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Timberlake, OH Code of Ordinances

CODIFIED ORDINANCES OF TIMBERLAKE OHIO

Local legislation current through November 1, 2012
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CERTIFICATION

We, Dave Cattani, Mayor, and Lisa Stefaniak, Clerk-Treasurer, of the Village of Timberlake, Ohio, pursuant to Ohio R.C. 731.23 and 731.42, hereby certify that the general and permanent legislation of the Village of Timberlake, Ohio, as revised, arranged, compiled, numbered, codified and printed herewith in component codes, is correctly set forth and constitutes the Codified Ordinances of the Village of Timberlake, Ohio, 1998, complete to November 1, 2012.

/s/ Dave Cattani

Mayor

/s/ Lisa Stefaniak

Clerk-Treasurer

VILLAGE OF TIMBERLAKE DIRECTORY OF OFFICIALS (2013)

Dave Cattani	Mayor, Safety Director
Todd Mahaffey	Councilperson, Finance
Tom Martic	Councilperson, Sewers
Mike Stanton	Councilperson, Parks and Recreation
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Jim Gaiser	Councilperson, Safety Committee
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Linda Mahaffey	Secretary
Lisa Stefaniak	Council Clerk/Treasurer
Dave Phillips	Police Chief
Gary Gray	Zoning/Maintenance Inspector
Ron Novinc	Maintenance Inspector

CHAPTER 1048
Comprehensive Storm Water Management

1048.01 PURPOSE AND SCOPE.

(a) The purpose of this regulation is to establish technically feasible and economically reasonable storm water management standards to achieve a level of storm water quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens of the Village of Timberlake.

(b) This regulation requires owners who develop or re-develop their property within the Village to:

(1) Control storm water runoff from their property and ensure that all storm water management practices are properly designed, constructed, and maintained.

(2) Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.

(3) Control the volume, rate, and quality of storm water runoff originating from their property so that surface water and ground water are protected and flooding and erosion potential are not increased.

(4) Minimize the need to construct, repair, and replace subsurface storm drain systems.

(5) Preserve natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, except in slippage-prone soils.

(6) Incorporate storm water quality and quantity controls into site planning and design at the earliest possible stage in the development process.

(7) Reduce the expense of remedial projects needed to address problems caused by inadequate storm water management.

(8) Maximize use of storm water management practices that serve multiple purposes including, but not limited to, flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.

(9) Design sites to minimize the number of stream crossings and the width of associated disturbance in order to minimize the Village's future expenses related to the maintenance and repair of stream crossings.

(10) Maintain, promote, and re-establish conditions necessary for naturally occurring stream processes that assimilate pollutants, attenuate flood flows, and provide a healthy water resource.

(c) This regulation shall apply to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways and roads; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; grading; and all other uses that are not specifically exempted in Section 1048.01.

(d) Public entities, including the State of Ohio, Lake County, and the Village of Timberlake shall comply with this regulation for roadway projects initiated after March 10, 2006 and, to the maximum extent practicable, for projects initiated before that time.

(e) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

(f) This regulation does not require a Comprehensive Storm Water Management Plan for linear construction projects, such as pipeline or utility line installation, that do not result in the installation of impervious surface as determined by the Village Engineer. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with the requirements of Chapter 1488, Erosion and Sediment Control.

(Ord. 2005-4. Passed 5-17-05.)

1048.02 DEFINITIONS.

For the purpose of this regulation, the following terms shall have the meaning herein indicated:

(a) "Acre." A measurement of area equaling 43,560 square feet.

(b) "As-built survey." A survey shown on a plan or drawing prepared by a registered surveyor indicating the actual dimensions, elevations, and locations of any structures, underground utilities, swales, detention facilities, and sewage treatment facilities after construction has been completed.

(c) "Best management practices (BMPs)." Schedule of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements and other practices to reduce the pollution of water resources and to control storm water volume and rate.

(d) "Clean Water Act." Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4, 33 U.S.C. 1251 et seq. Referred to as the Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972.

(e) "Community." The Village of Timberlake, its designated representatives, boards, or commissions.

(f) "Comprehensive Storm Water Management Plan." The written document and plans meeting the requirements of this regulation that sets forth the plans and practice to minimize storm water runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate to minimize flooding and stream bank erosion, and to protect or improve storm water quality and stream channels.

(g) "Critical storm." A storm that is calculated by means of the percentage increase in volume of runoff by a proposed development area. The "critical storm" is used to calculate the maximum allowable storm water discharge rate from a developed site.

(h) "Detention facility." A basin, pond, oversized pipe, or other structure that reduces the peak flow rate of storm water leaving the facility by temporarily storing a portion of the storm water entering the facility.

(i) "Development area." A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

(j) "Development drainage area." A combination of each hydraulically unique watershed with individual outlet points on the development area.

(k) "Disturbed area." An area of land subject to erosion due to the removal of vegetative cover and/or soil-disturbing activities.

(l) "Drainage." The removal of excess surface water or ground water from land by surface or subsurface drains.

(m) "Erosion." The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

(n) "Extended conveyance." A storm water management practice that replaces and/or enhances traditional open or closed storm drainage conduits by retarding flow, promoting percolation of runoff into the soil, and filtering pollutants during the storm water quality event.

(o) "Extended detention." A storm water management practice that replaces and/or enhances traditional detention facilities by releasing the runoff collected during the storm water quality event over at least 24 to 48 hours, retarding flow and allowing pollutants to settle within the facility.

(p) "Final stabilization." All soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established, or equivalent stabilization practices, such as the use of mulches or geotextiles, have been employed.

(q) "Grading." The process in which the topography of the land is altered to a new slope.

(r) "Impervious cover." Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.

(s) "Infiltration." A storm water management practice that does not discharge to a water resource during the storm water quality event, requiring collected runoff to either infiltrate into the ground water and/or be consumed by evapotranspiration, thereby retaining storm water pollutants in the facility.

(t) "Larger common plan of development." A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(u) "Maximum extent practicable." The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

(v) "Nonstructural storm water management practice." Storm water runoff control and treatment techniques that use natural practices to control runoff and/or reduce pollution levels.

(w) "NPDES." National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

(x) "Post-development." The conditions that exist following the completion of soil-disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.

(y) "Pre-construction meeting." Meeting prior to construction between all parties associated with the construction of the project, including government agencies, contractors and owners, to review agency requirements and plans as approved and submitted.

(z) "Pre-development." The conditions that exist prior to the initiation of soil-disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.

(aa) "Professional engineer." A professional engineer registered in the State of Ohio with specific education and experience in water resources engineering, acting in conformance with the Code of Ethics of the Ohio State Board of Registration for Engineers and Surveyors.

(bb) "Redevelopment." A change to previously existing, improved real estate, including but not limited to the demolition or building of structures, fillings, grading, paving, or excavating.

(cc) "Riparian area." Naturally vegetated land adjacent to any brook, creek, river, or stream, having a defined bed and bank that, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.

(dd) "Riparian and wetland setback." A designated transition area around water resources left in a natural, usually vegetated state, so as to protect the water resources from runoff pollution.

(ee) "Runoff." The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources.

(ff) "Sediment." The soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

(gg) "Sedimentation." The deposit of sediment in water resources.

(hh) "Site owner/operator." Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or State agency, the Federal government, other legal entity or an agent thereof that is responsible for the overall construction site.

(ii) "Soil-disturbing activity." Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human-made ground cover is destroyed and that may result in, or contribute to, increased storm water quantity and/or decreased storm water quality.

(jj) "Stabilization." The use of best management practices that reduce or prevent soil erosion by storm water runoff, trench dewatering, wind, ice, gravity, or a combination thereof.

(kk) "Structural storm water management practice." Any constructed facility, structure, or device that provides storage, conveyance, and/or treatment of storm water runoff.

(ll) "Water quality volume." The volume of runoff from a contributing watershed that must be captured and treated, equivalent to the maximized capture volume as defined in the American Society of Civil Engineers (ASCE) Manual and Report on Engineering Practice No. 87 and Water Environment Federation Manual of Practice No. 23 titled *Urban Runoff Quality Management*.

(mm) "Water resource." Any public or private body of water; including wetlands; the area within the ordinary high water level of lakes and ponds; as well as the area within the ordinary high water level of any brook, creek, river, or stream having a defined bed and bank, either natural or artificial, which confines and conducts continuous or intermittent flow.

(nn) "Water resource crossing." Any bridge, box, arch, culvert, truss, or other type of structure intended to convey people, animals, vehicles, or materials from one side of a watercourse to another. This does not include private, noncommercial footbridges or pole-mounted aerial electric or telecommunication lines, nor does it include below-grade utility lines.

(oo) "Watershed." The total drainage area contributing storm water runoff to a single point.

(pp) "Wetlands." Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 C.F.R. 232, as amended).

(Ord. 2005-4. Passed 5-17-05.)

1048.03 DISCLAIMER OF LIABILITY.

(a) 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 any particular parcel of property.

(b) By approving a Comprehensive Storm Water Management Plan under this regulation, the Village does not accept responsibility for the design, installation, and operation and maintenance of storm water management practices.

(Ord. 2005-4. Passed 5-17-05.)

1048.04 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 Engineer, 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 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, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. 2005-4. Passed 5-17-05.)

1048.05 DEVELOPMENT OF COMPREHENSIVE STORM WATER MANAGEMENT PLANS.

(a) This regulation requires that a Comprehensive Storm Water Management Plan be developed and implemented for soil-disturbing activities disturbing one or more acres of total land, or less than one acre if part of a larger common plan of development or sale disturbing one or more acres of total land, and on which any regulated activity of Section 1048.01(c) is proposed.

(b) The Village shall administer this regulation, shall be responsible for determination of compliance with this regulation, and shall issue notices and orders as may be necessary. The Village may consult with the SWCD, private engineers, storm water districts, or other technical experts in reviewing the Comprehensive Storm Water Management Plan.

(Ord. 2005-4. Passed 5-17-05.)

1048.06 APPLICATION PROCEDURES.

(a) Pre-Application Meeting. The applicant shall attend a pre-application meeting with the Village Engineer to discuss the proposed project, review the requirements of this regulation, identify unique aspects of the project that must be addressed during the review process, and establish a preliminary review and approval schedule.

(b) Preliminary Comprehensive Storm Water Management Plan. The applicant shall submit two sets of a Preliminary Comprehensive Storm Water Management Plan (Preliminary Plan) and the applicable fees to the Village Engineer and/or the Storm Water Administrator. The Preliminary Plan shall show the proposed property boundaries, setbacks, dedicated open space, public roads, water resources, storm water control facilities, and easements in sufficient detail and engineering analysis to allow the Village Engineer to determine if the site is laid out in a manner that meets the intent of this regulation and if the proposed storm water management practices are capable of controlling runoff from the site in compliance with this regulation. The applicant shall submit two sets of the Preliminary Plan and applicable fees as follows:

(1) For subdivisions. In conjunction with the submission of the preliminary subdivision plan.

(2) For other construction projects. In conjunction with the application for a zoning permit.

(3) For general clearing projects. In conjunction with the application for a zoning permit.

(c) Final Comprehensive Storm Water Management Plan. The applicant shall submit two sets of a Final Comprehensive Storm Water Management Plan (Final Plan) and the applicable fees to the Village and/or the Storm Water Administration in conjunction with the submittal of the final plat, improvement plans, or application for a building or zoning permit for the site. The Final Plan shall meet the requirements of Section 1048.08 and shall be approved by the Village prior to approval of the final plat and/or before issuance of a zoning permit by the Zoning Inspector/or building permit by the Building Inspector.

(d) Review and Comment. The Village and/or the Storm Water Administrator shall review the Preliminary and Final Plans submitted, and shall approve or return for revisions with comments and recommendations for revisions. A Preliminary or Final Plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised Preliminary or Final Plan.

(e) Approval Necessary. Land-clearing and soil-disturbing activities shall not begin and zoning and/or building permits shall not be issued without an approved Comprehensive Storm Water Management Plan.

(f) Sublots Will Not Proceed. Comprehensive Storm Water Management Plans for individual sublots in a subdivision will not be approved and building permits will not be issued unless the larger common plan of development or sale containing the sublot is in compliance with this regulation.

(g) Valid for Two Years. Approvals issued in accordance with this regulation shall remain valid for two years from the date of approval.

(Ord. 2005-4. Passed 5-17-05.)

1048.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other Federal, State, and/or County agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to those listed below. Applicants are required to show proof of compliance with these regulations before the Village will issue a building or zoning permit.

(a) Ohio EPA NPDES Permits Authorizing Storm Water Discharges Associated with Construction Activity or the Most Current Version Thereof. Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's authorization letter for the NPDES permit, or a letter from the site owner certifying and explaining why the NPDES permit is not applicable.

(b) Section 401 of the Clean Water Act. Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands and other waters of the United States shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

(c) Ohio EPA Isolated Wetland Permit. Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

(d) Section 404 of the Clean Water Act. Proof of compliance shall be a copy of the U.S. Army Corps of Engineers individual permit application, public notice, or project approval, if an individual permit is required for the development project. If an individual permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable nationwide permit. Wetlands and other waters of the United States shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

(e) Ohio Dam Safety Law. Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

(Ord. 2005-4. Passed 5-17-05.)

1048.08 COMPREHENSIVE STORM WATER MANAGEMENT PLANS.

(a) Comprehensive Storm Water Management Plan Required. The applicant shall develop a Comprehensive Storm Water Management Plan describing how the quantity and quality of storm water will be managed after construction is complete for every discharge from the site and/or into a water resource. The Plan will illustrate the type, location, and dimensions of every structural and non-structural storm water management practice incorporated into the site design, and the rationale for their selection. The rationale must address how these storm water management practices will address flooding within the site as well as flooding that may be caused by tie development upstream and downstream of the site. The rationale will also describe how the storm water management practices minimize impacts to the physical, chemical, and biological characteristics of on-site and downstream water resources and if necessary, correct current degradation of water resources that is occurring or take measures to prevent predictable degradation of water resources.

(b) Preparation by Professional Engineer. The Comprehensive Storm Water Management Plan shall be prepared by a registered professional engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the Village Engineer, a site survey shall be performed by a registered professional surveyor to establish boundary lines, measurements, or land surfaces.

(c) Community Procedures. The Village Engineer shall prepare and maintain procedures providing specific criteria and guidance to be followed when designing the storm water management system for the site. These procedures may be updated from time to time, at the discretion of the Village, based on improvements in engineering, science, monitoring, and local maintenance experience. The Village shall make the final determination of whether the practices proposed in the Comprehensive Storm Water Management Plan meet the requirements of this regulation. The Village Engineer may also maintain a list of acceptable best management practices that meet the criteria of this chapter to be used in the Village.

(d) Contents of Comprehensive Storm Water Management Plan. The Comprehensive Storm Water Management Plan shall contain an application, narrative report, construction site plan sheets, a long-term Inspection and Maintenance Agreement, and a site description with the following information provided:

(1) Site description:

A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).

B. Total area of the site and the area of the site that is expected to be disturbed (i.e. grubbing, clearing, excavation, filling or grading, including off-site borrow areas).

C. A description of prior land uses at the site.

D. An estimate of the impervious area and percent of imperviousness created by the soil- disturbing activity at the beginning and at the conclusion of the project.

E. Existing data describing the soils throughout the site, including the soil series and association, hydrologic soil group, porosity, infiltration characteristics, depth to ground water, depth to bedrock, and any impermeable layers.

F. If available, the quality of any known pollutant discharge from the site, such as that which may result from previous contamination caused by prior land uses.

G. The location and name of the immediate water resource(s) and the first subsequent water resource(s).

H. The aerial (plan view) extent and description of water resources at or near the site that will be disturbed or will receive discharges from the project.

I. Describe the current condition of water resources, including the vertical stability of stream channels and indications of channel incision that may be responsible for current or future sources of high sediment loading or loss of channel stability.

(2) Site map showing:

A. Limits of soil-disturbing activity on the site.

B. Soils types for the entire site, including locations of unstable or highly erodible soils.

C. Existing and proposed one-foot contours. This must include a delineation of drainage watersheds expected before, during, and after major grading activities, as well as the size of each drainage watershed in acres.

D. Water resource locations, including springs, wetlands, streams, lakes, water wells and associated setbacks on or within 200 feet of the site, including the boundaries of wetlands or streams and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seducing approval from the U.S. Army Corps of Engineers and/or Ohio EPA.

E. Existing and planned locations of buildings, roads, parking facilities and utilities.

F. The location of any in-stream activities, including stream crossings.

(3) Contact information: Company name and contact information as well as contact name, addresses, and phone numbers for the following:

A. The professional engineer who prepared the Comprehensive Storm Water Management Plan.

B. The site owner.

(4) Phase, if applicable, of the overall development plan.

(5) List of sublot numbers if project is a subdivision.

(6) Ohio EPA NPDES permit number and other applicable State and Federal permit numbers, if available, or status of various permitting requirements if final approvals have not been received.

(7) Location, including complete site address and sublot number if applicable.

(8) Location of any easements or other restrictions placed on the use of the property.

(9) A. A site plan sheet showing:

1. The location of each proposed post-construction storm water management practice.

2. The geographic coordinates of the site and each proposed practice in North American Datum Ohio State Plan North.

B. It is preferred that the entire site be shown on one plan sheet to allow a complete view of the site during plan review. If a smaller scale is used to accomplish this, separate sheets providing an enlarged view of areas on individual sheets should also be provided.

(10) A. An Inspection and Maintenance Agreement binding on the owner and all subsequent owners of lands served by the system of storm water management practices designed for the site. Such Agreements

shall include all post-construction BMPs, shall be recorded with the deed of the property(ies) within the site, and shall provide and stipulate the following:

1. The location of each storm water management practice, including those practices permitted to be located in, or within 50 feet of, water resources.

2. The method of funding long-term maintenance and inspections of all storm water management practices.

3. Features of the design that facilitate maintenance of the practice.

4. The on-going procedures needed to assure the continued performance of storm water management practices.

5. Additional standards, as required by the Village Engineer, to ensure continual performance of storm water management practices permitted to be located in, or within 50 feet of water resources.

6. The party responsible for long-term maintenance, including repairs. This party shall also hold the easements required under Section 1048.11.

7. Prohibition on alteration of the practice without prior written approval from the Village Engineer.

8. An easement that allows the Village access to the storm water management practice at reasonable times for inspections to document the condition of the practice and to ensure it is functioning as originally designed and approved.

9. Permission for the Village to enter upon the property and take whatever action is deemed necessary to maintain facilities that do not perform as specified in the Inspection and Maintenance Agreement, and to be reimbursed by the property owner(s) served by the facility for all expenses incurred within ten days of receipt of invoice from the Village.

10. A release of the Village from all damages, accidents, casualties, occurrences, or claims that might arise or be asserted against said parties from the construction, presence, existence, or maintenance of the storm water management practices.

B. Alteration or termination of these stipulations is prohibited. The applicant must provide a draft of this Inspection and Maintenance Agreement as part of the Comprehensive Storm Water Management Plan submittal. Once a draft is approved, a recorded copy of the agreement must be submitted to the Village to receive final inspection approval of the site.

(11) Calculations required: The applicant shall submit calculations for projected storm water runoff flows, volumes, and timing into and through all storm water management practices for flood control, channel protection, water quality, and the condition of the habitat, stability, and incision of each water resource and its floodplain, as required in Section 1048.09 of this regulation. These submittals shall be completed for both pre- and post- development land use conditions, and shall include the underlying assumptions and hydrologic and hydraulic methods and parameters used for these calculations. The applicant shall also include critical storm determination and demonstrate that the runoff from upper watershed areas have been considered in the calculations.

(12) List of all contractors and subcontractors before construction: Prior to construction or before the pre-construction meeting, provide the list of all contractors and subcontractors names, addresses, and phones involved with the implementation of the Comprehensive Storm Water Management Plan including a written document containing signatures of all parties as proof of acknowledgment that they have reviewed and understand the requirements and responsibilities of the Comprehensive Storm Water Management Plan.

(13) Existing and proposed drainage patterns: The location and description of existing and proposed drainage patterns and storm water management practices, including any related storm water management practices beyond the development area and the larger common development area.

(14) For each storm water management practice to be employed on the development area, include the following:

A. Location and size, including detail drawings, maintenance requirements during and after construction, and design calculations, all where applicable.

B. Final site conditions including storm water inlets and permanent nonstructural and structural storm water management practices. Details of storm water management practices shall be drawn to scale and shall show volumes and sizes of contributing drainage areas.

C. Any other structural and/or nonstructural storm water management practices necessary to meet the design criteria in this regulation and any supplemental information requested by the Village.

(Ord. 2005-4. Passed 5-17-05.)

1048.09 PERFORMANCE STANDARDS.

(a) General. All components of the storm water system, including storm water management practices for storage, treatment and control, and conveyance facilities, shall be designed to prevent structure flooding during the 100-year, 24-hour storm event; to maintain pre-development runoff patterns, flows, and volumes; and to meet the following criteria:

(1) Integrated practices that address degradation of water resources.

A. The storm water management practices shall function as an integrated system that controls flooding and minimizes the degradation of the physical, biological, and chemical integrity of the water resources receiving storm water discharges from the site. Acceptable practices shall:

1. Not disturb riparian areas, unless the disturbance is intended to support a watercourse restoration project and complies with the Village's riparian setback requirements.

2. Maintain predevelopment hydrology and ground water recharge on as much of the site as practicable.

3. Only install new impervious surfaces and compact soils where necessary to support the future land use.

4. Compensate for increased runoff volumes caused by new impervious surfaces and soil compaction by reducing storm water peak flows to less than pre- development levels.

B. Storm water management practices that meet the criteria in this regulation, and additional criteria required by the Village Engineer shall comply with this regulation.

(2) Practices designed for final use. Storm water management practices shall be designed to achieve the storm water management objectives of this regulation, to be compatible with the proposed post-construction use of the site, to protect the public health, safety, and welfare, and to function safely with minimal maintenance.

(3) Storm water management for all lots. Areas developed for a subdivision shall provide storm water management for the development of all subdivided lots. This shall include provisions for lot grading and drainage that prevent structure flooding during the 100-year, 24-hour storm; and maintain, to the extent practicable, the pre-development runoff patterns, volumes, and peaks from the lot.

(4) Storm water facilities in water resources. Storm water management practices shall not be constructed in water resources unless the applicant obtains all appropriate permit from the Ohio EPA, the U.S. Army Corps of Engineers, and other applicable Federal, State, and local agencies, and the activity is in

compliance with Chapter 1488, Erosion and Sediment Control Requirements and the Village's riparian setback requirements, all as determined by the Village Engineer.

(5) Storm water ponds and surface conveyance channels. All storm water pond and surface conveyance designs must provide a minimum of one foot freeboard above the projected peak stage within the facility during the 100-year, 24-hour storm. When designing storm water ponds and conveyance channels, the applicant shall consider public safety as a design factor and alternative designs must be implemented where site limitations would preclude a safe design.

(6) Exemption. The site where soil-disturbing activities are conducted shall be exempt from the requirements of this section if it can be shown to the satisfaction of the Village Engineer that the site is part of a larger common plan of development where the storm water management requirements for the site are provided by an existing storm water management practice, or if the storm water management requirements for the site are provided by practices defined in a regional or local storm water management plan approved by the Village Engineer.

(7) Maintenance. All storm water management practices shall be maintained in accordance with Inspection and Maintenance Agreements approved by the Village Engineer as detailed in Section 1048.08.

(8) Ownership. Unless otherwise required by the Village, storm water management practices serving multiple lots in subdivisions shall be on a separate lot held and maintained by an entity of common ownership or, if compensated by the property owners, by the Village. The storm water management practices serving single lots shall be placed on these lots, protected within an easement, and maintained by the property owner.

(9) Preservation of Existing Natural Drainage. Practices that preserve and/or improve the existing natural drainage shall be used to the maximum extent practicable. Such practices may include minimizing site grading and compaction; protecting and/or restoring water resources, riparian areas, and existing vegetation; and maintaining unconcentrated storm water runoff to and through these areas.

(b) Storm Water Conveyance Design Criteria. All storm water management practices shall be designed to convey storm water to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include but not be limited to:

(1) Stream relocation or enclosure. The Village may allow the enclosure or relocation of water resources only if the applicant obtains all appropriate permits from the Ohio EPA, the U.S. Army Corps of Engineers, and other applicable Federal, State, and local agencies and the activity is in compliance with Chapter 1488, the Village's Erosion and Sediment Control Requirements and the Village's riparian setback requirements, all as determined by the Village Engineer. At a minimum, stream relocation designs must show how the project will minimize changes to the vertical stability, floodplain form, channel form, and habitat of upstream and downstream channels on and off the property.

(2) Off-site storm water discharges. Off-site storm water runoff that discharges to or across the applicant's development site shall be conveyed through the storm water conveyance system planned for the development site at its existing peak flow rates during each design storm. Off-site flows shall be diverted around storm water quality control facilities or, if this is not possible, the storm water quality control facility shall be used to treat the off-site flow. Comprehensive Storm Water Management Plans will not be approved until it is demonstrated to the satisfaction of the Village that off-site runoff will be adequately conveyed through the development site in a manner that does not exacerbate upstream or downstream flooding and erosion.

(3) Sheet flow. The site shall be graded in a manner that maintains sheet flow over as large an area as possible. The maximum flow path length and area of sheet flow shall be determined based on the slope, the uniformity of site grading, and the use of easements or other legally-binding mechanisms that prohibit re-grading and/or the placement of structures within sheet flow areas. In no case shall the overland flow path in a sheet flow area be longer than 300 feet, nor shall a sheet flow area exceed 1.5 acres. Flow shall be

directed into an open channel, storm sewer, or other storm waste management practice from areas too long and/or too large to maintain sheet flow, all as determined by the Village Engineer.

(4) Open channels. Unless otherwise allowed by the Village, drainage tributary to storm water management practices shall be provided by an open channel with landscaped banks and designed to carry the 10-year, 24-hour storm water runoff from upstream contributory areas.

(5) Open drainage systems. Open drainage systems shall be used on all new development sites to convey storm water. Storm sewer systems shall be allowed only when the site cannot be developed at densities allowed under Village zoning or where the use of an open drainage system affects public health or safety, all as determined by the Village Engineer. The following criteria shall be used to design storm sewer systems when necessary. The following sections are typical storm water conveyance design criteria. Either use these criteria or include the pertinent sections of your existing storm water conveyance design criteria:

A. Storm sewers shall be designed such that they do not surcharge from runoff caused by the 5-year, 24-hour storm, and that the hydraulic grade line of the storm sewer stays below the gutter flow line of the overlying roadway, or below the top of drainage structures outside the roadway during a 10-year, 24-hour storm. The system shall be designed to meet these requirements when conveying the flows from the contributory area within the proposed development and existing flows from off-site areas that are upstream from the development.

B. The minimum inside diameter of pipe to be used in public storm sewer systems is 12 inches. Smaller pipe sizes may be used in private systems, subject to the approval of the Village Engineer.

C. All storm sewer systems shall be designed taking into consideration the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency. The hydraulic grade line for the storm sewer system shall be computed with consideration for the energy losses associated with entrance into and exit from the system, friction through the system, and turbulence in the individual manholes, catch basins, and junctions within the system.

D. The inverts of all curb inlets, manholes, yard inlets, and other structures shall be formed and channelized to minimize the incidence of quiescent standing water where mosquitoes may breed.

E. Headwalls shall be required at all storm sewer inlets or outlets to and from open channels or lakes.

(6) Water resource crossings. The following criteria shall be used to design structures that cross a water resource within the Village.

A. Water resource crossings other than bridges shall be designed to convey the stream's flow for the minimum 25-year, 24-hour storm.

B. Bridges, open bottom arch or spans are the preferred crossing technique and shall be considered in the planning phase of the development. Bridges and open spans should be considered for all State Scenic Rivers, cold water habitat, exceptional warm water habitat, seasonal salmonid habitat streams, and Class III headwater streams.

C. If a culvert or other closed bottom crossing is used, 25% of the cross-sectional area, or a minimum of one foot of box culverts and pipe arches must be embedded below the channel bed.

D. The minimum inside diameter of pipes to be used for crossings shall be 12 inches.

E. The maximum slope allowable shall be a slope that produces a 10 fps velocity within the culvert barrel under design flow conditions. Erosion protection and/or energy dissipaters shall be required to properly control entrance and outlet velocities.

F. All culvert installations shall be designed with consideration for the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency.

G. Headwalls shall be required at all culvert inlets or outlets to and from open channels or lakes.

H. Streams with a drainage area of five square miles or larger should incorporate floodplain culverts at the bankfull elevation to restrict head loss differences across the crossing to no more than one foot during the 100-year, 24-hour storm.

I. Bridges shall be designed such that the hydraulic profile through a bridge shall be below the bottom chord of the bridge for either the 10-year, 24-hour storm, or the 100-year flood elevation as determined by FEMA, whichever is more restrictive.

(7) Overland flooding. Overland flood routing paths shall be used to convey storm water runoff from the 100-year, 24-hour storm event to an adequate receiving water resource or storm water management practice such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least one foot below the finished grade elevation at the structure. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.

(8) Compensatory flood storage mitigation.

A. In order to preserve floodplain storage volumes and thereby avoid increases in water surface elevations, any filling within 100-year floodplains approved by the Village must be compensated by removing an equivalent volume of material. First consideration for the location(s) of compensatory floodplain volumes should be given to areas where the stream channel will have immediate access to the new floodplain within the limits of the development site. Consideration will also be given to enlarging existing or proposed retention basins to compensate for floodplain fill if justified by a hydraulic analysis of the contributing watershed. Unless otherwise permitted by the Village, reductions in volume due to floodplain fills must be mitigated within the legal boundaries of the development. Embankment slopes used in compensatory storage areas must reasonably conform to the natural slopes adjacent to the disturbed area. The use of vertical retaining structures is specifically prohibited.

B. Division (b)(8)A. of this section should be coordinated with the community's riparian setback regulations. The requirement for compensatory floodplain storage is only in effect when the riparian setback does not include the entire 100-year floodplain, when the community grants a variance that allows filling in the floodplain due to site constraints, or when the Village Engineer determines that stream or floodplain restoration is needed to meet the objectives of this regulation.

(9) Velocity dissipation. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide non-erosive flow velocity from the structure to a water resource so that the natural physical and biological characteristics and functions of the water resource be maintained and protected.

(c) Storm Water Quality Control.

(1) Direct runoff to a BMP. The site shall be designed to direct runoff from areas disturbed during construction to one or more of the following storm water management practices. These practices are listed in Table 2 of this regulation:

A. Extended conveyance facilities that slow the rate of storm water runoff, filter and biodegrade pollutants in storm water; promote infiltration and evapotranspiration of storm water; and discharge the controlled runoff to a water resource.

B. Extended detention facilities that detain storm water; settle or filter particulate pollutants; and release the controlled storm water to a water resource.

C. Infiltration facilities that retain storm water; promote settling, filtering, and biodegradation of pollutants; and infiltrate all captured storm water into the ground based on the findings of the soil engineering report prepared for the site.

D. Other BMPs may be approved by the Village Engineer if the applicant demonstrates that they satisfactorily meet the objectives of this regulation according to criteria in division (c)(6) of this section.

(2) Criteria applying to all storm water management practices. Practices chosen must be sized to treat the water quality volume (WQv) and to ensure compliance with Ohio Water Quality Standards (OAC Chapter 3745-1). NOTE: Section (c)(2)A.1. below is intended to encourage applicants to reduce site imperviousness by enabling the use of lower runoff coefficients when BMPs that reduce impervious cover, such as pervious pavers, narrow roads, shorter driveways, etc. are used in site design. The use of lower runoff coefficients will lead to the need for small storm water management practices.

A. The WQv shall be equal to the volume of runoff from a 0.75 inch rainfall event and shall be determined according to one of the following methods:

1. Through a site hydrologic study approved by the Village Engineer that uses continuous hydrologic simulation; site specific hydrologic parameters, including impervious area, soil infiltration characteristics, slope, and surface routing characteristics; proposed best management practices controlling the amount and/or timing of runoff from the site; and local long-term hourly records; or

2. Using the following equation: $WQ_V = C*P*A/12$ where terms have the following meanings:

WQ_V = water quality volume in acre-feet.

C = runoff coefficient appropriate for storms less than 1 inch.

P = 0.75-inch precipitation depth.

A = area draining into the storm water practice; in acres.

Runoff coefficients required by the Ohio Environmental Protection Agency (Ohio EPA) for use in determining the water quality volume are listed in Table 1 below. Alternatively, the Village Engineer may consider use of the following equation to calculate the runoff coefficient if the applicant can demonstrate that appropriate controls are in place to limit the proposed impervious area of the development:

$C=0.858i^3-0.78i^2 + 0.774i + 0.04$, where:

i = fraction of the drainage area that is impervious

Table 1: Runoff Coefficients Based on the Type of Land Use	
Land Use	***Runoff Coefficient***
Industrial and commercial	0.8
High density residential (>8 dwellings/acre)	0.5
Medium density residential (4 to 8)	0.4
Low density residential (<4 dwellings/acre)	0.3
Open space and recreational areas	0.2
Where land use will be mixed, the runoff coefficient should be calculated using a weighted average. For example, if 60% of the contributing drainage area to the storm water treatment structure	

B. An additional volume equal to 20% of the WQv shall be incorporated into the storm water practice for sediment storage.

C. Storm water quality management practices shall be designed such that the drain time is long enough to provide treatment and protect against downstream bank erosion, but short enough to provide storage available for successive rainfall events as defined in Table 2.

Table 2: Times for Storm Water Management Practices	
Infiltration	24 to 48 hours
Extended conveyance (vegetated swales, filter, extended detention	
Extended dry detention basins	48 hours
Wet detention basins**	24 hours
Constructed wetlands (above permanent pool)	24 hours
Media filtration bioretention	40 hours
* Size to pass a hydrograph with a volume equal to the WQv a duration of 2 hours and intensity of 1 inch/hour at a depth of no more than 3 inches	
** Provide both a permanent pool and an extended detention volume with at least 0.75*WQ	
Note: This is the same table found in the Ohio EPA Construction General Permit. It has been re- ordered to match CRWP's recommended BMP categories and a more technically correct description of the "drain time" for vegetated swales and filter ships has been added	

D. Each practice shall be designed to facilitate sediment removal, vegetation management, debris control, and other maintenance activities defined in the Inspection and Maintenance Agreement for the site.

(3) Additional criteria for extended detention facilities.

A. The outlet shall be designed to release the bottom 50% of the water quality volume in no less than 2/3 feet of the drain time. A valve shall be provided to drain any permanent pool volume for removal of accumulated sediments. The outlet shall be designed to minimize clogging, vandalism, and maintenance.

B. The basin design shall incorporate the following features to maximize multiple uses, aesthetics, safety, and maintainability:

1. Basin side slopes above the permanent pool shall have a run to rise ratio of 4:1 or flatter.

2. The perimeter of all permanent pool areas deeper than four feet shall be surrounded by an aquatic bench that extends at least eight feet and no more than 15 feet outward from the normal water edge. The eight-foot wide portion of the aquatic bench closest to the shoreline shall have an average depth of six inches below the permanent pool to promote the growth of aquatic vegetation. The remainder of the aquatic bench shall be no more than 15 inches below the permanent pool to minimize drowning risk to individuals who accidentally or intentionally enter the basin, and to limit growth of dense vegetation in a manner that allows waves and mosquito predators to pass through the vegetation. The maximum slope of the aquatic bench shall be 10 (H) to 1 (V). The aquatic bench shall be planted with hearty plants comparable to wetland vegetation that are able to withstand prolonged inundation.

3. A forebay designed to allow larger sediment particles to settle shall be placed at basin inlets. The forebay volume shall be equal to at least 10% of the water quality volume (WQv).

(4) Additional criteria applying to extended conveyance facilities.

A. Swales and filter strips shall be lined with fine, turf-forming, water-resistant grasses to slow and filter flows. Maximum depth of flow shall be no greater than three inches.

B. Concentrated runoff shall be converted to sheet flow before entering an extended conveyance facility.

(5) Additional criteria applying to infiltration facilities.

A. Infiltration facilities shall only be allowed if the soils of the facility fall within hydrologic soil groups A or B, and if the seasonal high water table and any underlying bedrock are at least six feet below the final grade elevation.

B. All runoff directed into an infiltration basin must first flow through an extended conveyance facility to remove coarser sediments that could cause a loss of infiltration capacity.

C. During construction, all runoff from disturbed areas of the site shall be diverted away from the proposed infiltration basin site. No construction equipment shall be allowed within the infiltration basin site to avoid soil compaction.

(6) Alterative post-construction BMPs. The applicant may request approval from the Village Engineer for the use of alternative structural post-construction BMPs if the applicant shows, to the satisfaction of and with prior written approval from Ohio EPA, that these BMPs are equivalent in pollutant removal and runoff flow/volume reduction effectiveness to those listed in Table 2.

(d) Storm Water Quantity Control. The Comprehensive Storm Water Management Plan shall describe how the proposed storm water management practices are designed to meet the following requirements for storm water quantity control for each watershed in the development:

(1) The peak discharge rate of runoff from the critical storm and all more frequent storms occurring under post-development conditions shall not exceed the peak discharge rate of runoff from a 1-year, 24-hour storm occurring on the same development drainage area under pre-development conditions.

(2) Storms of less frequent occurrence (longer return periods) than the critical storm, up to the 100-year, 24-hour storm, shall have peak runoff discharge rates no greater than the peak runoff rates from equivalent size storms under pre-development conditions. The 1, 2, 5, 10, 25, 50, and 100-year storms shall be considered in designing a facility to meet this requirement.

(3) The critical storm for each specific development drainage area shall be determined as follows:

A. Determine, using a curve number-based hydrologic method that generates hydrographs, or other hydrologic method approved by the Village Engineer, the total volume (acre-feet) of runoff from a 1-year, 24-hour storm occurring on the development drainage area before and after development. These calculations shall meet the following standards:

1. Calculations shall include the lot coverage assumptions used for full build-out as proposed.

2. Calculations shall be based on the entire contributing watershed to the development area.

3. Curve numbers for the pre-development condition must reflect the average type of land use over the past 10 years and not only the current land use.

4. To account for future post-construction improvements to the site, calculations shall assume an impervious surface, such as asphalt or concrete, for all parking areas and driveways, regardless of the surface proposed in the site description.

B. From the volume determined in division (d)(3)A. of this section, determine the percent increase in volume of runoff due to development. Using the percentage, select the 24-hour critical storm from Table 3:

Table 3: 24-Hour Critical Storm

If the percentage of increase in volume of runoff is:		The critical storm will be:
Equal to or greater than:	and less than:	
—	10	1 year
10	20	2 year
20	50	5 year

50	100	10 year
100	250	25 year
250	500	50 year
500	—	100 year
For example, if the percent increase between the pre- and post-development runoff volume for a 1-year storm is 35%, the critical storm is a 5-year storm. The peak discharge rate of runoff for all storms up to this frequency shall be controlled so as not to exceed the peak discharge rate from the 1-year frequency storm under pre-development conditions in the development drainage area. The post-development runoff from all less frequent storms need only be controlled to meet pre-development peak discharge rates for each of those same storms.		

(e) Storm Water Management on Redevelopment Projects. Comprehensive Storm Water Management Plans for redevelopment projects shall reduce existing site impervious area by at least 20%. Where site conditions prevent the reduction of impervious area then storm water management practices shall be implemented to provide storm water quality control facilities for at least 20% of the site's impervious area. When a combination of impervious area reduction and storm water quality control facilities is used, the combined area shall equal or exceed 20% of the site. Where conditions prevent impervious area reduction or on-site storm water management for redevelopment projects, practical alternatives as detailed in Section 1048.10 may be approved by the Village Engineer.

(Ord. 2005-4. Passed 5-17-05.)

1048.10 ALTERNATIVE ACTIONS.

(a) When the Village determines that site constraints compromise the intent of this regulation, off- site alternatives may be used that result in an improvement of water quality and a reduction of storm water quantity. Such alternatives shall meet the following standards:

(1) Shall achieve the same level of storm water quantity and quality control that would be achieved by the on-site controls required under this regulation.

(2) Implemented in the drainage area of the proposed development project to the maximum extent practicable.

(b) Alternative actions may include, but are not limited to the following. All alternative actions shall be approved by the Village Engineer:

(1) Fees, in an amount specified by the Village, to be applied to community-wide storm water management practices.

(2) Implementation of off-site storm water management practices and/or the retrofit of an existing practice to increase quality and quantity control.

(3) Stream, floodplain, or wetland restoration.

(4) Acquisition or conservation easements on protected open space significantly contributing to storm water control such as wetland complexes.

(Ord. 2005-4. Passed 5-17-05.)

1048.11 EASEMENTS.

Access to storm water management practices as required by the Village for inspections and maintenance shall be secured by easements. The following conditions shall apply to all easements:

(a) Easements shall be included in the Inspection and Maintenance Agreement submitted with the Comprehensive Storm Water Management Plan.

(b) Easements shall be approved by the Village prior to approval of a final plat and shall be recorded with the Lake County Auditor and on all property deeds.

(c) Unless otherwise required by the Village Engineer, access easements between a public right-of- way and all storm water management practices shall be no less than 25 feet wide. The easement shall also incorporate the entire practice plus an additional 25-foot wide band around the perimeter of the storm water management practice.

(d) The easement shall be graded and/or stabilized as necessary to allow maintenance equipment to access and manipulate around and within each facility, as defined in the Inspection and Maintenance Agreement for the site.

(e) Easements to structural storm water management practices shall be restricted against the construction therein of buildings, fences, walls, and other structures that may obstruct the free flow of storm water and the passage of inspectors and maintenance equipment; and against the changing of final grade from that described by the final grading plan approved by the Village. Any re-grading and/or obstruction placed within a maintenance easement may be removed by the Village at the property owner's expense.

(Ord. 2005-4. Passed 5-17-05.)

1048.12 MAINTENANCE AND FINAL INSPECTION APPROVAL.

To receive final inspection and acceptance of any project, or portion thereof, the following must be completed and provided to the Village Engineer:

(a) Final stabilization must be achieved and all permanent storm water management practices must be installed and made functional, as determined by the Village Engineer and per the approved Comprehensive Storm Water Management Plan.

(b) An as-built certification, including a survey and inspection, must be sealed, signed and dated by a professional engineer and a professional surveyor with a statement certifying that the storm water management practices, as designed and installed, meet the requirements of the Comprehensive Storm Water Management Plan approved by the Village Engineer. In evaluating this certification, the Village Engineer may require the submission of a new set of storm water practice calculations if he or she determines that the design was altered significantly from the approved Comprehensive Storm Water Management Plan. The as-built survey must provide the location, dimensions, and bearing of such practices and include the entity responsible for long- term maintenance as detailed in the Inspection and Maintenance Agreement.

(c) A copy of the complete and recorded Inspection and Maintenance Agreement as specified in Section 1048.08 must be provided to the Village Engineer.

(Ord. 2005-4. Passed 5-17-05.)

1048.13 ON-GOING INSPECTIONS.

The Village shall inspect storm water management practices periodically. Upon finding a malfunction or other need for maintenance, the Village shall provide written notification to the responsible party, as detailed in the Inspection and Maintenance Agreement, of the need for maintenance. Upon notification, the responsible party shall have five working days, or other mutually agreed upon time, to makes repairs or

submit a plan with detailed action items and established timelines. Should repairs not be made within this time, or a plan approved by the Village Engineer for these repairs not be in place, the Village Engineer may undertake the necessary repair and assess the responsible party.

(Ord. 2005-4. Passed 5-17-05.)

1048.14 FEES.

The Comprehensive Storm Water Management Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the Village before the review process begins. The Village shall establish a fee schedule based upon the actual estimated cost for providing these services.

(Ord. 2005-4. Passed 5-17-05.)

1048.15 BOND.

(a) If a Comprehensive Storm Water Management Plan is required by this regulation, soil-disturbing activities shall not be permitted until a cash bond of one thousand five hundred dollars ($1,500.00) per acre disturbed has been deposited with the Village Finance Department. This bond shall be posted for the Village to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The storm water bond will be returned less Village administrative fees as detailed in this chapter, when the following three criteria are met:

(1) After 80% of the lots of the project have been completed or 80% of the total project has been permanently stabilized or two years from the time of permanent stabilization have passed.

(2) An as-built inspection of all water quality practices is conducted by the Village Engineer.

(3) An Inspection and Maintenance Agreement signed by the developer, the contractor, the Village, and the private owner or homeowners' association who will take long-term responsibility for these BMPs, is accepted by the Village Engineer.

(b) Once these criteria are met, the applicant shall be reimbursed all bond monies that were not used for any part of the project. If all of these criteria are not met after three years of permanent stabilization of the site, the Village may use the bond monies to fix any outstanding issues with all water quality structures on the site, and the remainder of the bond shall be given to the private lot owner/homeowners' association for the purpose of long-term maintenance of the project.

(Ord. 2005-4. Passed 5-17-05.)

1048.16 INSTALLATION OF WATER QUALITY BEST MANAGEMENT PRACTICES.

The applicant may not direct runoff through any water quality structures, or portions thereof, that would be degraded by construction site sediment until the entire area tributary to the structure has reached final stabilization as determined by the Village Engineer. This occurs after the completion of the final grade at the site, after all of the utilities are installed, and the site is subsequently stabilized with vegetation or other appropriate methods. The developer must provide documentation acceptable to the Village Engineer to demonstrate that the site is completely stabilized. Upon this proof of compliance, the water quality structure(s) may be completed and placed into service. Upon completion of installation of these practices, all disturbed areas and/or exposed soils caused by the installation of these practices must be stabilized within two days.

(Ord. 2005-4. Passed 5-17-05.)

1048.17 VIOLATIONS.

No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(Ord. 2005-4. Passed 5-17-05.)

1048.18 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the Village in relation to this regulation may appeal to the Court of Common Pleas. Such an appeal shall be made in conformity with the Ohio Revised Code. Written notice of appeal shall be served on the Village.

(Ord. 2005-4. Passed 5-17-05.)

1048.99 PENALTY.

(a) Any person, firm, entity or corporation, including but not limited to the owner of the property, his or her 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 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 from 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.

(Ord. 2005-4. Passed 5-17-05.)

CHAPTER 1466
Flood Damage Reduction

CROSS REFERENCES

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

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

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

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

1466.01 STATUTORY AUTHORIZATION.

Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Village Council of Timberlake, State of Ohio, does ordain as follows.

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.02 FINDINGS OF FACT.

The Village of Timberlake 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. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.03 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. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.04 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. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.05 LANDS TO WHICH THESE REGULATIONS APPLY.

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the Village of Timberlake as identified in Section 1466.06, including any additional areas of special flood hazard annexed by the Village of Timberlake.

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.06 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

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

(1) *Flood Insurance Study Lake County, Ohio and Incorporated Areas* and *Flood Insurance Rate Map Lake County, Ohio and Incorporated Areas* both effective February 3, 2010.

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

(3) Any hyrdologic or hydraulic engineering analysis authored by a registered professional engineer in the State of Ohio which has been approved by the Village of Timberlake as required by Section 1466.27, Subdivisions and Large Scale Developments.

(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 11 Eastshore Boulevard, Timberlake, Ohio 44095.

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10)

1466.07 ABROGATION AND GREATER RESTRICTIONS.

These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations.

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.08 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 governing body; 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.

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.09 WARNING; 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 Timberlake, 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. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.10 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. 2010-4. Passed 1-19-10.)

1466.11 DEFINITIONS.

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

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

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

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

(d) "Base 100-year flood elevation (BFE)." The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in feet mean sea level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from one to three feet).

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

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

(g) "Enclosure below the lowest floor." See "lowest floor."

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

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

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

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

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

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

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

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

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

(1) "Zone A." Special flood hazard areas inundated by the 100-year flood; 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 one to three feet (usually sheet flow on sloping terrain); average depths are determined.

(4) "Zone AH." Special flood hazard areas inundated by the 100-year flood; flood depths of one to three 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 one foot or with contributing drainage area less than one square mile; and areas protected by levees from the base flood.

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

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

(p) "Flood protection elevation (BFE)." 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.

(q) "Floodway."

(1) A 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 hyrdologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

(2) The floodway is an extremely hazardous area, and is usually characterized by any of the following:

A. Moderate to high velocity flood waters;

B. High potential for debris and projectile impacts; and

C. Moderate to high erosion forces.

(r) "Freeboard." A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

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

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

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

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

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

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

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

(1) "Letter of Map Amendment (LOMA)." A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

(2) "Letter of Map Revision (LOMR)." A revision based on technical data that, usually due to 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." 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." A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle." For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Ohio R.C. Chapter 3733.

(x) "Manufactured home park." As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park 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)." 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." Structures for which the "start of construction" commenced on or after the initial effective date of the Village of Timberlake's Flood Damage Prevention Ordinance, May 26, 1988,

and includes any subsequent improvements to such structures.

(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 R.C. 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." 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." 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." A person registered as a professional engineer under Ohio R.C. Chapter 4733.

(ee) "Registered professional surveyor." 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 1% or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

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

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

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

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

(1) Any improvement to a structure that 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 would not preclude the structure's continued designation as a "historic structure."

(kk) "Variance." A grant of relief from the standards of these regulations consistent with the variance conditions herein.

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

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.12 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

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

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.13 DUTIES AND RESPONSIBILITIES OF 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, 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.

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

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.14 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 1466.06, 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.

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.15 APPLICATION REQUIRED.

An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his or her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. 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:

(1) Floodproofing certification for non-residential floodproofed structure as required in Section 1466.29.

(2) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1466.28(e) are designed to automatically equalize hydrostatic flood forces.

(3) Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1466.33(c).

(4) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1466.33(b).

(5) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1466.33(a).

(6) Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section 1466.27.

(Ord. 1988-8. Passed 5-25-88; Ord. 2010-4. Passed 1-19-10.)

1466.16 REVIEW AND APPROVAL OF FLOODPLAIN DEVELOPMENT PERMIT APPLICATION.

(a) Review.

(1) 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 Section 1466.15 has been received by the Floodplain Administrator.

(2) 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.

(b) Approval. Within 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 year. A floodplain development permit shall expire one year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(Ord. 2010-4. Passed 1-19-10.)

1466.17 INSPECTIONS.

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

(Ord. 2010-4. Passed 1-19-10.)

1466.18 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 surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

(b) For all development activities subject to the standards of Section 1466.21(a), a Letter of Map Revision.

(Ord. 2010-4. Passed 1-19-10.)

1466.19 REVOKING A FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Sections 1466.34 through 1466.39 of these regulations.

(Ord. 2010-4. Passed 1-19-10.)

1466.20 EXEMPTION FROM FILING DEVELOPMENT PERMIT.

(a) 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 $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.

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

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

1466.21 MAP MAINTENANCE ACTIVITIES.

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Village of Timberlake flood maps, studies and other data identified in Section 1466.06 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(a) Requirement to Submit New Technical Data.

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

A. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

B. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

C. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

D. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1466.27.

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

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

A. Proposed floodway encroachments that increase the base flood elevation; and

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

(4) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1466.21(a)(1).

(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 Mayor of the Village of Timberlake, 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 Village of Timberlake 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 Timberlake Flood Insurance Rate Map accurately represent the Village of Timberlake boundaries, include within such notification a copy of a map of the Village of Timberlake suitable for reproduction, clearly showing the new corporate limits or the new area for which the Village of Timberlake has assumed or relinquished floodplain management regulatory authority.

(Ord. 2010-4. Passed 1-19-10.)

1466.22 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) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:

(1) 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.

(2) 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) 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 1466.34 through 1466.39.

(e) 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.

(Ord. 2010-4. Passed 1-19-10.)

1466.23 SUBSTANTIAL DAMAGE DETERMINATIONS.

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

(1) Determine whether damaged structures are located in special flood hazard areas;

(2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and

(3) 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.

(b) Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with increased cost of compliance insurance claims.

(Ord. 2010-4. Passed 1-19-10.)

1466.24 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The use and development standards contained in Sections 1466.25 through 1466.33 apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1466.06 or 1466.22(a).

(Ord. 2010-4. Passed 1-19-10.)

1466.25 USE REGULATIONS.

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

regulations.

(b) Prohibited Uses.

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

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

(Ord. 2010-4. Passed 1-19-10.)

1466.26 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:

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters 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.

(Ord. 2010-4. Passed 1-19-10.)

1466.27 SUBDIVISIONS AND LARGE DEVELOPMENTS.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals 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 50 lots or five acres, whichever is less.

(e) The applicant shall meet the requirement to submit technical data to FEMA in Section 1466.21(a)(1)D. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by division (d) above.

(Ord. 2010-4. Passed 1-19-10.)

1466.28 RESIDENTIAL STRUCTURES.

(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 (this division (a)) and construction materials resistant to flood damage (division (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. 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 may have an enclosure below the lowest floor provided the enclosure meets the following standards:

(1) Be used only for the parking of vehicles, building access, or storage; and

(2) 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

(3) 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 section.

(h) In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(Ord. 2010-4. Passed 1-19-10.)

1466.29 NONRESIDENTIAL STRUCTURES.

(a) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1466.28(a) though (c) and (e) through (h).

(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:

(1) 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;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(3) 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 division (b)(1) and (2).

(c) 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.

(Ord. 2010-4. Passed 1-19-10.)

1466.30 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:

(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 floodproofed to or above the level of the flood protection elevation; and

(f) They shall meet the opening requirements of Section 1466.28(e)(3).

(Ord. 2010-4. Passed 1-19-10.)

1466.31 RECREATIONAL VEHICLES.

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

(a) They shall not be located on sites in special flood hazard areas for more than 180 days, or

(b) They must be fully licensed and ready for highway use, or

(c) They must meet all standards of Section 1466.28.

(Ord. 2010-4. Passed 1-19-10.)

1466.32 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.

(Ord. 2010-4. Passed 1-19-10.)

1466.33 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.

(1) 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

(2) 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 1466.21(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 Mayor of the Village of Timberlake and the chief executive officer of any other communities impacted by the proposed actions.

(b) Development in Riverine Areas with Base Flood Elevations but no Floodways.

(1) 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 one 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

(2) 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. Division (a)(2)A. and C. through 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 "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:

(1) 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.

(2) 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.

(3) 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 Village of Timberlake specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

(4) The applicant shall meet the requirements to submit technical data in Section 1466.21(a)(1)C. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(Ord. 2010-4. Passed 1-19-10.)

1466.34 APPEALS BOARD ESTABLISHED.

(a) The Village of Timberlake Board of Zoning Appeals is hereby appointed to serve as the Appeals Board for these regulations as established by Village Code.

(b) Records of the Appeals Board shall be kept and filed in 11 Eastshore Blvd., Timberlake, Ohio 44095.

(Ord. 2010-4. Passed 1-19-10.)

1466.35 POWERS AND DUTIES.

(a) 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.

(b) Authorize variances in accordance with Section 1466.37 of these regulations.

(Ord. 2010-4. Passed 1-19-10.)

1466.36 APPEALS.

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.

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.

(Ord. 2010-4. Passed 1-19-10.)

1466.37 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, owning to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(a) Application for a Variance.

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

(2) 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.

(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, 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 that 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 floodwaters 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.

(c) (1) Variances shall only be issued upon:

A. A showing of good and sufficient cause.

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

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

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

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

(2) 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.

(d) Other Conditions for Variances.

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

(2) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section division (b)(1) to (11) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

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

(Ord. 2010-4. Passed 1-19-10.)

1466.38 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.

(Ord. 2010-4. Passed 1-19-10.)

1466.39 APPEAL TO COURT.

Those aggrieved by the decision of the Appeals Board may appeal such decision to the Lake County Court of Common Pleas, as provided in Ohio R.C. Chapter 2506.

(Ord. 2010-4. Passed 1-19-10.)

1466.40 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 1466.20.

(b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1466.99.

(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 1466.99.

(Ord. 2010-4. Passed 1-19-10.)

1466.41 NOTICE OF VIOLATION.

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

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

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

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

(Ord. 2010-4. Passed 1-19-10.)

1466.99 PENALTY.

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the Village of Timberlake. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Timberlake from taking such other lawful action as is necessary to prevent or remedy any violation. The

Village of Timberlake shall prosecute any violation of these regulations in accordance with the penalties stated herein.

(Ord. 1988-8. Passed 5-26-88; Ord. 2010-4. Passed 1-19-10.)

CHAPTER 1488
Erosion and Sediment Control

1488.01 PURPOSE AND SCOPE.

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of Village of Timberlake.

(b) This regulation will:

(1) Allow development while minimizing increases in erosion and sedimentation; and

(2) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common

plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in division (d) of this section.

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

(Ord. 2004-15. Passed 12-21-04.)

1488.02 DEFINITIONS.

For purpose of this regulation, the following terms shall have the meaning herein indicated:

(a) "Abbreviated Storm Water Pollution Prevention Plan (Abbreviated SWP3)." The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

(b) "Acre." A measurement of area equaling 43,560 square feet.

(c) "Best management practices (BMPs)." Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

(d) "Community." Throughout this regulation, this shall refer to the Village of Timberlake, its designated representatives, boards or commissions.

(e) "Construction entrance." The permitted points of ingress and egress to development areas regulated under this regulation.

(f) "Development area." A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

(g) "Disturbed area." An area of land subject to erosion due to the removal of vegetative cover and/or soil-disturbing activities.

(h) "Drainage."

(1) The area of land contributing surface water to a specific point.

(2) The removal of excess surface water or ground water from land by surface or subsurface drains.

(i) "Erosion." The process by which the land surface is worn away by the action of wind, water, ice, gravity or any combination of those forces.

(j) "Erosion and sediment control." The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity or any combination of those forces.

(k) "Final stabilization." All soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established, or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

(l) "Landscape architect." A professional landscape architect registered in the State of Ohio.

(m) "Larger common plan of development or sale." A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

(n) "Maximum extent practicable." The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

(o) "NPDES." National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

(p) "Parcel." Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A "parcel" may contain more than one contiguous lot individually identified by a "permanent parcel number" assigned by the Lake County Auditor's Office.

(q) "Person." Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, County or State agency, the Federal government, other legal entity, or an agent thereof.

(r) "Phasing." Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

(s) "Professional engineer." A professional engineer registered in the State of Ohio.

(t) "Rainwater and Land Development." Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall be used with this regulation.

(u) "Runoff." The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

(v) "Sediment." The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity or any combination of those forces, as a product of erosion.

(w) "Sedimentation." The deposit or settling of sediment.

(x) "Setback." A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil-disturbing activities in this area are restricted by this regulation.

(y) "Soil-disturbing activity." Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human-made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

(z) "Soil and Water Conservation District." An entity organized under Ohio R.C. Chapter 1515, referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Lake SWCD.

(aa) "Stabilization." The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity or a combination of those forces.

(bb) "Storm Water Pollution Prevention Plan (SWP3)." The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

(cc) "Unstable soils." A portion of land that is identified by the Village Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.

(dd) "Water resource." Any public or private body of water, including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

(ee) "Wetlands." Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas (40 C.F.R. 232, as amended).

(Ord. 2004-15. Passed 12-21-04.)

1488.03 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. 2004-15. Passed 12-21-04.)

1488.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions 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 private or public 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 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, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. 2004-15. Passed 12-21-04.)

1488.05 DEVELOPMENT OF STORM WATER POLLUTION PREVENTION PLANS.

(a) This regulation requires that a Storm Water Pollution Prevention Plan be developed and implemented for all parcels of one acre or more and on which any regulated activity of division (c) of this section is proposed.

(b) The following activities shall submit an Abbreviated Storm Water Pollution Prevention Plan:

(1) New single-family residential construction regardless of parcel size. If such activities disturb one acre or more, or are part of a larger common plan of development or sale disturbing one acre or more, an Ohio EPA Construction Site General Permit and a Storm Water Pollution Prevention Plan may be required.

(2) Additions or accessory buildings for single-family residential construction regardless of parcel size. If such activities disturb one acre or more, or are part of a larger common plan of development or sale disturbing one acre or more, an Ohio EPA Construction Site General Permit and a Storm Water Pollution Prevention Plan may be required.

(3) All nonresidential construction on parcels of less than one acre.

(4) General clearing activities not related to construction and regardless of parcel size. If such activities disturb one acre or more, or are part of a larger common plan of development or sale disturbing one acre or more, an Ohio EPA Construction Site General Permit and a Storm Water Pollution Prevention Plan may be required.

(c) Activities disturbing 0.1 acre or less are not required to submit a Storm Water Pollution Prevention Plan or an Abbreviated Storm Water Pollution Prevention Plan, unless required by the Village Engineer. These activities must comply with all other provisions of this regulation.

(Ord. 2004-15. Passed 12-21-04.)

1488.06 APPLICATION PROCEDURES.

(a) Soil-Disturbing Activities Submitting a Storm Water Pollution Prevention Plan. The applicant shall submit two sets of the SWP3 and the applicable fees to the Village and two sets of the SWP3 and the applicable fees to the Lake County SWCD as follows:

(1) For subdivisions. After the approval of the preliminary plans and with submittal of the improvement plans.

(2) For other construction projects. Before issuance of a zoning permit by the Zoning Inspector.

(3) For general clearing projects. Prior to issuance of a zoning permit by the Zoning Inspector.

(b) Soil-Disturbing Activities Submitting an Abbreviated Storm Water Pollution Prevention Plan. The applicant shall submit two sets of the Abbreviated SWP3 and the applicable fees to the Village and two sets of the Abbreviated SWP3 and the applicable fees to the Lake County SWCD as follows:

(1) For single-family home construction. Before issuance of a zoning permit by the Zoning Inspector.

(2) For other construction projects. Before issuance of a zoning permit by the Zoning Inspector.

(3) For general clearing projects. Prior to issuance of a zoning permit by the Zoning Inspector.

(c) The Village and the Lake County SWCD shall review the plans submitted under division (a) or (b) of this section for conformance with this regulation and approve, or return for revisions with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan.

(d) Soil-disturbing activities shall not begin and zoning permits shall not be issued without an approved SWP3 or Abbreviated SWP3.

(e) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the sublot is in compliance with this regulation.

(f) Approvals issued in accordance with this regulation shall remain valid for one year from the date of approval.

(Ord. 2004-15. Passed 12-21-04.)

1488.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the U.S. Army Corps of Engineers, and other Federal, State, And/or County agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All

submittals required to show proof of compliance with these State and Federal regulations shall be submitted with Storm Water Pollution Prevention Plans or Abbreviated Storm Water Pollution Prevention Plans.

(a) Ohio EPA NPDES Permits Authorizing Storm Water Discharges Associated with Construction Activity or the Most Current Version Thereof. Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's authorization letter for the NPDES permit, or a letter from the site owner certifying and explaining why the NPDES permit is not applicable.

(b) Section 401 of the Clean Water Act. Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

(c) Ohio EPA Isolated Wetland Permit. Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

(d) Section 404 of the Clean Water Act. Proof of compliance shall be a copy of the U.S. Army Corps of Engineers individual permit application, public notice, or project approval, if an individual permit is required for the development project. If an individual permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

(1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.

(2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable nationwide permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

(e) Ohio Dam Safety Law. Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

(Ord. 2004-15. Passed 12-21-04.)

1488.08 STORM WATER POLLUTION PREVENTION PLAN.

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit an SWP3 in accordance with the requirements of this regulation.

(b) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The SWP3 shall incorporate measures as recommended by the most current edition of *Rainwater and Land Development*, as published by the Ohio Department of Natural Resources, and shall include the following information:

(1) Site description. The SWP3 shall provide:

A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).

B. Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).

C. An estimate of the impervious area and percent of imperviousness created by the soil- disturbing activity.

D. Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site, such as that which may result from previous contamination caused by prior land uses.

E. A description of prior land uses at the site.

F. An implementation schedule which describes the sequence of major soil-disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.

G. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s).

H. The aerial (plan view) extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project.

I. For subdivided developments where the SWP3 does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.

J. Location and description of any storm water discharges associated with dedicated asphalt and dedicated concrete plants associated with the development area and the best management practices to address pollutants in these storm water discharges.

K. Site map showing:

1. Limits of soil-disturbing activity of the site, including off-site spoil and borrow areas.

2. Soils types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.

3. Existing and proposed one-foot contours. This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.

4. Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the U.S. Army Corps of Engineers and/or Ohio EPA.

5. Existing and planned locations of buildings, roads, parking facilities, and utilities.

6. The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.

7. Sediment ponds, including their sediment settling volume and contributing drainage area.

8. Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including dumpster areas, areas designated for cement truck washout, and vehicle fueling.

9. The location of designated stoned construction entrances where the vehicles will ingress and egress the construction site.

10. The location of any in-stream activities including stream crossings.

(2) A Soils Engineering Report. The Village Engineer may require the SWP3 to include a Soils Engineering Report based upon his or her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and approved by the Village Engineer shall be incorporated in the grading plans and/or other specifications for site development.

A. Data regarding the nature, distribution, strength, and erodibility of existing soils.

B. If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.

C. Conclusions and recommendations for grading procedures.

D. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.

E. Design criteria for corrective measures when necessary.

F. Opinions and recommendations covering the stability of the site.

(Ord. 2004-15. Passed 12-21-04.)

1488.09 PERFORMANCE STANDARDS.

The SWP3 must contain a description of the controls appropriate for each construction operation and the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the contractor responsible for implementation (e.g., contractor A will clear land and install perimeter controls and contractor B will maintain perimeter controls until final stabilization). The controls shall include the following minimum components:

(a) Non-structural Preservation Measures. The SWP3 must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.

(b) Erosion Control Practices. The SWP3 must make use of erosion controls that are capable of providing cover over disturbed soils. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover. Erosion control practices must meet the following requirements:

(1) Stabilization. Disturbed areas must be stabilized as specified in Tables 1 and 2 below.

Table 1: Permanent Stabilization	
Area Requiring Permanent Stabilization	Time Frame to Apply Erosion Controls
Any area that will lie dormant for one year or more.	Within 7 days of the most recent disturbance.

Any area within 50 feet of a stream and at final grade.	Within 2 days of reaching final grade.
Any area at final grade.	Within 7 days of reaching final grade within that area.

Table 2: Temporary Stabilization	
Area Requiring Temporary Stabilization	Time Frame to Apply Erosion Controls
Any disturbed area within 50 feet of a stream and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 days.
For all construction activities, any disturbed area, including soil stockpiles that will be dormant for more than 21 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area.
Disturbed areas that will be idle over winter.	Prior to November 1.
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

(2) Permanent stabilization of conveyance channels. Applicants shall undertake special measures to stabilize channels and outfalls and prevent erosive flows. Measures may include seeding, dormant seeding, mulching, erosion control matting, sodding, rip rap, natural channel design with bioengineering techniques, or rock check dams, all as defined in the most recent edition of *Rainwater and Land Development* or the Field Office Technical Guide available at www.nrcs.usda.gov/technical/efotg/.

(c) Runoff Control Practices. The SWP3 shall incorporate measures that control the flow of runoff from disturbed areas so as to prevent erosion. Such practices may include rock check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These practices shall divert runoff away from disturbed areas and steep slopes where practicable.

(d) Sediment Control Practices. The SWP3 shall include a description of, and detailed drawings for, all structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond. Sediment control practices must meet the following requirements:

(1) Timing. Sediment control structures shall be functional throughout the course of earth- disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven days from the start of grubbing. They shall continue to function until the up-slope development area is restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.

(2) Sediment settling ponds.

A. Concentrated storm water runoff and runoff from drainage areas that exceed the design capacity of silt fence or inlet protection, as determined in Table 3 below, shall pass through a sediment settling pond

or equivalent best management practice upon approval from the Village Engineer and/or the Lake County SWCD.

B. The sediment-settling pond shall be sized to provide at least 67 cubic yards of storage per acre of total contributing drainage area. When determining the total contributing drainage area, off-site areas and areas which remain undisturbed by construction activity must be included, unless runoff from these areas is diverted away from the sediment settling pond and is not commingled with sediment-laden runoff. The depth of the sediment settling pond must be less than or equal to five feet. The configuration between the inlets and the outlet of the basin must provide at least two units of length for each one unit of width (> 2:1 length: width ratio). Sediment must be removed from the sediment settling pond when the design capacity has been reduced by 40%. This limit is typically reached when sediment occupies one-half of the basin depth. When designing sediment settling ponds, the applicant must consider public safety, especially as it relates to children, as a design factor for the sediment basin, and alternative sediment controls must be used where site limitations would preclude a safe design. The use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal is encouraged.

(3) Silt fence and diversions. Sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties, water resources, and wetlands from sediment transported via sheet flow. Where intended to provide sediment control, silt fence shall be placed on a level contour and shall be capable of temporarily ponding runoff. The relationship between the maximum drainage area to silt fence for a particular slope range is shown in Table 3 below. Storm water diversion practices shall be used to keep runoff away from disturbed areas and steep slopes. Such devices, which include swales, dikes or berms, may receive storm water runoff from areas up to ten acres.

Table 3: Maximum Drainage Area to Silt Fence	
Maximum Drainage Area (Acres) to 100 Linear Feet of Silt Fence	Range of Slope for a Drainage Area
0.5	<2%
0.25	2% but < 20%
0.125	20% but < 50%

(4) Inlet protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems. Straw or hay bales are not acceptable forms of inlet protection.

(5) Off-site tracking of sediment and dust control.

A. Best management practices must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These best management practices must include, but are not limited to the following:

1. Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement, sized greater than two inches in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of the *Rainwater and Land Development Manual*.

2. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned weekly.

B. Based on site conditions, the Village Engineer and/or the Lake County SWCD may require additional best management practices to control off-site tracking and dust. These additional BMPs may include:

1. Silt fence or construction fence installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.

2. Designated wheel-washing areas. Wash water from these areas must be directed to a designated sediment trap, the sediment-settling pond, or to a sump pump for dewatering in conformance with division (g) of this section.

3. Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions, including obtaining necessary permits for such emissions. The Village Engineer and/or the Lake County SWCD may require dust controls, including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.

(6) Stream protection. Construction vehicles shall avoid water resources and wetlands. If the applicant is permitted to disturb areas within 50 feet of a water resource or wetland, the following conditions shall be addressed in the SWP3:

A. All BMPs and stream crossings shall be designed as specified in the most recent edition of the *Rainwater and Land Development Manual*.

B. Structural practices shall be designated and implemented on-site to protect water resources or wetlands from the impacts of sediment runoff.

C. No structural sediment controls (e.g., the installation of silt fence or a sediment settling pond in-stream) shall be used in a water resource or wetland.

D. Where stream crossings for roads or utilities are necessary and permitted, the project shall be designed such that the number of stream crossings and the width of the disturbance are minimized.

E. Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.

F. Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.

(7) Modifying controls. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the applicant shall replace or modify the control for site conditions.

(e) Non-sediment Pollutant Controls. No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands. These practices shall include but are not limited to the following:

(1) Waste materials. A covered dumpster shall be made available for the proper disposal of garbage, plaster, dry wall, grout, gypsum and other waste materials.

(2) Concrete truck washout. The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be made available.

(3) Fuel/liquid tank storage. All fuel/liquid tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of all containers in the storage area.

(4) Toxic or hazardous waste disposal. Any toxic or hazardous waste shall be disposed of properly.

(5) Contaminated soils disposal and runoff. Contaminated soils from redevelopment sites shall be disposed of properly. Runoff from contaminated soils shall not be discharged from the site. Proper permits shall be obtained for development projects on solid waste landfill sites or redevelopment sites.

(f) Compliance with Other Requirements. The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.

(g) Trench and Ground Water Control. There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

(h) Internal Inspections. All controls on the site shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24-hour period. The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. "Qualified inspection personnel" are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls. These inspections shall meet the following requirements:

(1) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for pollutants entering the drainage system.

(2) Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. The applicant shall utilize an inspection form provided by the Village or an alternate form acceptable to the Village Engineer.

(3) Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving water resource or wetlands.

(4) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.

(5) The applicant shall maintain for three years following final stabilization the results of these inspections, the names and qualifications of personnel making the inspections, the dates of inspections, major observations relating to the implementation of the SWP3, a certification as to whether the facility is in compliance with the SWP3, and information on any incidents of noncompliance determined by these inspections.

(i) Maintenance. The SWP3 shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up-slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the Village Engineer. When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

(1) When practices require repair or maintenance. If an internal inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment settling pond, it must be repaired or maintained within three days of the inspection. Sediment settling ponds must be repaired or maintained within ten days of the inspection.

(2) When practices fail to provide their intended function. If an internal inspection reveals that a control practice fails to perform its intended function as detailed in the SWP3 and that another, more

appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within ten days of the inspection.

(3) When practices depicted on the SWP3 are not installed. If an internal inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(j) Final Stabilization. Final stabilization shall be determined by the Village Engineer.

(Ord. 2004-15. Passed 12-21-04.)

1488.10 ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN.

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this regulation.

(b) The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The Abbreviated SWP3 shall include a minimum of the following BMPs. The Village may require other BMPs as site conditions warrant.

(1) Construction entrances. Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than two inches in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of the *Rainwater and Land Development Manual*.

(2) Concrete truck washout. The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be made available.

(3) Street sweeping. Streets directly adjacent to construction entrances and receiving traffic from the development area shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall be cleaned weekly.

(4) Stabilization. The development area shall be stabilized as detailed in Table 4.

Table 4: Stabilization	
Area Requiring Stabilization	Time Frame to Apply Erosion Controls
Any disturbed area within 50 feet of a stream and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 days
For all construction activities, any disturbed area, including soil stockpiles, that will be dormant for more than 21 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area
Disturbed areas that will be idle over winter	Prior to November 1.
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

(5) Inlet protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems. Straw or hay bales are not acceptable forms of inlet protection.

(6) Internal inspection and maintenance. All controls on the development area shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24-hour period. Maintenance shall occur as detailed below:

A. When practices require repair or maintenance. If the internal inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three days of the inspection. Sediment settling ponds must be repaired or maintained within ten days of the inspection.

B. When practices fail to provide their intended function. If the internal inspection reveals that a control practice fails to perform its intended function and that another, more appropriate control practice is required, the Abbreviated SWP3 must be amended and the new control practice must be installed within ten days of the inspection.

C. When practices depicted on the Abbreviated SWP3 are not installed. If the internal inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten days from the date of the inspection. If the inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(7) Final stabilization. Final stabilization shall be determined by the Village Engineer.

(Ord. 2004-15. Passed 12-21-04.)

1488.11 FEES.

The Storm Water Pollution Prevention Plan and Abbreviated Storm Water Pollution Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the Village and the Lake County SWCD before the review process begins. Please consult with the Village Engineer for current fee schedule.

(Ord. 2004-15. Passed 12-21-04.)

1488.12 BOND.

(a) If a Storm Water Pollution Prevention Plan or Abbreviated Storm Water Pollution Prevention Plan is required by this regulation, soil-disturbing activities shall not be permitted until a cash bond has been deposited with the Finance Department. The bond amount shall be one thousand five hundred dollars ($1,500) minimum, and an additional one thousand five hundred dollars ($1,500) paid for each subsequent acre or fraction thereof. The bond will be used by the Village to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned, less Village administrative fees as detailed in this chapter, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the Village Engineer.

(b) No project subject to this regulation shall commence without a SWP3 or Abbreviated SWP3 approved by the Village Engineer.

(Ord. 2004-15. Passed 12-21-04.)

1488.13 ENFORCEMENT.

(a) All development areas may be subject to external inspections by the Village and/or the Lake County SWCD to ensure compliance with the approved SWP3 or Abbreviated SWP3.

(b) After each external inspection, the Village and/or the Lake County SWCD shall prepare and distribute a status report to the applicant.

(c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the Village and/or the Lake County SWCD may take action as detailed in this Section 1488.13.

(Ord. 2004-15. Passed 12-21-04.)

1488.14 VIOLATIONS.

(a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(b) Upon notice, the Mayor and/or designee may suspend any active soil-disturbing activity for a period not to exceed 90 days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Mayor and/or designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

(Ord. 2004-15. Passed 12-21-04.)

1488.15 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the Village in relation to this regulation may appeal to the Court of Common Pleas. Such an appeal shall be made in conformity with the Ohio Revised Code. Written notice of appeal shall be served on the Village and a copy shall be provided to the Lake County SWCD.

(Ord. 2004-15. Passed 12-21-04.)

1488.99 PENALTY.

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his or her 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 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 from 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.

(Ord. 2004-15. Passed 12-21-04.)