

**VILLAGE OF YELLOW SPRINGS, OHIO
ORDINANCE 2025-01**

**REPEALING AND REPLACING CHAPTER 1256 "OVERLAY DISTRICTS"
OF THE YELLOW SPRINGS ZONING CODE**

Whereas, the Gateway Overlay District contains restrictions which could have an inhibiting effect upon both multi-unit housing and upon economic development; and,

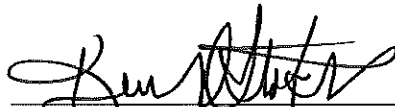
Whereas, Council for the Village of Yellow Springs believes that encouraging greater density and more variation in housing type, and removing non-essential restrictions to construction for the purpose of economic development will have an overall positive effect upon the Village; and,

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO
HEREBY ORDAINS THAT:**

Section 1. Chapter 1256 of the Codified Ordinances of the Village of Yellow Springs, Ohio is hereby repealed in its entirety.

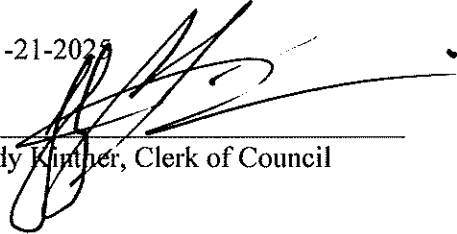
Section 2. The new Chapter 1256 entitled "Overlay Districts" of the Codified Ordinances of the Village of Yellow Springs, Ohio be enacted to read as set forth in Exhibit A, with deletions in ~~strikethrough~~, and additions **bolded and underlined**.

Section 3. This ordinance shall be in force and effect at the earliest period allowed by law.



Kevin Stokes, President of Council

Passed: 1-21-2025

Attest: 

Judy Kintner, Clerk of Council

ROLL CALL:

Stokes __Y__

DeVore Leonard __ Y

Housh_Y__

Brown__Y__

Gustafson_Y__

Exhibit A to Ordinance 2025-01

**CHAPTER 1256
Overlay Districts**

1256.01 Purpose.

1256.02 Floodplain Overlay District.

~~1256.03 Gateway Overlay District.~~

1256.01 PURPOSE.

(a) The intent of the overlay districts is to establish regulations in addition to the applicable regulations of the existing (underlying) zoning districts that either supplement or replace those existing regulations. The overlay districts are applied in specific locations based on the environmental features or important characteristics of the area, regardless of the established zoning districts.

(b) ~~Two~~ One overlay districts ~~are~~ is established, as described in this chapter. The boundaries of these districts shall be as described in the respective sections and shown on the zoning map. The requirements of this chapter are in addition to and shall supplement those imposed on the same lands by any underlying zoning provisions of this code or other codes of the Village. These regulations supersede all conflicting regulations of the underlying districts to the extent of such conflict.

1256.02 FLOODPLAIN OVERLAY DISTRICT.

(a) Purpose and Intent.

(1) The Village 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 achieve the public purposes, these regulations are adopted.

(2) 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.

(b) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include methods and provisions for:

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

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

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

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

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

(c) Applicability. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the Village as identified in subsection (d) of this section, including any additional areas of special flood hazard annexed by the Village.

(d) Basis for Establishing Flood Hazard Areas. For the purposes of these regulations, the following studies and/or maps are adopted:

(1) *Flood Insurance Study Greene County, Ohio and Incorporated Areas* and *Flood Insurance Rate Map Greene County, Ohio and Incorporated Areas* both effective March 17, 2011.

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

(3) Any hydrologic and hydraulic engineering analysis authored by a registered professional engineer in the State of Ohio which has been approved by the Village as required by Section [1256.02\(v\)](#), Subdivisions, Large Developments and PUDs.

(4) Any revisions to the above maps and/or studies are hereby adopted by reference and declared to be part of these regulations. These maps and/or studies are on file at the Village Municipal Building, Administration/ Planning Office, Second Floor, 100 Dayton Street, Yellow Springs, Ohio.

(e) 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.

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under State statutes. 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.

(g) Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Village, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any lawfully made administrative decision.

(h) Responsibilities of the Flood Administrator. A Flood Administrator shall be appointed by the Village Council to administer and implement these regulations. The duties and responsibilities of the Flood Administrator shall include but are not limited to:

(1) Evaluate applications for permits to develop in special flood hazard areas.

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

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

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

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

(6) Enforce the provisions of these regulations.

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

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

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

(i) 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 altering any watercourse wholly within, partially within, or in contact with any identified special flood hazard area until a floodplain development permit is obtained from the Flood Administrator. The floodplain development permit shall show that the proposed development activity conforms to the provisions of these regulations. No permit shall be issued until the requirements of these regulations have been met.

(j) Application. 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. An application shall be made by the owner of the property or his or her authorized agent on a form furnished for that purpose prior to commencing construction. Where it is unclear whether a development site is in a special flood hazard area, the Flood Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

(1) Payment of a fee in an amount as established by the Village Council.

(2) Site plan 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.

(3) Elevation of the existing, natural ground where structures are proposed.

(4) Elevation of the lowest floor, including basement, of all proposed structures.

(5) Such other material and information as may be requested by the Flood Administrator to determine conformance with, and provide enforcement of these regulations.

(6) Technical analyses conducted by the appropriate design professional registered in the State of Ohio demonstrating the following, as applicable:

A. Floodproofing certification for nonresidential structures, as required in Section [1256.02\(w\)\(2\)](#).

B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section [1256.02\(w\)\(1\)E](#). are designed to automatically equalize hydrostatic flood forces.

C. Description of any watercourse alteration or relocation that the flood- carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section [1256.02\(x\)\(2\)C](#).

D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section [1256.02\(x\)\(2\)](#).

E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section [1256.02\(x\)\(1\)](#).

F. Generation of base flood elevation(s) for subdivision and large developments as required by Section [1256.02\(v\)](#).

(k) Permit Application Review.

(1) Complete application. After receipt of a complete application, the Flood Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be processed until all information required in Section [1256.02\(j\)](#) has been received by the Flood Administrator.

(2) Other permits. The Flood Administrator shall review all 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, 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.

(3) Approval. Within 30 days of receiving a complete application, the Flood Administrator shall either approve or disapprove the application. If an application is approved, a permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within 12 months. A floodplain development permit shall expire 12 months after issuance unless the permitted activity has been substantially begun and is being pursued to completion.

(l) Inspections. The Flood Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

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

(1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-

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

(2) For all development activities subject to the standards of Section [1256.02\(p\)\(1\)](#), a Letter of Map Revision.

(n) Revocation of 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. In the event of the revocation of a permit, an appeal may be taken to the Board of Zoning Appeals in accordance with Section [1256.02\(y\)](#).

(o) Permit Exemptions. Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations. 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 non-structural development activities (except for filling and grading) valued at less than five thousand dollars (\$5,000).

(2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of O.A.C. 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.

(p) Map Maintenance.

(1) Requirement to submit new technical data. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Village flood maps, studies and other data identified in Section [1256.02\(d\)](#) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

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

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

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

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

4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section [1256.02\(v\)](#).

B. It is the responsibility of the applicant to have technical data, required in accordance with Section [1256.02\(p\)\(1\)](#), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

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

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

D. Floodplain development permits issued by the Flood Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section [1256.02\(p\)\(1\)A](#).

(2) Right to submit new technical data. The Flood 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 plan metric details. Such a submission shall include appropriate supporting documentation made in writing by the Village Manager, and may be submitted at any time.

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

(q) Data Use and Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

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

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

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

A. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.

B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(4) The Flood 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 [1256.02\(y\)](#).

(5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

(r) Substantial Damage Determination.

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

A. Determine whether damaged structures are located in special flood hazard areas;

B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and

C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

(2) Additionally, the Flood 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.

(s) Use and Development Standards for Flood Hazard Reduction. The use and development standards set forth in Sections [1256.02\(t\)](#) through [1256.02\(w\)](#) apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section [1256.02\(d\)](#) or [1256.02\(q\)\(1\)](#).

(t) Use Regulations.

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

(2) Prohibited uses.

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

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

(u) Water and Wastewater Systems. Public water and sanitary sewer systems shall be required.

(v) Subdivisions, Large Developments and PUDs.

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

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

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or five acres, whichever is less.

(5) The applicant shall meet the requirement to submit technical data to FEMA in Section [1256.02\(p\)\(1\)A.4.](#) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section [1256.02\(v\)\(4\).](#)

(w) Buildings, Structures and Vehicles.

(1) 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 and construction materials resistant to flood damage are satisfied.

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

C. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade or flood of record, whichever is greater.

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 flood waters; 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 flood waters.

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 [1256.02\(w\)\(1\)](#).

H. In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide flood waters around and away from the structure.

(2) Nonresidential structures.

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section [1256.02\(w\)\(1\)](#)A. through C. and E. through H.

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

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 Section [1256.02\(w\)\(2\)](#)B.1. and 2.

C. Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade or flood of record, whichever is greater.

(3) 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 flood waters;
- D. They shall be firmly anchored to prevent flotation;
- E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- F. They shall meet the opening requirements of Section [1256.02](#)(w)(1)E.3.

(4) 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 in a calendar year; or
- B. They must be fully licensed and ready for highway use.

(5) 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.

(x) Assurance of Flood-Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood-carrying capacity of watercourses is minimized:

(1) Development in floodways.

A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or

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

1. Meet the requirements to submit technical data in Section [1256.02](#)(p)(1);
2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;

4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and

5. Concurrence of the Village Manager of Yellow Springs and the chief executive officer of any other communities impacted by the proposed actions.

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

A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 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

B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;

2. Section [1256.02\(x\)\(1\)B.1., 3., 4., and 5.](#)

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 Flood Administrator may require the permit holder to enter into an agreement with the Village, 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 [1256.02](#)(p)(1)A.3. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(y) Variances. Any person believing that the use and development standards of these regulations would result in practical difficulty may file an application for a variance. The Board of Zoning Appeals shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application.

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

B. Such application at a minimum shall contain: name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

C. All variance applications shall be accompanied by a fee set in the schedule of fees adopted by the Village Council.

(2) Public hearing. At the hearing the applicant shall present all statements and evidence as the Board of Zoning Appeals requires. In considering variance applications, the 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 criteria:

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

K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3) Decision factors. 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.

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

(5) Other considerations.

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

B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided items in Section [1256.02\(y\)\(2\)](#) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

C. Any applicant to whom a variance is granted shall be given written notice that the structure's lowest floor elevation will not meet the requirements of this section and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) 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 Flood 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.

(7) Appeals to Court. Those aggrieved by the decision of the Board of Zoning Appeals may appeal the decision to the Greene County Court of Common Pleas, as provided in Ohio R.C. Chapter 2506.

(z) Violations.

(1) Compliance required. 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 [1256.02\(o\)](#). Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section [1256.02\(z\)\(4\)](#).

(2) Conformance with approved plans. Floodplain development permits issued on the basis of plans and applications approved by the Flood Administrator authorize only the use, and arrangement, set forth in the 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 [1256.02\(z\)\(4\)](#).

(3) Notice of violation. Whenever the Flood Administrator determines there has been a violation of any provision of these regulations, he shall give notice of that violation to the person responsible and the property owner, if different from the person responsible, and order compliance with these regulations. The notice shall be served in person; provided, this notice and order shall be deemed to be properly served if a copy 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 structure affected. The 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; and

D. Advise the owner, operator, or occupant of the right to appeal.

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

~~1256.03 GATEWAY OVERLAY DISTRICT.~~

~~—(a) Purpose. The purpose of the Gateway Overlay District is to establish and protect the character of the Village at key entry points.~~

~~—(b) Applicability. The regulations of this section shall apply to all property within the specified boundaries having frontage along the following streets. However, agricultural uses and single-family dwellings are exempt from these requirements, but shall conform if the use changes to a non-agricultural or non-single-family use.~~

~~—(1) U.S. 68 (Xenia Avenue), from the southern Village boundary, north to Allen Street;~~

~~—(2) Dayton/Yellow Springs Road, from the western Village boundary, east to Kenneth Hamilton Way (including the south side of Dayton/Yellow Springs Road; and~~

~~—(3) U.S. 68 (Xenia Avenue), from the northern Village boundary, south to Corry Street.~~

~~—(c) Permitted Uses. All permitted and conditional uses allowed in the underlying zoning district shall be allowed within the overlay district, except for the following:~~

~~—(1) Mini-warehousing and self-storage facilities; and~~

~~—(2) Sexually oriented businesses.~~

~~—(d) Dimensional Requirements. The minimum setback, height, width and area requirements of the underlying district shall apply, except as specifically modified in this section.~~

~~—(e) Design Standards:~~

~~—(1) Landscaping. All sites shall be landscaped, as applicable, in accordance with the provisions of Chapter 1270. In addition, a front yard greenbelt, the depth of which shall be at least 20 feet, shall be provided in accordance with the requirements of Section 1270.02. For corner lots, the required front yard intersecting street frontage for a distance of at least 50 feet from the intersection.~~

~~—(2) Signs. The requirements of Chapter 1266 shall be met, as applicable to the underlying zoning district; provided, pole signs shall not be permitted.~~

~~—(3) Buildings. Buildings and structures within the overlay district shall not exceed two stories or 30 feet in height.~~

~~—(4) Parking. All parking shall be located in the side or rear yard and shall be setback a minimum of ten feet from the property line. Except for necessary drives, the front yard shall be landscaped in accordance with the requirements of subsection (c)(1) of this section.~~

~~(f) Accessibility.~~

~~—(1) A maximum of one driveway for each lot or parcel shall be permitted along any abutting street. Where practical, shared driveways shall be encouraged between two or more properties to minimize the number of access points along major entrances into the village.~~

~~—(2) No driveway shall be located within 100 feet of another driveway on the same side of the street and no closer than 125 feet from another driveway on the opposite side of the street, measured centerline to centerline.~~

~~—(3) In any case, no driveway shall be located within 150 feet of a street intersection, measured from pavement edge to pavement edge.~~

~~—(4) A sidewalk or pathway, as specified by the Planning Commission, shall be constructed along the entire frontage of the lot or parcel. Sidewalks shall be a minimum of five feet wide and pathways shall be a minimum of eight feet wide, constructed according to Village standards.~~

~~—(5) Greenbelt shall be established and maintained along the frontage, and shall not include any land in the public right-of-way.~~