

BY: Albert Meyer

An Ordinance to repeal Ordinance No. 54-78 which established a flood damage prevention program in Bexley, and to adopt this Ordinance which establishes a flood damage prevention program in Bexley that incorporates all current requirements of the National Flood Insurance Program.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT
PURPOSE AND OBJECTIVE

1.1 STATUTORY AUTHORIZATION

Whereas the Legislature of the State of Ohio has delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Council of the City of Bexley, Ohio, does ordain as follows:

1.2 FINDINGS OF FACT

(1) The flood hazard areas of the City of Bexley are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

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

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

- (7) Ensure that potential buyers are aware that property is in an area of special flood hazard; and,
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this Ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alternation of natural flood plains, stream channels, and natural protective barriers, which help accomodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 2. DEFINITIONS

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

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

"Appeal" means a request for a review of the Service Director's interpretation of any provision of this Ordinance or a request for a variance.

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

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. The base flood may also be referred to as the one-hundred (100) year flood.

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

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

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or,
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

"Flood Insurance Study" means an official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

"Floodway" means the channel of a river or other water-course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than .5 foot.

"Lowest floor" means the lowest floor of the lowest enclosed areas (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access storage, in an area other than a basement area, is not considered a building's lowest floor.

"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. It includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, over which the Public Health Council has exclusive rule making power.

"Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, replacement, 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.

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

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any

wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

Section 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This Ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Bexley, Ohio.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study for the City of Bexley, Ohio". This study, with accompanying Flood Boundary and Floodway Maps and/or Flood Insurance Rate Maps dated November 15, 1978 and any revisions thereto is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the Bexley Municipal Building, 2242 E. Main Street, Bexley, Ohio.

3.3 COMPLIANCE

Unless specifically exempted from filing for a development permit as stated in Section 4.2, no structure or land shall hereafter be located, erected, constructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this Ordinance and all other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

3.4 ABROGATION AND GREATER RESTRICTIONS

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this Ordinance, all provisions shall be:

- (1) considered as minimum requirements;
- (2) liberally construed in favor of the governing body; and,
- (3) deemed neither to limit nor repeal any other powers granted under State statutes. Where a provision of this Ordinance may be in conflict with a State law, such State law shall take precedence over the Ordinance.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Bexley, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

3.7 VIOLATIONS AND PENALTIES

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

Section 4.0 ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. Application for a Development Permit shall be made on forms furnished by the Bexley Service Director and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures;
- (2) Elevation in relation to mean sea level to which any proposed structure will be floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2 (1); and,
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 EXEMPTION FROM FILING A DEVELOPMENT PERMIT

An application for a Development Permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small development activities (except for filling and grading) valued at less than \$1,000.00. (This does not exempt applicable Bexley Building Codes.)

4.3 DESIGNATION OF THE FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR

The Bexley Service Director is hereby appointed to administer and implement this Ordinance by granting or denying development permit applications in accordance with its provisions.

4.4 DUTIES AND RESPONSIBILITIES OF THE SERVICE DIRECTOR

shall include but are not limited to:

4.4-1 Permit Review

- (1) Review all development permits to determine that the permit requirements of this Ordinance have been satisfied.
- (2) Review all development permits to assure that all necessary permits have been received from those federal, state or local government agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required.
- (3) Review all development permits to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 5.3 (1) is met.

4.4-2 Information to be Obtained and Maintained

Where base flood elevation data are utilized within areas of special flood hazard on a community's Flood Hazard Boundary Map or Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not such structures contain a basement.
- (2) For all new or substantially improved floodproof structures:
 - (I) Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and,
 - (II) Maintain the floodproofing certifications required in Section 4.1 (3).
- (3) Maintain for public inspection all records pertaining to the provisions of this Ordinance.

4.4-3 Alteration of Watercourses

- (1) Notify adjacent communities and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that necessary maintenance will be provided for by the applicant for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

4.4-4 Interpretation of Flood Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.5.

4.5 VARIANCE PROCEDURE

4.5-1 Appeal Board

- (1) The Bexley Board of Zoning Appeals as established by Ordinance No. 8-72 shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- (2) The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Service Director in the enforcement or administration of this Ordinance.
- (3) Those aggrieved by the decision of the Board of Zoning Appeals, or any taxpayer, may appeal such decision to the Franklin County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
- (4) In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:
 - (I) The danger that materials may be swept into other lands to the injury of others;
 - (II) The danger to life and property due to flooding or erosion damage;
 - (III) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (IV) The importance of the services provided by the proposed facility to the community;
 - (V) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (VI) The necessity to the facility of a waterfront location, where applicable;
 - (VII) The compatibility of the proposed use with existing and anticipated development;
 - (VIII) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (IX) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (X) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at site; and,

- (XI) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of Section 4.5-1 (4) and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
- (6) The Service Director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

4.5-2 Conditions for Variances

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (I-XI) in Section 4.5-1 (4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (I) A showing of good and sufficient cause;
 - (II) A determination that failure to grant the variance would result in exceptional hardship for the applicant; and,
 - (III) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this Ordinance, additional threats to public safety, extra-ordinary expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.5-1 (4) or conflict with existing local laws or ordinances.
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

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

5.1-1 Anchoring

- (1) All 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.
- (2) All manufactured homes not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks shall be 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 to be limited to, use of over-the-top or frame ties to ground anchors.

5.1-2 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All 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 located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-3 Utilities

- (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 the flood waters; and,
- (3) Individual waste water treatment systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 Subdivision Proposals

- (1) All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals, including manufactured home subdivisions, 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, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and,

- (4) Base flood elevation data shall be provided for subdivision proposals, including manufactured home subdivisions, and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the following provisions are required:

5.2-1 Residential Construction

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

5.2-2 Nonresidential Construction

- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (I) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (II) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- (III) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. Such certification shall be provided to the official as set forth in Section 4.1 (3).

5.2-3 Accessory Structures

- (1) An exemption to the evaluation or dry floodproofing standards may be granted for accessory structures (e.g., sheds, detached garages) containing 576 square feet or less in gross floor area. Such structures must meet the encroachment provisions of Section 5.3 (1) and the following additional standards:

- (I) They shall not be used for human habitation;
- (II) They shall be designed to have low flood damage potential;
- (III) They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
- (IV) They shall be firmly anchored to prevent flotation; and,
- (V) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

5.2-4 Manufactured Homes

The following standards shall apply to all new and substantially improved manufactured homes not subject to the manufactured home requirements of Section 3373.01, Ohio Revised Code.

- (1) Manufactured homes shall be anchored in accordance with Section 5.1-1 (2).
- (2) Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation.

5.2-5 Enclosures Below Base Flood Elevation

The following provisions apply to all new and substantially improved residential and nonresidential structures which are elevated to or above base flood elevation using pilings, columns, or posts or which contain a crawl space. These structures may enclose the area below the base flood elevation provided the following conditions are met:

- (1) Fully enclosed areas below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must:
 - (a) Be certified by a registered professional engineer or architect; or,
 - (b) Must meet or exceed the following criteria:
 - (I) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area shall be provided;
 - (II) The bottom of all openings shall be no higher than one foot above grade; and,
 - (III) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (2) Any enclosure which meets these criteria shall be considered as having met the requirements of Section 5.1-1, Anchoring.

5.3 FLOODWAYS

The Flood Insurance Study referenced in Section 3.2 identifies a segment within areas of special flood hazard known as a floodway. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. The following provisions apply within all delineated floodway areas:

- (1) Prohibit encroachment, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 5.3 (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 6. REPEAL OF CONFLICTING ORDINANCE

Ordinance No. 54-78 of the City of Bexley, Ohio, is hereby repealed, and all other Ordinances or parts of Ordinances in conflict with the Flood Damage Prevention Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 7. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: Mar. 24, 1987

J. Hochstet
President of Council

ATTEST: J. H. Hagen
Clerk of Council

APPROVED: Mar 3, 1987

David H. Madison
David H. Madison, Mayor

Feb. 24, 1987 - 1st reading
Mar. 10, 1987 - 2nd reading
Mar. 24, 1987 - Passed.