii) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of section 1109.02(c)(4) or 1109.02(c)(5) are designed to automatically equalize hydrostatic flood forces;
    - (iii) Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in section 1109.02(c)(9);
    - (iv) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations, but no floodway as required by section 1109.02(c)(9);

- (v) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by section 1109.02(c)(9);
  - (vi) Generation of base flood elevation(s) for Subdivisions, PUDs, PRCDs and/or Large Scale Developments **and other new developments**, as required by Chapter 1111, by section 1109.02(a)(6), or by section 1109.02(c)(3); and
- (F) ~~The applicant shall pay a non-refundable fee, as outlined in section 1105.09, to reimburse the City for the costs of reviewing the application~~ **A Floodplain Development Permit Application Fee set by the Section 1105.09 Fees adopted by the City of Franklin.**

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

- (A) Review: After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that these regulations have been met. No Floodplain Development Permit application shall be reviewed until all information required in section 1109.02(b)(4) has been received by the Floodplain Administrator.
  - (B) The Floodplain Administrator shall review all Floodplain Development Permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required, including permits issued by the U.S. Army Corps of Engineers under 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.
  - (C) Approval: Within sixty (60) 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 beginning within six (6) months of issuance. 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, as determined by the Zoning Official~~ **If the Floodplain Administrator is satisfied that the development proposed in the floodplain development application conforms to the requirements of this ordinance, the Floodplain Administrator shall issue the permit. All floodplain development permits shall be conditional upon the commencement of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.**
- (6) **Inspections:** The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.
- (7) **Post-Construction Certifications Required:** The following “as-built” certifications are required after a Floodplain Development Permit has been issued:
- (A) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered **professional** surveyor to record as-built elevation data. For elevated structures in Zone ~~R-1, R-2, R-3 and A-1~~ **A and Zone AO** areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

(B) For all development activities subject to the standards of section 1109.02(c) (b), a Letter of Map Revision.

**(C) For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Non-Residential Structures completed by a registered professional engineer or architect together with associated documentation.**

(8) **Revoking a Floodplain Development Permit:** A Floodplain Development Permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, the applicant shall be entitled to file an appeal within twenty (20) days after the decision. The appeal shall be filed with the Appeals Board and shall specify the grounds for such appeal **an appeal may be taken to the Appeals Board in accordance with Section 1109.02(d) of these regulations.**

(9) **Exemption from Filing a Development Permit:** An application for a Floodplain Development Permit shall not be required for: **maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than two thousand five hundred dollars (\$2,500)**

(A) 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).

(B) Development activities in an existing or proposed manufactured home park. Such activities are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Chapter 3701.

(C) Major utility facilities permitted by the Ohio Power Siting Board under Ohio R.C. Chapter 4906.

(D) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Ohio R.C. Chapter 3734.

(E) 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.

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

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

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

(i) **Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of**

Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781-12.

(ii) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.

(iii) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.

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

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

(11) **Map Maintenance Activities:** To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Franklin flood maps, studies and other data identified in this Section 1109.02(a)(6) accurately represent flooding conditions ~~(so appropriate floodplain management criteria are based on current data)~~ the following map maintenance activities are identified and shall be carried out by the Floodplain Administrator so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

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

- (i) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
- (ii) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
- (iii) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
- (iv) Subdivision or ~~large scale~~ other new development proposals requiring the establishment of base flood elevations in accordance with section ~~1109.02(a)(6)~~ (c)(3).

It is the responsibility of the applicant to have technical data, required in accordance with Section 1109.02(c)(11), 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.

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

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

**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 Section 1109.02(c)(11).**

(B) *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 City Manager of the City of Franklin, and may be submitted at any time.

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

**~~(12) Letter of Map Revision or Conditional Letter of Map Revision:~~**

~~(A) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a Floodplain Development Permit for:~~

~~(i) Proposed floodway encroachments that increase the base flood elevation; and~~

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

~~(B) It is the responsibility of the applicant to have technical data, required in accordance with this Section, 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) 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 section 1109.02(c)(10).~~

**(12) 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:

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

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

**(C) The Floodplain Administrator shall make interpretations, where needed, as**



to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1109.02(d), Appeals and Variances. When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:

- (i) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations; or
- (ii) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and /or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and /or appeal to FEMA.

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

(13) Use of Preliminary Flood Insurance Rate Map and/or Flood Insurance Study Data

(A) Zone A:

- (i) Within Zone A areas designated on an effective FIRM, data from the preliminary FIRM and/or FIS shall reasonably utilized as best available data.
- (ii) When all appeals have been resolved and a notice of final food elevation determination has been provided in a Letter of Final Determination (LFD), BFE and floodway data from the preliminary FIRM and/or FIS shall be used for regulating development.

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

- (i) BFE and floodway data from a preliminary FIS or FIRM restudy are not required to be used in lieu of BFE and floodway data contained in an existing effective FIS and FIRM. However,
  - (a) Where BFEs increase in a restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of their citizens are protected.
  - (b) Where BFEs decrease, preliminary FIS or FIRM data should not be used to regulate floodplain development until the LFD has been issued or until all appeals have been resolved.
- (ii) If a preliminary FIRM or FIS has designated floodways where none had previously existed, communities should reasonably utilize this data in lieu of applying the encroachment performance standard of Section 4.9(B) since the data in the draft or preliminary FIS represents the best data available.

(C) Zones B, C, and X:

- (i) Use of BFE and floodway data from a preliminary FIRM or FIS are not

**required for areas designated as Zone B, C, or X on the effective FIRM which are being revised to Zone AE, A1-30, AH, AO, VE, or V1-30. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and property of their citizens are protected.**

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

- (A) Determine whether damaged structures are located in special flood hazard areas;
- (B) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- (C) ~~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.~~ **Require owners of substantially damaged structures 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.

(c) **Use and Development Requirements for Flood Hazard Reduction:** The following use and development requirements apply to development wholly within, partially within, or in contact with any special flood hazard area as established in section 1109.02(a)(5), (a)(6), **(b)(12) and (b)(13).**

(1) **Use Regulations:**

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

(B) Prohibited Uses:

- (i) Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Ohio R.C. Chapter 3701.
- (ii) Infectious waste treatment facilities in all special flood hazard areas, permitted under Ohio R.C. Chapter 3734.

(2) **Water and Wastewater Systems:** The following requirements apply to all water supply, sanitary sewerage and waste disposal systems ~~not otherwise regulated by~~ **in the absence of any more restrictive standard provided under** the Ohio Revised Code **or applicable state rule:**

- (A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- (B) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

- (C) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(3) **Subdivisions and ~~Large~~ Other New Developments:**

- (A) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- (B) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (C) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
- (D) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least fifty (50) lots or five (5) acres, whichever is less.
- (E) The applicant shall meet the requirement to submit technical data to FEMA of section 1109.02(b)(11) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by section 1109.02(c)(3)(D).

(4) **Residential Structures: The requirements of Section 1102.09(c)(4) apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1109.02(b)(13).**

- (A) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring ((c)(4)(A)) and construction materials resistant to flood damage ((c)(4)(B)) are satisfied.
- (B) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- (C) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (D) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. ~~Where flood protection data are not available~~ In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (E) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings ~~sufficient to allow unimpeded movement of flood waters~~ to allow the automatic equalization if hydrostatic pressure may have an enclosure below the lowest

floor provided the enclosure meets the following standards:

- (i) Be used only for the parking of vehicles, building access, or storage; and
  - (ii) Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
  - (iii) Have a minimum of two 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.
- (F) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (G) Repair or rehabilitation of historic structures, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of ~~this paragraph~~ **Section 1109.02(c)(4)**.
- (H) ~~In Residential Zones~~ **For Communities having AO and/or AH Zones: In AO and AH Zones**, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- (I) Each new residential site shall have direct access to a walkway, driveway, or roadway whose surface elevation is not less than the flood protection elevation and such escape route shall lead directly out of the floodplain area.
- (5) **Nonresidential Structures: The requirements of Section 1109.02(c)(5) apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1109.02(b)(13).**
- (A) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of ~~this Section and section 1109.02(c)(4)A. through C. and E. through G~~ **Section 1109.02(c)(4)(A)-(C) and (E)-(G)**.
  - (B) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
    - (i) Be dry flood proofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
    - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- (iii) Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency ~~Elevation~~ **Floodproofing** Certificate, that the design and methods of construction are in accordance with this Section and section 1109.02(c)(9) **(5)(B)(1) and (2)**.
- (C) ~~Where flood protection elevation data is not available~~ **In zone AO areas with no elevations specified**, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (6) **Accessory Structures:** ~~Relief to the elevation or dry flood proofing standards may be granted for accessory structures containing no more than six hundred square feet (600 sq. ft.). Such structures must meet the following standards~~ **Structures that are 600 square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH designated on the community's FIRM. Such structures must meet the following standards:**
- (A) They shall not be used for human habitation;
  - (B) They shall be constructed of flood resistant materials;
  - (C) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
  - (D) They shall be firmly anchored to prevent flotation;
  - (E) Service facilities such as electrical and heating equipment shall be elevated or flood proofed to or above the level of the flood protection elevation; and
  - (F) They shall meet the opening requirements of section 1109.02(c)(4), ~~specifically E-~~ **(E)(iii)**.
- (7) **Recreational Vehicles:** Recreational vehicles **on sites within zones A, A1-30, AE, AO, or AH** must meet at least one of the following standards:
- (A) They shall not be located on sites in special flood hazard areas for more than one hundred eighty (180) days, or
  - (B) They must be fully licensed and ready for highway use, or
  - (C) They must **be placed on the site pursuant to a floodplain development permit issued under Sections 1109.02(b)(3) and (4)**, meet all standards of section 1109.02(c)(4).
- (8) ~~Above Ground Gas or Liquid Storage Tanks:~~ **AH** **Within zone A, A1-A30, AE, AO, or AH, new or substantially improved** above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (9) **Assurance of Flood Carrying Capacity:** Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
- (A) Development in Floodways:
    - (i) In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or

(ii) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval of FEMA. Such requests must be submitted to the Floodplain Administrator to FEMA, and must meet the requirements of the National Flood Insurance Program. **Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:**

- (a) Meet the requirements to submit technical data in Section 1109.02(b)(11)(A);**
- (b) An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;**
- (c) Certification that no structures are located in areas that would be impacted by the increased base flood elevation;**
- (d) Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and**
- (e) Concurrence of the City Manager of the City of Franklin and the Chief Executive Officer of any other communities impacted by the proposed actions.**

**(B) Development in Riparian Areas with Base Flood Elevations but No Floodways:** In riparian 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 one (1) 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.

**(i) In riparian 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 one (1) 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,**

**(ii) 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 foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:**

- (a) An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;**
- (b) Section 1109.02(c)(9)(ii), items (a) and (c)-(e).**

(C) Alterations of a Watercourse: For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall

be established by a field determination of the “bank-full stage.” The field determination of “bank-full stage” shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

- (i) The bank-full 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 bank-full flood carrying capacity of the watercourse will not be diminished.
- (ii) Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, 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.
- (iii) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Franklin specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
- (iv) The applicant shall meet the requirements to submit technical data in section 1109.02(b)(4) **(11)(A)(iii)** when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(10) **Fill Activities:** The following standards apply to all fill activities in special flood hazard areas:

- (A) Fill sites, upon which structures will be constructed or placed, must be compacted to ninety-five percent (95%) of the maximum density obtainable with the Standard Proctor Test method or an acceptable equivalent method;
- (B) Fill slopes shall not be steeper than one foot vertical to two feet horizontal (1:2);
- (C) Adequate protection against erosion and scour is provided for fill slopes. When expected velocities during the occurrence of the base flood of more than five feet per second armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less protection shall be provided by covering them with vegetative cover.

(d) Appeals and Variances:

(1) **Appeals Board Established:**

**(A) The Appeals Board is established by City Charter 7.02 Board of Zoning Appeals. Section 1105.07 Appeals Board stipulates the Authority, Duties and Responsibilities and Decision of Board.**

**(B) A chairperson shall be elected by the members of the Appeals Board. Meetings of**

the Appeals Board shall be held as needed and shall be held at the call of the Chairperson, or in his absence, the Acting Chairperson. 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 City Zoning Office.

**(2) Powers and Duties of Appeals Board:**

- (A) The Appeals Board ~~is hereby appointed to serve as the appeals board for these regulations and~~ shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
  - (B) ~~The Appeals Board may a~~ Authorize variances in accordance with section 1109.02(d)(3), below of these regulations, and pursuant to the procedure outlined in section 1115.10 of this UDO.
  - (C) ~~Records of the Appeals Board shall be kept and filed in the City's Zoning Department.~~
- (3) **Appeals:** Any person affected by any notice, order or other official action of the Floodplain Administrator may submit an appeal of the Floodplain Administrator's decision to the Appeals Board, provided that such person shall file such appeal within twenty (20) days of the date of such notice and, order or other official action. Such appeal shall include a brief statement of the grounds for an appeal of the Floodplain Administrator's decision or for the mitigation of any item appearing on any order by the Floodplain Administrator. Such appeal shall be in writing, signed by the applicant, and shall be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board. Upon receipt of the notice of appeal, the Appeals Board shall proceed in accordance with the appeal process outlined in section 1115.10.
- (4) **Variances:** Any person believing that the use and development standards of these regulations would result in undue hardship may file an application for a variance with the Appeals Board. 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, and not due to the actions of the owner, a literal enforcement of the provisions of these regulations would result in an undue hardship.

*(A) Application for a Variance:*

- (i) Any owner or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
- (ii) 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.
- (iii) All applications for a Variance shall be accompanied by a Variance Application Fee set by the Section 1105.09 Fees adopted by the City of Franklin.



(B) *Public Hearing:* 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, and standards specified in other sections of these regulations and the following factors:

- (i) The danger that materials may be swept onto other lands to the injury of others;
- (ii) The danger to life and property due to flooding or erosion damage;
- (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
- (vi) The necessity to the facility of a waterfront location, where applicable;
- (vii) The compatibility of the proposed use with existing and anticipated development;
- (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

*Variances shall only be issued upon:*

- (i) A showing of good and sufficient cause;
- (ii) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property (Increased cost or inconvenience of meeting the requirements of these regulations do not constitute an exceptional hardship to the applicant);
- (iii) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws;
- (iv) A determination that the structure or other development is protected by methods to minimize flood damages;
- (v) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; ~~and~~

Upon consideration of the above factors and the purposes of these regulations,

the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

(C) *Other Conditions for Variances:*

- (i) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (ii) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the applicable standards in section 1109.02(c) **(d)(3)(B)(i-xi)** have been ~~substantially met~~ **fully considered**. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (iii) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**(5) Procedure at Hearings**

**(A) All testimony shall be given under oath.**

**(B) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.**

**(C) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.**

**(D) The administrator may present evidence or testimony in opposition to the appeal or variance.**

**(E) All witnesses shall be subject to cross-examination by the adverse party or their counsel.**

**(F) Evidence that is not admitted may be proffered and shall become part of the record for appeal.**

**(G) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.**

**(H) 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.**

**(6) Appeal to the Court: Those aggrieved by the decision of the Appeals Board may appeal such decision to the Warren County Court of Common Pleas, pursuant to Ohio Rev. Code Chapter 2506.**

(e) Enforcement:

(1) **Compliance Required:**

- (A) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the

terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in section 1109.02(b)(9).

- (B) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with section 1105.12.
  - (C) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with section 1105.12.
- (2) **Notice of Violation:** Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:
- (A) Be put in writing on an appropriate form;
  - (B) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action that, if taken, will effect compliance with the provisions of these regulations;
  - (C) Specify a reasonable time for performance,
  - (D) Advise the owner, operator, or occupant of the right to appeal; and
  - (E) Be served on the owner, occupant, or agent in person; however, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.
- (3) **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 be punishable in accordance with section 1105.12.

(Ord. 2009-13. Passed 7-6-09; Ord. 2010-22. Passed 12-6-10.; **Ord. 25-06. Passed 3-17-25**)

## **FLOODPLAIN OVERLAY DISTRICT MAP**

Contact the Clerk of Council for the Official Map