

**RECORD OF ORDINANCE
VILLAGE OF SOUTH AMHERST**

Ordinance No. _____

Passed _____, 2018

**AN ORDINANCE REPEALING EXISTING SOUTH AMHERST CODIFIED
ORDINANCE PART THIRTEEN- BUILDING CODE AND ENACTING NEW
SOUTH AMHERST CODIFIED ORDINANCE PART THIRTEEN- BUILDING
CODE, AND DECLARING AN EMERGENCY**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE
OF SOUTH AMHERST, LORAIN COUNTY, STATE OF OHIO THAT:**

SECTION 1: The Council of the Village of South Amherst hereby repeals existing South Amherst Codified Ordinance Part Thirteen- Building Code and enacts new South Amherst Codified Ordinance Part Thirteen- Building Code as follows:

**VILLAGE OF SOUTH AMHERST BUILDING ORDINANCES
PART THIRTEEN - BUILDING CODE**

- Chap. 1301. Ohio Building Code.
- Chap. 1303. Residential Code of Ohio for One, Two and Three-Family Dwellings.
- Chap. 1305. Local Building Regulations; Permits and Fees.
- Chap. 1306. Developer Requirements.
- Chap. 1309. Flood Damage Prevention Regulations.
- Chap. 1313. Fences.
- Chap. 1317. Numbering Structures.
- Chap. 1319. Unsafe Buildings.
- Chap. 1321. Swimming Pools.
- Chap. 1325. Moving or Demolition of Buildings.
- Chap. 1329. House Trailers.
- Chap. 1331. Grading and Drainage.
- Chap. 1335. Storm Water Management; Construction Site Runoff Control and Post Construction Water Quality.
- Chap. 1339. Illicit Discharges to MS4.

1301.01 ADOPTION.

There is hereby adopted by the Municipality, the most current edition of the Ohio Building Code (OBC) and its related codes and referenced standards; as adopted by the Ohio Board of Building Standards, Department of Industrial Relations, effective March 1, 2005, and as identified and published in Division 4101:1 et seq. of the Ohio Administrative Code (OAC).

1301.02 PURPOSE.

The purpose of the Ohio Building Code is to establish uniform minimum requirements for the erection, construction, repair, alteration, and maintenance of buildings, including construction of industrialized units. Such requirements shall relate to the conservation of energy, safety, and sanitation of buildings for their intended use and occupancy with consideration for the following:

(a) Performance. Establish such requirements, in terms of performance objectives for the use intended.

(b) Extent of Use. Permit to the fullest extent feasible, the use of materials and technical methods, devices, and improvements which tend to reduce the cost of construction without affecting minimum requirements for the health, safety, and security of the occupants of buildings without preferential treatment of types or classes of materials or products or methods of construction.

(c) Standardization. To encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material and techniques, including methods employed to produce industrialized units.

The rules of the Board of Building Standards and proceedings shall be liberally construed in order to promote its purpose. When the Building Official finds that the proposed design is a reasonable interpretation of the provisions of this Code, it shall be approved.

1301.03 SCOPE.

The provisions of the Ohio Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every non-residential building or structure or any appurtenances connected or attached to such buildings or structures. As provided in Section 3791.04(B) of the Ohio Revised Code, no plans or specifications shall be approved or inspection approval given unless the building represented by those plans or specifications would, if constructed, repaired, erected or equipped according to those plans or specifications, comply with Chapters 3781 and 3791 of the Ohio Revised Code and any rules adopted by the Board.

An owner may exceed the requirements of the Ohio Building Code in compliance with Section 102.7 of the Ohio Building Code.

Exceptions:

(a) Detached one-, and two-, and three-family dwellings and structures incidental to those dwellings which are not constructed as industrialized units shall comply with the most current edition of the Residential Code of Ohio and its related codes and referenced standards.

(b) Buildings owned by and used for a function of the United States Government;

(c) Buildings or structures which are incident to the use for agricultural purposes of the land on which said buildings or structures are located, provided such buildings or structures are not used in the business of retail trade; for the purposes of this section, a building or structure is not considered used in the business of retail trade if fifty percent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller. (See Sections 3781.06 and 3781.061 of the Ohio Revised Code);

(d) Agricultural labor camps;

(e) Type A or Type B family day-care homes; except for the inspection required for licensure by the “Ohio Department of Jobs and Family Services (ODJFS)”.

(f) Buildings or structures which are designed, constructed and maintained in accordance with federal standards and regulations and are used primarily for federal and state military purposes where the U.S. Secretary of Defense, pursuant to 10 U.S.C. Sections 18233(a)(1) and 18237, has acquired by purchase, lease, or transfer, and constructs, expands, rehabilitates, or corrects and equips, such buildings or structures as he determines to be necessary to carry out the purposes of Chapter 1803 of the U.S.C.;

(g) Manufactured homes constructed under “24 CFR Part 3280”, “Manufactured Home Construction and Safety Standards”. (OBC 101.2)

1301.04 COMPLIANCE.

(a) No owner or any other person shall construct, erect, build or equip any building or structure to which the Ohio Building Code is applicable, or make any addition thereto or alteration thereof, except in case of repairs for maintenance without affecting the construction, sanitation, safety or other vital feature of such building or structure, without complying with this chapter, Ohio R.C. Chapters 3781 and 3791 or the Ohio Building Code, or fail to comply with any lawful order issued pursuant thereto. (ORC 3791.01, 3791.02)

(b) No architect, builder, engineer, plumber, carpenter, mason, contractor, subcontractor, foreman or employee shall violate or assist in violating this chapter, Ohio R.C. Chapters 3781 and 3791 or the Ohio Building Code, or fail to comply with any lawful order issued pursuant thereto. (ORC 3791.01, 3791.03)

(c) No owner shall proceed with the construction, erection, alteration or equipment of any building to which the Ohio Building Code is applicable until the plans or drawings, specifications, and data have been approved as Ohio R.C. 3791.04 requires, or the industrialized unit inspected at the point of origin. No plans or specifications shall be approved or inspection approval given unless the building represented would, if constructed, repaired, erected, or equipped comply with Chapters 3781 and 3791 of the Ohio Revised Code and any rule made under those chapters. (ORC 3791.04)

1301.05 EXISTING STRUCTURES.

The provisions of Chapter 34 of the Ohio Building Code shall control the alteration, repair, addition, and change of occupancy of any existing structure.

The occupancy of any structure currently existing on the date of adoption of this Code shall be permitted to continue without change provided the alleged occupancy can be shown to have existed for more than two years and there are no orders of the Building Official pending, no evidence of fraud, or no serious safety or sanitation hazard.

Buildings constructed in accordance with plans which have been approved prior to the effective date of this Code are existing buildings. (OBC 102.6)

1301.06 VIOLATIONS.

(a) Adjudication Orders Required Before Legal Proceedings. Before the Municipality attempts to enforce Chapters 3781 and 3791 of the Ohio Revised Code or any rules adopted pursuant thereto, by any remedy, civil or criminal, it shall issue an adjudication order within the meaning of Sections 119.06 to 119.13 of the Ohio Revised Code or a stop work order as provided in Section [1301.07](#). Every adjudication order shall:

(1) Cite the law or rules directly involved and shall specify what appliances, site preparations, additions, or alterations to structures, plans, materials, assemblages or procedures are necessary for the same to comply with Chapters 3781 and 3791 of the Ohio Revised Code.

(2) Include notice to the party of the procedure for appeal and right to a hearing if requested within thirty days of the mailing of the notice. The notice shall also inform the party that at the hearing he may be represented by counsel, present his arguments or contentions orally or in writing and present evidence and examine witnesses appearing for or against him.

(b) Notice of Violation. The Building Official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure. When the Building Official finds that work or equipment is contrary to approved construction documents and the rules of the Board of Building Standards, the Building Official shall send a notice in writing to the owner of said building or the owner's agent which shall state where and in what respect the work or equipment does not conform to the approved plans for same and the rules of the Board. The notice shall specify a reasonable period of time in which to conform to said plans or the rules of the Board. Before any work may continue on the construction, erection, alteration, or equipment of any building for which the approval is invalid, the owner of the building shall resubmit the plans or drawings and specifications for approval as required under Section 105.3 of the Ohio Building Code.

(c) Prosecution of Violation. Upon the issuance of any order provided for in this section or Section [1301.07](#), the person receiving an order shall cease work upon the

site preparations or structure to be constructed, or in the case of an industrialized unit, the installation of the unit, or shall cease using the appliance, materials, assemblages or manufactured product identified in the order until such time as the appeal provided for in accordance with the provisions of Section 3781.19 of the Ohio Revised Code and all appeals from such hearing have been completed, or the order has been released.

(OBC 113)

1301.07 STOP WORK ORDER.

(a) Authority. Whenever the Building Official finds any work regulated by this Code being performed in a manner contrary to the provisions of this Code or in a dangerous or unsafe manner, the Building Official is authorized to issue a stop work order whenever the Building Official finds, after inspection, that the site preparations or structure to be constructed, or in the case of an industrialized unit, the installation of the unit, or that the use of an appliance, materials, assemblage, or manufactured product does not comply with the provisions of Chapters 3781 and 3791 of the Ohio Revised Code or the rules adopted pursuant thereto. The effect of such an order shall be limited to the matter specified in the order.

(b) Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent and the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

(c) Unlawful Continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition. Failure to cease work after receipt of a stop work order is hereby declared a public nuisance. (OBC 114)

1301.08 CONFLICT.

(a) General. Where, in any specific case, different sections of the Ohio Building Code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(b) Other Laws. The provisions of the Ohio Building Code shall not be deemed to nullify any provisions of state or federal law. The Municipality, under Section 3781.01 of the Ohio Revised Code, may make further and additional regulations, not in conflict with Chapters 3781 and 3791 of the Ohio Revised Code or with the rules of the Board of Building Standards. However, under Section 3781.12 of the Ohio Revised Code, approval by the Board of Building Standards of any fixture, device, material, system, assembly or product of a manufacturing process, or method or manner of construction or installation shall constitute approval for their use anywhere

in Ohio. The rules of the Board of Building Standards shall supersede and govern any order, standard, or rule of the Division of the Fire Marshal or Industrial Compliance in the Department of Commerce, and Department of Health and of counties and townships, in all cases where such orders, standards or rules are in conflict with the rules of the Board of Building Standards, except that rules adopted and orders issued by the Fire Marshal pursuant to Chapter 3743, of the Ohio Revised Code prevail in the event of a conflict. (OBC 102)

1303.01 APPLICATION AND ENFORCEMENT.

In order to regulate the erection, construction, repair, alteration and maintenance of residential dwellings, the Residential Code of Ohio for One, Two, and Three-Family Dwellings as adopted by the Ohio Board of Building Standards pursuant to Ohio Revised Code 3781.10, shall apply and be enforced within the Municipality. (Ord. 1269. Passed 10-8-07.)

1303.02 FEES.

(a) Fees for Building Permits issued for construction pursuant to the Ohio Revised Code shall be as stated in Exhibit "B" attached to Ordinance 1267.

(b) One-percent (1%) residential assessment three-percent (3%) commercial assessment shall be collected on behalf of the Board of Building Standards of those fees imposed for approvals, the acceptance and approval of plans and specifications, and for the making of inspections. (Ord. 1269. Passed 10-8-07.)

1303.03 APPEAL PROCESS.

(a) Any person, firm, company or corporation has the right to appeal any decision of the Village relating to any provisions of the Building Code. Anyone desiring to appeal a decision of the Residential Building Code may do so by filing a written appeal to the Village of South Amherst Residential Board of Appeals. All Commercial Building Code appeals shall be to the Ohio Board of Building Appeals, in accordance with the Ohio Building Code.

(b) The Residential Board of Appeals shall consist of three members, the Mayor as Chairperson, President of Council and one member of the Board of Zoning Appeals. Said Board shall hear appeals regarding the Residential Building Code.

(c) The Residential Board of Appeals shall hear and decide the adjudication hearing, arising from the orders of the Building Official in the enforcement of the Residential Building Code or other such rules, regulations or ordinances of the Village pertaining to residential buildings, including moving and demolition. The orders may be reversed or modified by the Board if it finds:

- (1) The order is contrary to such Code, rules, regulations or ordinances;
- (2) The order is contrary to a fair interpretation or application thereof; or

(3) That a variance from the provisions of such Code, rules, regulations or ordinances, in a specific case, will not be contrary to the public interest where literal enforcement of such provisions will result in unnecessary hardships.

(d) (1) Requests for an appeals hearing shall be made in writing to the Building Department within thirty days of the mailing or posting date of an adjudication order. Each request shall be accompanied with a processing fee of seventy-five dollars (\$75.00) which is refundable should the Board rule in favor of the aggrieved party. The Residential Board of Appeals shall schedule a hearing within fifteen days and notify the party of the same by certified mail.

(2) For purposes of conducting adjudication hearings, the Board may require attendance of witnesses, production of records or documents, and may take depositions of witnesses. Testimony shall be under oath, with a stenographic or mechanical record kept, along with other such evidence as submitted.

(3) The Board shall render its decision within ten days after the conclusion of the hearing.

(4) Following the hearing, the Board shall serve by certified mail, return receipt requested, upon the party affected thereby, a certified copy of the order and a statement of the time and method by which an appeal may be perfected. A copy shall also be mailed to the attorney, or other representative of record representing the party.

(5) All rulings of the Board, on behalf of the Village, are final. However, an appeal of the Board's ruling may be made to the Court of Common Pleas in accordance with applicable law, rule or regulation. (Ord. 1270. Passed 10-22-07.)

1305.01 BUILDING PERMIT REQUIRED.

(a) It shall be unlawful for any person to alter, build, or repair any structure without first obtaining an approval and permit from the Building Official, and a permit from the Zoning Official (if necessary) of the Village of South Amherst to do such work.

(b) Before altering, building, or repairing, except for minor repairs, shall begin, the applicant shall submit a detailed plot plan and construction drawings in triplicate when required of all work proposed to be done. One set of plans and specifications to be returned to the owner upon approval or disapproval, one to be kept by the building department and one to be kept by the zoning department

(c) Detailed plans and specifications shall be approved by the Building Official. The Zoning Official of the Village of South Amherst shall approve all zoning requirements pertaining to the building project.

(d) Upon issuance of a building permit, if work has not commenced per the approved plans and specifications within six months of the date of approval, such plans and specifications shall be re-submitted for approval.

(e) All work commenced under a building permit issued by the Building Official shall be completed within one year of the date of issuance.

(f) In case of violation of any of the terms of this section, the permit to execute the work shall be revoked by the Building Official of the Village of South Amherst and notice of revocation will be given to the person performing the work and to the owner of the building or his agent; and, thereupon, all work on such permit shall immediately cease and shall not recommence until such permit shall have been renewed by the Building Official.

(g) Failure of owner to obtain a building permit prior to commencement of work shall result in a building permit fee amount equivalent to original permit fee plus two times the permit fee amount.

1305.011

New construction or other permanent structures. Structure with permanent footings are required to submit in triplicate:

- (1) Construction drawings for approval by the building Inspector.
- (2) Plot Plan.
 - A. Must show new building in reference to property boundaries and existing buildings.
 - B. Must show the location of all easements and drainage facilities.
 - C. Must be approved by the Zoning Inspector prior to submittal of building permit.
- (3) Must have current Health Department Sanitation permit if applicable.
 - A. Subject to review.
- (b) Accessory buildings of 150 sq. ft. or less.
 - (1) Plot plan.
 - A. Must conform to all other requirements of this chapter.

1305.012 BUILDING PERMITS; CERTIFICATES OF OCCUPANCY.

(a) No excavation for foundation, not the erection, construction or structural alteration of any structure or part of a structure, or occupancy of streets or alleys with building materials or temporary structures for construction purposes, shall be undertaken until a Building Permit therefore shall have been issued by the Administrative Officer. No such Building Permit shall be issued before application has been made for a Certificate of Occupancy.

(b) No vacant land or structure shall be occupied, erected, structured, altered or use changed until a certificate of occupancy has been issued by the Administrative Officer.

(c) All applications for Building Permits and Certificates of Occupancy shall be accompanied by a plat, drawn to scale, showing actual dimensions of said lot to be built upon, the size and location of each building to be erected on each lot and such other information as may be necessary to enable the Administrative Officer to

determine that the proposed structure and use will conform to the provisions of this Zoning Ordinance.

(d) A Certificate of Occupancy, either for the whole or part of a new building or for alteration of an existing building, shall be applied for, coincident with the application for a Building Permit and shall be issued within ten (10) days after the erection or alteration of such building or part shall have been completed in conformity with the provisions of this Zoning Ordinance.

(e) A Certificate of Occupancy for the use or occupancy of vacant land, or for a change in the use of land, or for a change in the use of an existing building shall be applied for and issued before any such land shall be occupied or used, or such land or building changed in use, and such certificate shall be issued, within ten (10) days after application has been made, provided such proposed use is in conformity with the provisions of this Zoning Ordinance.

(f) A like certificate shall be issued for the purpose of maintaining, renewing, changing or extending a non-conforming use, existing at the time of the passage of this Zoning Ordinance; and such Certificate shall state that the use does not conform with the provisions of this Zoning Ordinance. For the purpose of complying with this requirement, the Administrative Officer shall mail such Certificate to the occupants or owners of all such property within thirty (30) days after the passage of this Zoning Ordinance.

(Ord. 1459-14. Passed 3-10-14.)

1305.02 FEE SCHEDULE.

The Village hereby adopts the Fee Schedule for the Building Department as set forth by SAFEbuilt Ohio, LLC, as described in Exhibit "A" attached to Ordinance 1589-18.

(Ord. 1589-18, Passed 8-27-18.)

1305.03 COMMERCIAL ZONING CERTIFICATE OF COMPLIANCE.

(a) When required, the owner or developer of any property shall submit to the Mayor or Zoning Inspector the necessary plans, drawings, specifications of the property to be developed or built upon, plus assessed permit fees. If the plans, drawings and specifications are in compliance with the requirements of the Village Zoning Code, the Mayor or Zoning Inspector shall issue to the State Certified Building Inspector a certificate which indicates that said owner or developer has complied with all requirements of the Village Zoning Code. This certificate of compliance in no way shall override or contravene any building requirements which may be imposed by the Building Inspector.

(b) The reasonable fee for processing, reviewing and issuing the Certificate of Compliance shall be one-hundred dollars (\$100.00), payable to the Village of South Amherst, at the time the plans, drawings and specifications are submitted.

1305.04 CONTRACTOR REGISTRATION.

(a) Registration Required. All persons, firms, corporations, partnerships or any combination thereof, engaged as a contractor as hereinafter defined, shall be required to register for all trades engaged within the Village before performing any work within the Village and shall be subject to all the provisions of this chapter.

(b) Definitions.

(1) "Contractor" means a person, firm, corporation, partnership or any combination thereof, who engage for hire in construction or improvements within the Village in one or more trade categories, whether acting for themselves or others, and whether such trade is being performed by themselves, their employees or under subcontract. In the event that the one trade category is under subcontract, no work shall be performed until the subcontractor is registered by the Village.

(2) "Trade" means field of work requiring special skill or involving the use of specialized building crafts, and includes the following:

A. Masonry, which includes, but is not limited to, brick laying, block laying, concrete and cement, asphalt work and paving.

B. Carpentry, which includes, but is not limited to, woodworking, siding, roofing and windows.

C. Heating, tinning, central air conditioning and sheet metal work.

D. Wall covering, which includes, but is not limited to plastering, dry wall, taping, insulating and lath work.

E. Excavation, which includes, but is not limited to, sanitary sewer work, storm sewer work and general excavating, earth moving and grading.

F. Structural iron work for new construction.

G. Sign erection.

H. Swimming pool installation for all pools installed below grade.

(c) Registration Application and Renewal.

(1) Application. Application for registration shall be made to the Building Official on forms provided therefor.

(2) Qualifications for Registration.

A. The applicant for trades listed in (b)(2)A. through F. and H. specified herein shall have a minimum of two years practical experience; an affidavit to this effect shall be provided. In lieu of the experience required, the applicant may qualify with two years technical training in an accredited school; proof of the same shall be furnished at time of registration.

B. The applicant shall provide any and all references as may be requested on the application form in the manner provided.

C. All registration shall expire on December 31 of the year in which they are in force. Renewal of registration may be commenced thirty days prior to the expiration

date. For renewal of registration, the final date will be January 31 within the year that the registration is to be renewed.

D. Every application for registration shall, upon the approval of this application, furnish and file with the Building Department, proof of public liability insurance in a minimum sum of one hundred thousand dollars (\$100,000) and property damage insurance in a minimum sum of fifty thousand dollars (\$50,000).

(Ord. 1375-11. Passed 5-23-11.)

(d) Fee for Registration. Upon the approval of the application for registration and before a certificate is issued, the following fees shall apply:

Initial fee	\$75.00
Annual renewal fee	\$50.00

(Ord. 1517-16. Passed 6-27-16.)

(e) Waiver. The Mayor may waive any or all of the above requirements in cases of hardship.

(f) Suspension of Registration. Registration may be suspended by the Building Inspector upon giving written notice to that effect to the contractor for the following reasons:

(1) Violation of any provision of this chapter, Building Code, Residential Code of Ohio for one, two and three family dwellings and any provisions of the Zoning Code;

(2) Misrepresentation of material fact in order to become registered, or in the renewal of registration;

(3) Failure to secure permits, inspections and approvals required by the Building Code and Zoning Codes;

(4) Use of registration to obtain a permit for another;

(5) Failure or refusal to correct a violation of the Building Code within a prescribed period of time or to correct incompetent work as ordered by the Code Administrator;

(6) Departure from or disregard of plans and specifications filed with the application for a permit;

(7) For any other reason that is determined to be adverse to the health, safety and welfare of the citizens of the Village.

(g) Appeal of Code Administrator Suspension.

(1) The Residential Board of Appeals shall hear all appeals of a decision to suspend registration by the Building Inspector.

(2) Persons, firms or corporations aggrieved by the decision of the Building Inspector, may within five working days of the date of receipt of notice of suspension

appeal to the Residential Board of Appeals by filing with the Building Inspector written notice of appeal, specifying the reasons therefor.

(3) The Residential Board of Appeals, within 20 working days of the date of receipt of the appeal by the Building Inspector shall afford a public meeting upon such appeal. The Board shall at that meeting affirm or reverse the decision of the Building Inspector.

(4) The Board shall affirm the decision of the Building Inspector unless it finds:

A. That the Building Inspector erred as a matter of law; or

B. That the decision is not supported by reliable or probative evidence.

(5) Any party aggrieved by the decision of the Residential Board of Appeals may appeal to Council for final judgment by filing written notice thereof to the Clerk of Village Council within thirty days of the date of the decision by the Residential Board of Appeals. Council shall make a decision within thirty days.

(6) No person shall do any work authorized by a certificate of registration when the same is suspended or revoked.

(h) Persons Exempt from Registration.

(1) Home Owners. No provision or provisions of this chapter shall be construed to require that a bona fide owner of a one, two or three-family dwelling to be registered, who personally will perform work upon his/her premises.

(2) Government Agencies; Public Utilities; Private Organizations. Provisions of registration shall not apply to federal, State, county or municipal governmental agencies or public utilities furnishing services to the Village under municipal-utilities franchise agreement, to industrial, commercial or institutional organizations. A maintenance department, doing work within the provisions of the Building Code, is provided for except that should work covered by the Building Code be contracted to outside concerns, then such contractors shall be registered with the Village as provided therein.

(Ord. 1375-11. Passed 5-23-11.)

1305.06 SANITATION.

Each dwelling shall provide, at least:

(a) Water closet.

(b) Lavatory.

(c) Bath tub or shower. (Ord. 806. Passed 3-22-93.)

1305.07 WALL CONSTRUCTION.

(a) Exterior Walls. Shall be not less than 2" x 4" construction on 16" centers.

(b) Interior Walls. Shall be not less than 2" x 4" construction on 16" centers.

(c) Masonry Walls. The minimum thickness of masonry bearing walls and exterior no bearings walls shall be not less than 8". (Ord. 806. Passed 3-22-93.)

1305.13 SIDEWALKS.

Lots, sublots or any other land upon which a dwelling is abutting other lots, sublots or other land upon which sidewalks already exist must continue with the sidewalk across their frontage of said lot, subplot or land. (Ord. 806. Passed 3-22-93.)

1305.14 CONSTRUCTION TIME-TABLE.

(a) Exterior construction shall be completed within twelve months, from construction starting date.

(b) Finished grading and lawn seeding shall be completed in eighteen months from starting date of construction. (Ord. 806. Passed 3-22-93.)

1305.15 INSPECTIONS.

(a) Concrete Work.

(1) Inspections shall be required for all concrete work.

A. Building Inspector shall be notified at least 48 hrs. before the pour.

B. All forms and reinforcement must be in place at the time of inspection, and prior to pouring.

1305.99 PENALTY.

Violation of this Building Code shall be a minor misdemeanor. Each day shall constitute a separate offense. (Ord. 806. Passed 3-22-93.)

1306.01 REIMBURSEMENT OF ENGINEERING REVIEW COSTS.

Whenever the Village requires review of plans for the development of real estate within the Village, and whenever the Village deems it necessary to hire an engineer to review said plans on behalf of the Village, the cost to the Village for hiring said engineer shall be wholly reimbursed to the Village by the developer within thirty days of receipt of such bill from the Village. (Ord. 813. Passed 6-28-93.)

1309.01 GENERAL PROVISIONS.

(a) 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 South Amherst, State of Ohio, does ordain as follows:

(b) Findings of Fact. The Village of South Amherst 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.

(c) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

(d) 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.

(e) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the Village of South Amherst

as identified in subsection (f) hereof, including any additional areas of special flood hazard annexed by the Village of South Amherst.

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

(1) Flood Insurance Study Lorain County, Ohio and Incorporated Areas and Flood Insurance Rate Map Lorain County, Ohio and Incorporated Areas both effective August 19, 2008.

(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 of South Amherst as required by Section 1309.04(c), Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Town Hall, 103 West Main Street, South Amherst, Ohio 44001.

(g) 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.

(h) 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.

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

(j) 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. 1280. Passed 5-19-08.)

1309.02 DEFINITIONS.

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

(a) Accessory Structure: 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 one percent 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 one-hundred (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 1 to 3 feet).

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

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

(g) Enclosure Below the Lowest Floor: See "Lowest Floor."

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

(i) Federal Emergency Management Agency (FEMA): 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 or runoff of surface waters from any source.

(l) Flood Hazard Boundary Map (FHBM): Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and

Urban Development, for a community depicting approximate special flood hazard areas.

(m) Flood Insurance Rate Map (FIRM): 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:

Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

ZoneAO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

ZoneAH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

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.

Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

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: The Flood Protection Elevation, or FPE, is the base flood elevation. 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: A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

(r) Freeboard: 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 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 South Amherst'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): A Letter of Map Change is 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 Chapter 3733 of the Ohio Revised Code.

(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): The NFIP is 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 South Amherst Flood Insurance Rate Map, May 1, 1980, 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 Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

(bb) Recreational Vehicle: 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 Sections 4703.01 to 4703.19 of the Revised Code.

(dd) Registered Professional Engineer: A person registered as a professional engineer under Chapter 4733 of the Revised Code.

(ee) Registered Professional Surveyor: A person registered as a professional surveyor under Chapter 4733 of the Revised Code.

(ff) Special Flood Hazard Area: Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, AI-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 percent 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 percent 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. 1280. Passed 5-19-08.)

1309.03 ADMINISTRATION.

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

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

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

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

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

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

(5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters

of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.

(6) Enforce the provisions of these regulations.

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

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

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

(c) Floodplain Development Permits. It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section [1309.01\(f\)](#), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(d) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

(1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

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

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

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

(5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:

A. Floodproofing certification for non-residential floodproofed structure as required in Section [1309.04\(e\)](#).

B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section [1309.04\(d\)\(5\)](#) are designed to automatically equalize hydrostatic flood forces.

C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section [1309.04\(i\)\(3\)](#).

D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section [1309.04\(i\)\(2\)](#).

E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section [1309.04\(i\)\(1\)](#).

F. Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section [1309.04\(c\)](#).

G. Volumetric calculations demonstrating compensatory storage have been provided as required by Section [1309.04\(i\)\(4\)](#).

(6) A floodplain development permit application fee set by the schedule of fees adopted by the Village of South Amherst.

(e) Review and Approval of a Floodplain Development Permit Application.

(1) Review.

A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in subsection (d) hereof has been received by the Floodplain Administrator.

B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

(2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an

application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

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

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

(1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

(2) For all development activities subject to the standards of subsection (j)(1) hereof, a Letter of Map Revision.

(h) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section [1309.05](#) of these regulations.

(i) Exemption from Filing a Development Permit.

(1) An application for a floodplain development permit shall not be required for:

A. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.

B. 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.

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

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

E. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.

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

(j) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to

ensure that the Village of South Amherst flood maps, studies and other data identified in Section [1309.01](#)(f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to submit new technical data.

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

1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
3. Alteration of watercourses that result in 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 [1309.04](#)(c).

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

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

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

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

(2) Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or flood way 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 South Amherst, and may be submitted at any time.

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

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

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

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

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

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

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

(4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section [1309.05](#), Appeals and Variances.

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

(l) Substantial Damage Determinations.

(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 Floodplain Administrator shall:

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

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

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

(2) 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. 1280. Passed 5-19-08.)

1309.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section [1309.01](#)(f) or [1309.03](#)(k)(1):

(a) Use Regulations.

(1) Permitted uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by Village of South Amherst 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 Section 3701 of the Ohio Revised Code.

B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.

C. New construction of any residential or nonresidential structures in floodway areas.

D. Storage or processing of hazardous, flammable, or explosive materials in special flood hazard areas.

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

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

(2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

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

(c) Subdivisions and Large Developments.

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

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

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

(4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all major (platted) subdivision proposals, and other proposed developments at least 5 acres in size.

(5) The applicant shall meet the requirement to submit technical data to FEMA in Section [1309.03\(j\)\(1\)A.4](#). when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by subsection (c)(4) hereof.

(6) All preliminary plans for platted subdivisions shall identify the flood hazard area and the elevation of the base flood.

(7) All final subdivision plats shall provide the boundary of the special flood hazard area, the floodway boundary, and base flood elevations.

(8) In platted subdivisions, all proposed lots or parcels that will be future building sites shall have a minimum buildable area outside the natural (non-filled) 1 % chance annual floodplain. The buildable area shall be large enough to accommodate any primary structure and associated structures such as sheds, barns, swimming pools, detached garages, on-site sewage disposal systems, and water supply wells, if applicable.

(9) Approval shall not be given for streets within a subdivision, which would be subject to flooding. All street surfaces must be located at or above the base flood elevation.

(d) Residential Structures.

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic

and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring and construction materials resistant to flood damage are satisfied.

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

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

(4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. 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.

(5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:

A. Be used only for the parking of vehicles, building access, or storage; and
B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or

C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of subsection (d) hereof.

(8) Each new residential site shall have direct access to a walkway, driveway, or roadway whose surface elevation is not less than the flood protection elevation and such escape route shall lead directly out of the floodplain area.

(e) Nonresidential Structures.

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection (d)(1) - (3) and (5) - (7).

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

A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

C. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with subsection (e)(2)A. and B.

(3) 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.

(4) Each new nonresidential site shall have direct access to a walkway, driveway, or roadway whose surface elevation is not less than the flood protection elevation and such escape route shall lead directly out of the floodplain area.

(f) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

(1) They shall not be used for human habitation;

(2) They shall be constructed of flood resistant materials;

(3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

(4) They shall be firmly anchored to prevent flotation;

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and

(6) They shall meet the opening requirements of subsection (d)(5)C.;

(g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:

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

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

(3) They must meet all standards of subsection (d) hereof.

(h) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

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

(1) Development in floodways.

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

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

1. Meet the requirements to submit technical data in Section [1309.03\(j\)\(1\)](#);
2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
3. Certification that no structures are located in areas 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 Mayor of Village of South Amherst 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 1.0 (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. Subsection (i)(1)B., items 1. and 3. - 5.

(3) Alterations of a watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.

B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.

C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with Village of South Amherst specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

D. The applicant shall meet the requirements to submit technical data in Section [1309.03\(j\)\(1\)A.5.](#) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(4) Compensatory storage required for fill. Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of the loss of floodwater storage because of filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site.

(Ord. 1280. Passed 5-19-08.)

1309.05 APPEALS AND VARIANCES.

(a) Appeals Board Established.

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

(2) Records of the Appeals Board shall be kept and filed in the Town Hall, 103 West Main Street, South Amherst, Ohio 44001.

(b) Powers and Duties.

(1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.

(2) Authorize variances in accordance with subsection (d) hereof.

(c) Appeals.

(1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 10 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

(2) Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

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

(1) Application for a variance.

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

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

C. All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the Village of South Amherst.

(2) Public hearing.

A. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals

Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The availability of alternative locations for the proposed use 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.

B. Variances shall only be issued upon:

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

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

(3) Other conditions for variances.

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

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

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

(e) Procedure at Hearings.

(1) All testimony shall be given under oath.

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

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

(4) The Administrator may present evidence or testimony in opposition to the appeal or variance.

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

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

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

(8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(f) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Lorain County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code. (Ord. 1280. Passed 5-19-08.)

1309.06 ENFORCEMENT.

(a) Compliance Required.

(1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full

compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section [1309.03\(i\)](#).

(2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (c) hereof.

(3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with subsection (c) hereof.

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

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(c) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a second 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 South Amherst. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of South Amherst from taking such other lawful action as is necessary to prevent or remedy any violation. The Village of South Amherst shall prosecute any violation of these regulations in accordance with the penalties stated herein. (Ord. 1280. Passed 5-19-08.)

1313.01 RESTRICTIONS.

Fences, including walls and hedges, shall be permitted in all zoning districts in the Village, subject to the following conditions:

(a) Where otherwise permitted, fences may be built along a property line. Fences shall not be located within two feet of a street or alley right-of-way line;

(b) The height of fences shall be measured from a point not to exceed six inches above the finished grade line or natural contour of the ground as far as is practical. The six inches may be averaged over every eight feet when there is uneven ground. Fence posts may extend six inches above fence, when located at least eight feet apart. The height may not exceed six feet in any side or back yard.

(c) No fence exceeding three feet in height shall be built in any front yard. The front yard shall be the entire area between the front building line and the street right-of-way line;

(d) In any district in the Village, a fence in a side or rear yard shall not exceed six feet in height, except as otherwise permitted;

(e) No fence exceeding three feet in height shall be built within thirty feet from any street right-of-way;

(f) No fence shall be entirely constructed of barbed wire, be in any way electrified, or be topped with broken glass, spikes or other sharp-edged materials. In residential districts, barbed wire or other material which could readily cause bodily harm shall not be used for fencing in any way;

(g) In heavy industrial districts, a commercial fence may be topped with barbed wire at a forty-five degree (45°) angle, angling away from any adjoining property, sidewalk, or right-of-way line. The height of the topmost strand of wire shall not exceed eight feet in a heavy industrial district;

(h) No fence, including walls or hedges, shall be permitted which impedes the proper sight distance for the safe operation of motor vehicles. When a hedge is used as a fence, it shall be properly trimmed and maintained so not to endanger any person or animal or impede visibility of traffic;

(i) When a solid fence is erected which affects water draining, outlets shall be placed at the bottom of the fence to eliminate possible accumulation of water or other adverse effects;

(j) All fenced enclosures shall be provided with gates to permit entry by safety forces. Gates shall be not less than three feet in width. No gate of a fence shall swing over the public right of way. (Ord. 675. Passed 12-9-85.)

1313.02 ADVERTISING ON PROHIBITED.

No advertising or posting of bills shall be permitted on any fence.
(Ord. 675. Passed 12-9-85.)

1313.03 PERMIT; FEE.

The erection of a fence shall require a zoning and a building permit.

(a) Permit applications must include in triplicate a plot plan with lot dimensions, clearly marked structures including proposed fence and a materials list. In a

business or industrial district, if a proposed fence abuts a residential district, the application for a fence permit shall be reviewed by the Zoning Board of Appeals before issuance of a permit. (Ord. 675. Passed 12-9-85.)

- (b) Permit fee will be collected upon approval from the zoning and building inspector, in accordance with the fee set forth in Section 1305 (d) (2).
- (c) Failure of owner to obtain a building permit prior to commencement of work shall result in a building permit fee amount equivalent to original permit fee plus two times the permit fee amount.

1313.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor.

(Ord. 675. Passed 12-9-85.)

Chp 1317 Numbering Structures

1317.01 POSTING REQUIRED.

All owners and lessors and lessees shall forthwith post in a conspicuous place on the front of their buildings, or upon the roadside mail boxes, the street numbers assigned to their buildings. In the case of cluster mail boxes, said numbers shall be posted in the manner stated above upon the front of the building. Said letters shall not be less than three inches in size on the house and not less than one inch on mail box by the road. (Ord. 753. Passed 12-10-90.)

1317.99 PENALTY.

Whoever violates Section 1317.01 shall be fined not more than one hundred and fifty dollars (\$150.00). (Ord. 1424-13. Passed 2-25-13.)

Chp. 1319 Unsafe Buildings

1319.01 DANGEROUS BUILDINGS DEFINED.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

(a) Those whose interior walls or other vertical structural members, list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(b) Those which, exclusive of the foundation, show of damage or deterioration of the supporting member or members, or of damage or deterioration of the nonsupporting enclosing or outside walls or covering, rendering the building or structure in danger of collapsing.

(c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(d) Those which are an immediate fire hazard, or have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village.

(e) Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.

(f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

(g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

(h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(i) Those which, because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of the Village.

(j) Those buildings existing in violation of any provision of the Building Code or any provision of the Fire Prevention Code or other ordinances of this Village.

(Ord. 1412-12. Passed 12-6-12.)

1319.02 STANDARDS FOR REPAIR, VACATION OR DEMOLITION OR BARRICADING.

The following standards shall be followed in substance by the Mayor in ordering repair, vacation or demolition:

(a) If the dangerous building can reasonably be barricaded so that it will no longer exist in violation of the terms within Section [1319.01](#), it shall be ordered barricaded.

(b) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.

(c) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of the occupants, it shall be ordered to be vacated.

(d) In any case where a dangerous building is fifty percent (50%) damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this

chapter or any ordinance of the Village or statute of the State, it shall be demolished. (Ord. 1412-12. Passed 12-6-12.)

1319.03 DANGEROUS BUILDINGS; NUISANCES.

As used in this chapter, all dangerous buildings within the terms of Section [1319.01](#) are hereby declared and shall be deemed to be public nuisances by reason of the condition in which the same are permitted to be or remain and which shall or may endanger the health, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more persons in the Village, in any one or more of the following particulars:

- (a) By reason of being a nuisance to the general health of the community.
- (b) By reason of being a fire hazard.
- (c) By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid premises.
- (d) By reason of being a nuisance because of long, continued vacancy, lack of reasonable or adequate maintenance of structure and/or premises adjacent thereto, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated. (Ord. 1412-12. Passed 12-6-12.)

1319.04 DETERMINATION OF UNSAFE AND/OR PUBLIC NUISANCE INSPECTOR/STARDARDS FOR REPAIR, VACATION OR DEMOLITION OR BARRICADING.

Whenever the Mayor, has reason to believe the existence of a dangerous building or public nuisance, the Mayor will instruct the Fire Chief, and Building Inspector to inspect said building or structure may request that the Health Department inspect said building or structure. Written reports of such inspections and photographs of such building or structure shall be filed with the Mayor and Building Department.

(a) The Mayor shall in writing, as provided in this Chapter, notify the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in such building or structure, as shown by the records of Lorain County as to findings that a building is a dangerous building or public nuisance, within the standards set forth in Sections [1319.01](#), [1319.02](#) and [1319.03](#). The Mayor, or the designee of the Mayor shall issue appropriate orders that:

- (1) The owner must vacate, barricade, repair or demolish such building in accordance with the terms of the notice and this chapter;
- (2) The occupant or lessee must vacate such building or may have it repaired in accordance with the notice and remain in possession;
- (3) The mortgagee, agent or other person having an interest in such building as shown by the land records of Lorain County may at his own risk repair, vacate or demolish such building or have such work or act done.

(4) Any person notified under this subsection to repair, barricade, vacate or demolish any building shall be given such reasonable time, not exceeding thirty days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

(b) Set forth in the notice provided herein a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding thirty days, as is reasonable.

(c) Place a notice on all dangerous buildings reading as follows:
"This building has been found to be a dangerous building by the Mayor. This notice is to remain on this building until it is repaired, barricaded, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in such building as shown by the land records of Lorain County. It is unlawful to remove this notice until such notice is complied with."

(d) In the case where the Mayor provides notice to barricade the building, the owner must provide and place on such building, at his expense, barricades on all doors, windows and openings on such building so that there exists no ingress into the building by any member of the public. Further the owner shall post in conspicuous places that such building is closed and shall post "No Trespassing" signs. (Ord. 1412-12. Passed 12-6-12.)

1319.05 APPEALS; RESIDENTIAL BOARD OF APPEALS.

The owner may, within ten days after completion of service of notice, make a request in writing to the Building Department for a hearing on the question of whether in fact a public nuisance exists or the finding and order. The hearing shall be held within ten business days following receipt of such written demand, and at least two days notice in writing of such hearing shall be given to such owner. The hearing shall be conducted by the Residential Board of Appeals. The Board may grant the appeal, in whole or part, modify or affirm the findings and orders of the Mayor. A copy of the decision of such Board shall be promptly served upon the appellant. The Owner shall have the right file an action or appeal to a court of competent jurisdiction from the decision of the Board, as provide in the Ohio Revised Code for appeal of administrative orders. (Ord. 1412-12. Passed 12-6-12.)

1319.06 EMERGENCY CASES.

(a) Whenever complaint is made to the Mayor of the existence of a dangerous building or a public nuisance, as defined in this Chapter, in the Village, and after inspection(s) as required in this Chapter, the Mayor finds that a dangerous building deemed to be a public nuisance does exist and that the public health, safety or welfare

is in immediate danger, the Mayor shall promptly notify the Health Department, Building Inspector, and the Fire Chief who shall have cause to inspect the premises on which it is alleged such public nuisance exists, if they have not already done so. Written reports of the inspection and the findings, with respect to the existence of a public nuisance, as defined in this Chapter, and any immediate danger to the public health, safety and welfare, shall be filed with the Mayor and Building Department.

(b) The Mayor shall determine the person, firm or corporation having an interest in the aforesaid property and shall immediately cause a written notice to be issued as defined in this Chapter, and shall further state that unless the owners or parties in interest thereof shall cause the abatement of the public nuisance within five days after service of the notice, the same will be abated by the Village, at the expense of the owners or parties in interest in the same manner as provided in this Chapter. Any act, inspection or finding required to be carried out by any such public official under this chapter may be carried out by any of his subordinates, assigned or directed by him to carry out such function.

(c) This provision shall be subject to this Chapter which provides for a hearing and an action or appeal to a court of competent jurisdiction from the decision of the Board of Appeal.

(Ord. 1412-12. Passed 12-6-12.)

1319.07 MANNER OF GIVING NOTICE.

(a) Notices provided by this Chapter shall be personally served upon the owner, tenant or person in charge of the premises. If unable to serve personally, such notice shall be posted in a conspicuous place in or about the premises affected by the notice and such notice shall be mailed to the person who did not receive personal service by certified U.S. Mail, return receipt requested, and regular U.S. Mail, evidenced by certificate of mailing, to his/her last known address. Such service shall be deemed received three days after posting or three days after mailing whichever is later. Service of such notice in the foregoing manner upon the owner's agent or upon the person in charge of the premises shall constitute service of notice upon the owner. If the certified mail service or the regular mail service is returned marked, "Unknown", or "Addressee Not at this Address, The Mayor shall cause such notice to be published once a week for three consecutive in a newspaper of general circulation in the Village. Service by publication shall be deemed completed 10 days after publication.

(b) Notices as required by this chapter to be served upon mortgagee, agent and all other persons having an interest in such building or structure, as shown by the records of Lorain County may be personally served; otherwise, served by certified and regular mail and by publication as herein provided.

(c) Notices for an appeals to the Residential Board of Appeals shall be sent by regular mail to the last known address of the appellant.

(d) All notices served by personal service, mail as herein provided or publication shall set out the right to appeal as herein provided.
(Ord. 1412-12. Passed 12-6-12.)

1319.08 ADMINISTRATIVE LIABILITY.

No officer, agent or employee of the Village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the Village as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Law Director until the final determination of the proceedings therein. (Ord. 1412-12. Passed 12-6-12.)

1319.09 SEPARABILITY.

It is the intention of Council that each separate provision of this chapter shall be deemed independent of all other provisions herein, and it is further the intention of Council that if any provision of this chapter be declared invalid, all other provisions hereof shall remain valid and enforceable. (Ord. 1412-12. Passed 12-6-12.)

1319.10 NONCOMPLIANCE; REMEDY OF VILLAGE.

(a) If a dangerous building or a public nuisance is not abated within the period set forth in the notice and as required by this Chapter or within the period set forth in the building permit issued by the Mayor, or within such additional time as the Residential Board of Appeals may grant, the Building Inspector shall be authorized, at any time thereafter, to enter upon such premises and abate the dangerous building and/or public nuisance by demolition and removal of the building or structure or by taking any such action as may be required. No owner, occupant or tenant, shall refuse entry for inspections ordered under this Chapter.

(b) In abating such dangerous building or public nuisance, the Mayor may call upon any department, division or bureau of the Village for whatever assistance may be necessary or may, by private contract, obtain the abatement thereof, and the cost of such private contract shall be paid for from funds specifically authorized by Council in order to abate such dangerous buildings and/or nuisances.

(c) In abating such unsafe building or public nuisance, the Mayor may go to whatever extent necessary to complete the abatement of the same, all costs of the abatement as provided by this Chapter, including, but not limited to inspection fees, repairs, expenses for barricading and demolition, shall be recovered from the Owner, and shall be a charge and lien against the premises that the dangerous building public nuisance is upon, by the following procedure:

(1) The Owner shall be billed directly by certified mail for the cost of the abatement; the bill for the cost of the abatement shall be paid within 30 days after receipt of the bill.

(2) If costs are not recovered, then the Village shall cause the cost of the abatement to be levied as an assessment and recovered in accordance with Ohio Revised Code 715.261. The cost of the abatement shall be certified by the Village Fiscal Officer to the Lorain County Auditor, and the cost shall be a lien upon the property and shall be collected as other taxes.

(Ord. 1412-12. Passed 12-6-12.)

1319.11 NOTIFICATION OF UTILITIES; TERMINATION OF UTILITIES.

Before a building can be demolished or removed, the owner shall notify all utilities having service connections within the building. A permit to demolish or remove a building shall not be issued until a release is obtained from the utilities stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

If the owner fails to comply with this provision of this Chapter; the Mayor shall notify the utilities to terminate services and direct that such utility service be removed, sealed, plugged in a safe manner. All expenses incurred by the Village for removal, sealing or plugging of utilities the Village shall be reimbursed as provided in Section [1319.10](#).

(Ord. 1412-12. Passed 12-6-12.)

1319.99 PENALTY.

(a) The owner of any dangerous building who shall fail to comply with any notice or order to repair, barricade, vacate or demolish such building given by any person authorized by this chapter to give such notice or order shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$150.00 for each offense; each day that such violation exists shall be a separate offense.

(b) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair or barricade such building, as the case may be, in accordance with any notice given as provided for in this chapter, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than **\$150.00** for each offense, and a further sum of **ten dollars (\$10.00)** for each and every day such failure to comply continues beyond the date fixed for compliance.

(c) Any person removing the notice provided for in Chapter [1319](#) shall be guilty of a misdemeanor and upon conviction, shall be fined not more than \$150.00 for each offense.

(Ord. 1412-12. Passed 12-6-12.)

Chp. 1321 Swimming Pools

1321.01 DEFINITIONS.

As used in this chapter, a swimming pool means any permanent or portable swimming pool three feet or more in depth. (Ord. 498. Passed 8-23-73.)

1321.02 PERMIT REQUIRED.

(a) See Section 1305.01 (a-g).

(b) There shall be filed in triplicate with the Zoning and Building Inspectors a detailed plot plan of the property showing existing structures, property lines and the location of such swimming pool detailed specifications of the swimming pool which contains full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein.

(b) Before any permit(s) is issued, such plans and specifications shall be approved by both Zoning and Building Inspectors. (Ord. 498. Passed 8-23-73.)

1321.03 FEES.

See Section [1305.02\(d\)\(5\)](#) for the current fee structure for swimming pool permits. (Ord. 498. Passed 8-23-73.)

1321.04 WAIVER OF FEE.

If an above-ground pool is removed in the fall and erected again in the spring on the same property, no additional permit fees need to be paid for any subsequent erection of such above-ground pool after the initial payment for the first installation. (Ord. 498. Passed 8-23-73.)

1321.05 INSPECTIONS.

The Building Inspector shall have the right, at any reasonable hour, to inspect any swimming pool for the purpose of determining that all provisions of this chapter are fulfilled and complied with. Before any swimming pool is used, a final inspection and approval must be had from the Building Inspector. (Ord. 498. Passed 8-23-73.)

1321.06 BARRIERS.

Barriers surrounding all swimming pools shall be not less than four feet in height to prevent unrestricted access to said swimming pools. (Ord. 795. Passed 8-24-92.)

1321.99 PENALTY.

Whoever violates this chapter shall be fined not more than one hundred fifty dollars (\$150.00) for each offense and each day on which a violation continues shall constitute a separate offense. (Ord. 1424-13. Passed 2-25-13.)

Chp. 1325 Moving or Demolition of Buildings

1325.01 APPLICATION FOR MOVING.

Whoever wishes to move a building upon, along or across any public street, alley or public ground shall file an application with the Mayor for permission to do so. The application shall designate the route to be taken, the size and type of building, masonry, frame or metal, the date such building is to be moved and the approximate

time enroute and any other information requested by the Director. (Ord. 1462-14. Passed 3-10-14.)

1325.02 BOND FOR MOVING.

The owner or mover, or both, shall be held responsible and shall execute and deliver to the Village a proper bond approved by the Mayor in an amount as will indemnify and save harmless the Village from all damages whatsoever, personal or property, resulting from such moving. The amount of the bond shall be fixed by the Mayor. (Ord. 1462-14. Passed 3-10-14.)

1325.03 PERMIT REQUIRED FOR MOVING.

Upon certification by the Mayor that the proper bond or deposit has been posted, as required in Section [1325.02](#) and that all other requirements stipulated therein have been complied with, the owner or mover shall then obtain a permit from the Building Department.

The permit for moving shall not constitute a building permit for the purpose of placing a building on the new site. (Ord. 1462-14. Passed 3-10-14.)

1325.04 APPLICATION FOR MOVING PERMIT.

Any person desiring to move a building shall first file with the Building Department a written application setting forth the following information:

- (a) The type and kind of building to be moved;
- (b) The approximate original cost of such building;
- (c) The extreme dimensions of the length, height and width of the building;
- (d) The location to be moved from, proposed new location, lot number and street number;
- (e) The approximate time such building will be upon the streets and the contemplated route that will be taken from the present to the new location. (Ord. 1462-14. Passed 3-10-14.)

1325.05 REFUSAL OF MOVING PERMIT.

(a) If, in the opinion of the Building Inspector, the moving of any building will cause serious injury to persons or property or serious injury to the streets or other public improvements, or the building to be moved has deteriorated more than fifty percent and thereby is unfit for habitation due to fire or other elements, or the moving of the building will violate any of the requirements of the Building Code or of the Planning and Zoning Code of the Village, the permit shall not be issued and the building shall not be moved over the streets of the Village.

(b) Any building being moved for which a permit was granted shall not be allowed to remain in or on the streets for more than forty-eight hours. If circumstances necessitate a building occupying the streets for more than forty-eight hours, an

additional fee of one dollar (\$1.00) per hour shall be required. (Ord. 1462-14. Passed 3-10-14.)

1325.06 APPLICATION FOR DEMOLITION; BOND.

Any person wishing to remove, raze or demolish any building or structure in the Village shall file a demolition application with the Mayor or his designated agent for permission to do so and shall include in the application a statement stating the place at which any combustible waste material shall be deposited. No permit shall be granted until notice of the application thereof has been given to the owners of lots adjoining the lot upon which such building or structure is to be removed, razed or demolished and the owners have been given an opportunity to be heard on such application. The applicant shall execute and deliver to the Village a proper bond in an amount as will indemnify and save harmless the Village from all damages whatsoever, personal or property, resulting from such removing, razing or demolishing. If the combustible waste materials are to be deposited within the Village limits, the person making such application shall first acquire permission from the Fire Chief for the disposition of the combustible waste materials and submit shut-off letters from all utilities. (Ord. 1462-14. Passed 3-10-14.)

1325.07 DEMOLITION PERMIT ISSUANCE.

Upon certification by the owner or his agent that the requirements of Section [1325.06](#) have been complied with and proper bond posted with the Mayor, a permit for demolition shall be issued by the Building Department and fees paid as required in Section 109.13 of the Administrative Code, except that no fee shall be required for demolition of a building not more than one story in height and not more than 400 square feet in area.
(Ord. 1462-14. Passed 3-10-14.)

1325.08 APPLICATION FOR DEMOLITION PERMIT

A completed application that includes the signature of the South Amherst Fire Chief, 4 (four) utility shut off letters and permit fee according to Section 1305.02 must be filed prior to approval with the building department.

1325.09 CONDITIONS REQUIRED DURING DEMOLITION.

In addition to the requirements set forth in Sections [1325.06](#) and [1325.12](#), the following conditions shall be maintained during the course of demolition:

(a) The area shall be kept dust-free using covered shutes, etc., in disposing and hauling away of debris;

(b) The area shall be cleaned of debris periodically to prevent accumulation causing hazardous and unhealthful conditions;

(c) Working conditions and equipment for laborers shall be in accordance with the laws of the State governing demolition of buildings;

- (d) Adequate protective measures shall be provided during demolition;
- (e) All storm and sanitary laterals shall be plugged prior to the demolition of the building. These connections must be plugged in the Village right of way unless approval is obtained from the Mayor's office. All plugged connections must be inspected and approved by the Mayor's office, prior to the demolition of the building.
- (f) Any abandonment of water service lines shall comply with applicable statutes, rules and regulations, including, the Rules, Regulation and Policies of South Amherst Board of Trustees of Public Affairs. For this subsection (f), the Code Enforcement Officer is authorized to impose a stop order when, in their opinion, there exists a hazard to the Village's water distribution system. Work shall not resume until the Code Enforcement Officer withdraws the stop work order.

1325.10 TIME TO COMPLETE DEMOLITION.

(a) Demolition work shall be completed within thirty days from the date of the commencement except that in the case of unusual conditions prohibiting completion, the Code Enforcement Officer may allow an additional thirty days for the work to be completed.

(b) Cleaning up of premises shall be accomplished within the time allotted for the work to be done. (Ord. 1462-14. Passed 3-10-14.)

1325.11 AUTHORITY OF CODE ENFORCEMENT OFFICER.

The decision of the Code Enforcement Officer shall be final in cases of emergency which, in their opinion, involve hazards to life, limb and to the general welfare of the residents of the Village. (Ord. 1462-14. Passed 3-10-14.)

1325.12 BARRICADES; WARNING LIGHTS.

It shall be the duty of the owner or the moving or wrecking contractor or building contractor to erect sufficient barricades and warning lights to effectively warn the public of the existing danger. Walks with guardrails, if necessary, shall be provided for the safety and use of the public. No advertising of any description, billposting or signs shall be allowed on any barricade other than the warning or directional signs. This section shall apply to building construction as well as to wrecking and moving of buildings.

(Ord. 1462-14. Passed 3-10-14.)

1325.13 REMOVAL OF FIRE DAMAGED STRUCTURES; REPAIR SECURING FUND.

The Village is hereby authorized to utilize the procedure described in Ohio R.C. 3929.86(C) and (D), whereby no insurance company doing business in the State shall pay a claim of a named insured for fire damage to a structure located within the Village where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000), unless there is compliance with the following procedures:

(a) When the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty percent of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies shall, in accordance with Ohio R.C. 715.26(F), transfer from the insurance proceeds to the Fire Chief, in the aggregate, two thousand dollars (\$2,000) for each fifteen thousand dollars (\$15,000), and each fraction of that amount, of a claim. Alternatively if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insurance company or companies shall transfer from the insurance proceeds the amount specified in the estimate. Such transfer of proceeds shall be on a pro-rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the Village shall be disbursed in accordance with the policy terms.

The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided the Village has not begun to remove, repair or secure the building or other structure.

(b) Upon receipt of the proceeds by the Village, as authorized by this section, the Chief shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the Village pursuant to Ohio R.C. 715.261.

When transferring the funds as required in this section, an insurance company shall provide the Village with the name and address of the named insured or insureds, whereupon the Village shall contact the named insured or insureds, certify that the proceeds have been received by the Village and notify them that the following procedures will be followed. The fund shall be returned to the named insured or insureds when repairs, removal or securing of the building or other structure have been completed and the required proof received by the designated officer, if the Village has not incurred any costs for such repairs, removal or securing. If the Village has incurred any costs for repairs, removal or securing of the building or other structure, such costs shall be paid from the fund and, if excess funds remain, the Village shall transfer the remaining funds to the named insured or insureds.

Nothing in this section shall be construed to limit the ability of the Village to recover any deficiency under Ohio R.C. 715.261. Nothing in this section shall be construed to prohibit the Village and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

(c) The Fire Chief and the Code Enforcement Officer is hereby designated as officers authorized to carry out the duties of this section. (Ord. 1462-14. Passed 3-10-14.)

1325.99 PENALTY.

(EDITOR'S NOTE: See Section [1301.99](#) for general Code penalty if no specific penalty is provided.)

Chp. 1329 House Trailers

. 1329.01 DEFINITIONS.

(a) "House trailer" means any self-propelled and nonself-propelled vehicle so designed, constructed, reconstructed or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to indicated utilities, whether resting on wheels, jacks or other temporary foundation and used or so constructed as to permit its being used as a conveyance upon the public streets or highways.

(b) "Travel trailer" means a vehicular portable structure built on a chassis and not exceeding a gross weight of four thousand five hundred pounds when factory equipped for the road or an overall length of thirty feet and designed to be used as a temporary dwelling for travel, recreational and vacation uses. (Ord. 468. Passed 9-27-71.)

1329.02 PARKING RESTRICTIONS.

(a) It shall be unlawful to park a house trailer on any lot or land within the Village.

(b) In the event that a person's residence shall be more than fifty percent (50%), as determined by the Zoning Inspector, Fire Chief and Mayor or majority of them, destroyed by fire, flood, windstorm, tornado, riot, act of God or other causes, but excluding intentional act of owner, and provided said destroyed residence was the principal place of residence of such person immediately prior to its destruction, then such person shall be permitted to park one house trailer on his residence real estate and live therein provided he first obtains a permit to do so from the Mayor of the Village, which permit shall be valid for six months and renewable through the Mayor for an additional six months. The Mayor shall not renew said permit if the repairs to the destroyed residence have been completed within the first six month period. If the repairs have been completed and said permit has not been renewed, then at the end of the first six month period, or if said repairs have not been completed and said permit has been renewed, then at the end of the second six month period, such person shall disconnect said house trailer from all utilities, shall cease to live therein, and shall remove said house trailer from his residence real estate and from within the Village.

(c) It shall be lawful to park a travel trailer on any lot or land within the Village, but it shall be unlawful to use said travel trailer for living quarters or human habitation

for any period of time exceeding thirty days within a one year period. (Ord. 468. Passed 9-27-71.)

1329.03 TOURIST COURTS PROHIBITED.

It shall be unlawful to establish tourist courts, tourist camps, and tourist cabins on any lot or land within the limits of said Village, except guest houses, not used for hire or rented separately from the dwelling and premises as a whole. (Ord. 468. Passed 9-27-71.)

1329.99 PENALTY.

Any person violating the provisions of this chapter shall be deemed guilty of a minor misdemeanor, and each day that the provisions hereof shall be violated shall be deemed a separate offense.

1331.01 GRADING AND DRAINAGE PERMIT REQUIRED.

(a) A grading and drainage permit shall be required if any of the following apply:

(1) When any change in grade of installation of drainage improvements are made on any parcel of property;

(2) When any drainage pattern is changed or modified, altering or modifying discharge points and/or altering or shaping slopes to alter, change or modify flow of water or sheet flow discharge of water onto adjoining properties or onto public or private rights of way or easements or the property on which any of such alterations, changing or modification is being done.

(b) Such grading permit shall remain in effect for 120 days unless sooner revoked. Grading permits shall not be required if the grading is provided for pursuant to a subdivider's agreement and bond or is covered by site work included in a building permit application, which site plan grading has been approved by the Mayor, or his/her designee.

(Ord. 1262. Passed 6-11-07.)

1331.02 PERMIT APPLICATION; FEE; INSPECTION; REVOCATION.

(a) Any person desiring to make a grade change shall present to the Mayor, or the designee of the Mayor, a written application and sketch drawn to an acceptable scale with a north arrow, which shall include the following information:

- (1) The fee owner of the property;
- (2) All property lines and adjoining owners;
- (3) All easements of record;
- (4) All topographic features, buildings, landscaping, trees and drives, underground utilities and pipes, streams and wetlands;
- (5) Existing and proposed drainage, including storm drains;

- (6) A grading plan and survey by a registered land surveyor or P.E., if required by the Mayor, or the designee of the Mayor;
 - (7) A statement of the intended use of the property; and
 - (8) Type of soil.
- (b) The following materials may be brought upon the property:
- (1) Natural soils, minerals, gravel and sand.
- (c) Before approval of a permit by the Mayor, or the designee of the Mayor, the person seeking the permit shall demonstrate all of the following:
- (1) The existing zoning is compatible with the intended use.
 - (2) The site will drain properly without ponding or puddling and will not retain water, unless designed as a pond or storm water retention basin.
 - (3) There is a minimum ditch grade of 0.10 feet in 100 feet.
 - (4) There is a minimum swale grade of 0.50 feet in 100 feet.
 - (5) There is a minimum surface slope of 1.0 feet per 100 feet, except for future building sites, which may be graded flat.
 - (6) Pipes used for storm water flow shall be sized and constructed in accordance with accepted engineering practices as approved by the Village Engineer.
 - (7) Sediment and erosion control shall be installed prior to the work and shall be removed upon stabilization of the upstream watershed.
 - (8) Top soil and seeding shall be placed as soon as practical.
 - (9) After construction, the sketch or plan shall be updated to reflect as-built conditions and shall be re-submitted prior to acceptance of the work.
 - (10) The permit shall be issued by the Mayor, or the designee of the Mayor.
- (d) The Mayor, or his designated representative, shall be permitted to make on-site inspections of the property at any time during the life of the permit. Failure to permit such an inspection shall constitute cause for automatic revocation of the permit.
- (e) The fee for a grading permit shall be two hundred fifty dollars (\$250.00) per acre, with a one hundred dollars (\$100.00) minimum fee.
- (f) The grading permit shall be revoked immediately if the owner of the property fails to comply with any conditions or provisions of the grading permit, or for any violation of the Building Code or the Zoning Code of the Village, or of Ohio EPA regulations for land disturbing activities.
- (g) If a permit is ordered to be revoked, all work pursuant to that permit shall cease. The revocation may be appealed to Village Council if a notice of appeal of the revocation is filed with the Village Clerk within fifteen days of notice of revocation. Such hearing shall be held at the next regular scheduled Council meeting.
(Ord. 1262. Passed 6-11-07.)

1331.03 WATER ACCUMULATIONS PROHIBITED; CORRECTION REQUIRED.

No person shall permit any parcel of real property to accumulate or discharge water so as to be detrimental to the public health, safety or welfare of the people and property of the Village, and such person, upon order of the Mayor, or the designee of the Mayor, shall fill or provide drainage for any such parcel so as to eliminate such condition consistent with the terms of this chapter.

(Ord. 1262. Passed 6-11-07.)

1331.04 DESIGNEE OF MAYOR.

The designee of the Mayor for purposes of enforcement of this Chapter [1331](#) of the Codified Ordinances of the Village of South Amherst shall be a licensed professional engineer (P.E.).

(Ord. 1262. Passed 6-11-07.)

1331.99 PENALTY.

Whoever violates any of the provisions of this Chapter shall be fined not more than one hundred fifty dollars (\$150.00). Each day a violation exists shall constitute a separate offense.

(Ord. 1262. Passed 6-11-07.)

1335.01 PURPOSE.

(a) The intent of this chapter is to comply with the standards set forth in the Ohio EPA General Storm Water NPDES Permit for Construction Activities #OHC000003 by establishing standards to reduce pollutants in storm water runoff to the Municipal Separate Storm Sewer System (MS4) of the Village of South Amherst from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of pollutants in storm water discharges from construction activity disturbing less than one acre shall be required if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. This regulation further requires:

(Ord. 1406-12. Passed 7-23-12.)

- (1) Erosion and Sediment Controls and sanctions to ensure compliance.
- (2) Construction site operators to implement appropriate erosion and sediment control Best Management Practices (BMPs).
- (3) Construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site.
- (4) Procedures for site plan review which incorporate consideration of potential water quality impacts.
- (5) Procedures for receipt and consideration of information submitted by the public.
- (6) Procedures for site inspection and enforcement of control measures.

(7) That those involved in land-disturbing activities minimize soil erosion, sedimentation and the volume and rate of storm water runoff from their sites.

(8) Assure that storm water management is incorporated into site planning and design at the earliest possible stage and that all storm water management practices are properly engineered, constructed, and maintained.

(9) Prevent unnecessary removal of vegetation and loss of soil, and to promptly re-vegetate and stabilize the site following land-disturbing activities.

(10) Encourage the construction of storm water management practices that serve purposes such as flood control, erosion control, water quality protection, recreation, and natural habitat preservation.

(11) To achieve a level of soil erosion and storm water management that will minimize and abate degradation of land and water resources and damage to public and private property resulting from land –disturbing activities involving one acre or more.

(b) This chapter is not intended to relieve persons, land owners, construction site operators, applicants or developers from obtaining appropriate Ohio EPA NPDES Storm Water Permits, Ohio EPA 401 Water Quality Permits, U.S. Army Corps of Engineers 404 Wetlands Permits and the like. Copies of these permits shall be delivered to the Village Engineer prior to the commencement of construction or land-disturbing activities.

(Ord. 1273. Passed 11-26-07.)

1335.02 SCOPE.

(a) Site Development Plan. Any person or persons proposing construction activities that will disturb one acre or more of land for residential, institutional, commercial, office and industrial purposes, public infrastructure uses (including transportation and utilities), including all land development proposals for non-agricultural uses within the Village of South Amherst shall design, develop, and submit a Site Development Plan as described in Section [1335.07](#). Said plan will be evaluated by the Village Engineer to determine the potential water quality impacts, and shall submit a Storm Water Management (SWM) Plan prepared in accordance with Section [1335.08](#).

(Ord. 1273. Passed 11-26-07.)

(b) Any owners of land, person or persons proposing re-development that will disturb one acre or more of land for residential, institutional, commercial, office, industrial purposes, including all land re-development proposals for non-agricultural uses within the Village of South Amherst shall design, develop, and submit a Site Development Plan prepared in accordance with Section [1335.07](#), and shall submit a Storm Water Management (SWM) Plan prepared in accordance with Section [1335.08](#). The Village Engineer will evaluate said plans to determine potential water quality impacts.

(Ord. 1406-12. Passed 7-23-12.)

(c) No land-disturbing activity subject to regulation under this Ordinance shall be undertaken for any land disturbance without an approved Site Development Plan as required under Section [1335.07](#) and a Storm Water Management (SWM) Plan as required under Section [1335.08](#).

(d) Final approval of a proposed Site Development Plan, development, re-development, street or utility project shall not be given unless:

(1) A determination is made by the Village Engineer based on submission of a Site Development Plan as detailed in Section [1335.07](#) that the proposed land-disturbing activity will minimize accelerated runoff, erosion, and/or sediment.

(2) A SWM plan has been approved by the Village Engineer that determines that the proposed land-disturbing activity will not cause accelerated runoff, erosion, and/or sediment.

(e) Any person or persons seeking approval to construct a structure shall be exempted from the requirement to prepare a Site Development Plan and a SWM plan provided they meet all of the following:

(1) Construction takes place on one parcel.

(2) The land-disturbing activity does not affect more than one acre of the development site at a time.

(3) The activity is not located within a floodplain or floodway as identified by FEMA.

(4) The parcel is part of an overall development plan which has received approval of a SWM plan and the developer has certified that he will comply with said Plan.

(f) This Ordinance does not apply to:

(1) Land-disturbing activities related to producing agricultural crops or silviculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (1501: 15-3-01 to 1501: 15-309 of the Ohio Administrative Code)

(2) Existing strip mining operations regulated by Chapter 1513 of the Ohio Revised Code.

(3) Existing surface mining operations regulated by Chapter 1514 of the Ohio Revised Code.

(Ord. 1273. Passed 11-26-07.)

1335.03 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

(a) Where this chapter imposes a greater restriction than is imposed or required by other provisions of law, ordinance, contract or deed, the provisions of this ordinance shall prevail.

(b) If a court of competent jurisdiction declares any clause, section, or provision of these regulations invalid or unconstitutional, the validity of the remainder shall not be affected thereby.

(c) These regulations shall not be construed as authorizing any person to maintain a private or public nuisance on his property. Compliance with the provisions of this regulation shall not be a defense in any action to abate such nuisance.

(d) Failure of the Village of South Amherst to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village of South Amherst, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. 1273. Passed 11-26-07.)

1335.04 EFFECTIVE DATE.

This chapter and its regulations shall become effective upon its passage.

(Ord. 1273. Passed 11-26-07.)

1335.05 DEFINITIONS.

All words used in this chapter shall have their customary meanings, and as defined in Rainwater and Land Development, except those specifically defined in this Section.

(a) Approval Authority: an official, organization, or group designated to review and approve or to disapprove Storm Water Pollution Prevention Plans (SWP3s).

(b) Authorized Agent: an official, organization, or group designated to provide technical guidance in the development and implementation of Site Development Plan and Storm Water Management Plan and to review and approve/disapprove such plans as authorized.

(c) Best Management Practices: (BMP's) schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the United States. BMP's also include treatment requirements, operating procedures, and practices to control plant and/or construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(d) Buffer: A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state to protect the water resources or wetlands from runoff pollution. Construction activities in this area are restricted or prohibited.

(e) Critical Storm: A storm which is calculated by means of the percentage increase in volume runoff by a proposed land-disturbing activity or development area. The critical storm is used to calculate the maximum allowable storm water discharge rate from a site.

(f) Cut: an excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade.

(g) Detention basin: An impoundment area created by constructing an embankment, excavating a pit, or both, for the purpose of temporarily storing storm water.

(h) Detention facility: A detention basin or alternate structure designed to temporarily store storm water runoff and gradually release the stored water at a controlled rate.

(i) Development: A group of dwellings, industrial or commercial buildings, usually constructed as part of a single project.

(j) Development Area: any area upon which land-disturbing activities are planned or underway for a development.

(k) Land-Disturbing Activity: any grading, excavation, filling, or other alteration of the earth's surface where natural or man-made ground cover is destroyed.

(l) Federal Emergency Management Agency (FEMA): the agency with the responsibility for administering the National Flood Insurance Program.

(m) Fill: any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

(n) Grubbing and clearing: machine clearing of vegetation. Usually performed as the first step in the development of land.

(o) Non-structural controls: storm water runoff control and treatment techniques that use natural measures to control runoff and/or reduce pollution levels. Examples include minimizing impervious area, buffer strips along streams, and preserving natural vegetation.

(p) NPDES: National Pollutant Discharge Elimination System.

(q) Parcel: any legally described piece of land created by a partition, subdivision, deed or other instrument recorded with the appropriate entity or agency.

(r) Peak Rate of Runoff – the maximum rate of runoff for any storm of a given frequency and duration.

(s) Pre-Development Conditions: site conditions as they existed as of June 30, 2007.

(t) Riparian: Relating to the banks of a natural course of water.

(u) Sediment Basin: a barrier, dam or other facility built to reduce the velocity of water in order to settle and retain sediment.

(v) Site Development Plan: the written document or set of plans which meet the requirements of this Ordinance that provide information regarding the location of the area proposed for development, the site in relation to its general surroundings, and the existing characteristics of the site, including limits of land-disturbing activities.

(w) Silviculture: A branch of forestry dealing with the development and care of forests.

(x) Stop-Work order: An order issued which requires that all work on the site must cease except work associated with bringing the site into compliance with the approved SWM Plan or Site Development Plan.

(y) Storm Water Management (SWM) Plan: The written document which meets the requirements of this Ordinance, sets forth the plans and practices to be used to minimize storm water runoff from a site, and to safely convey or temporarily store and release post-development storm water runoff at an allowable rate which minimizes flooding and erosion.

(z) Storm Water Pollution Prevention Plan (SWP3): The document required by the Ohio EPA for compliance with its NPDES Construction Activity General Permit #OHC000002. The requirements of the SWP3 are required as part of the local jurisdiction's Storm Water Management Plan as described above and in this regulation.

(aa) Storm Frequency: the average period of time in years within which a storm of a given duration and intensity can be expected to be equaled or exceeded.

(bb) Structural controls: any man-made facility, structure, or device that is constructed to provide temporary storage and/or treatment of storm water runoff. Examples include retention and detention basins, rock check dams, swales, and constructed wetlands.

(cc) Swale: a low-lying length of vegetated land with a "V" – shaped cross-section which collects and carries surface water.

(dd) Temporary vegetate

1335.06 PERFORMANCE STANDARDS.

(a) Erosion and Sediment Contained on Site. Erosion and sedimentation caused by accelerated wind or storm water runoff over the site because of land-disturbing activities shall be stabilized and confined within the boundaries of the development site.

(b) Structural and Nonstructural Best Management Practices. Nonstructural storm water management practices shall be encouraged. Such practices may include, but not be limited to, preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction, and designation of tree preservation areas.

(c) Stream and Wetland Riparian Buffers. The site owner and/or applicant shall maintain a riparian buffer along the sides of and surrounding water resources, except for crossings and other riparian area impacts approved by the Village Engineer. The buffer area shall encompass all identified FEMA floodways and floodplains unless otherwise approved by the Village Engineer. Buffer areas shall be maintained as identified in Section [1335.02\(b\)](#) for minor and major ditch setbacks.

(d) Channel Protection. Specific channel protection criteria shall be provided to protect stream channels from degradation, as prescribed in the latest edition of Rainwater and Land Development.

(e) Temporary Stabilization of Disturbed Areas and Soil Stockpiles.

(1) A temporary vegetative cover shall be established upon disturbed areas as specified in Table 1 below.

Table 1: Temporary Stabilization

Area Requiring Temporary Stabilization	Time Frame To Apply Erosion Controls
Any disturbed areas within 50 feet of a stream but not at final grade.	Within two (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.	Within 7 days of the most recent disturbance within the area.
Disturbed areas that will be idle over winter.	Prior to November 1.

(2) Appropriate practices include: vegetation establishment, mulching, and the early application of gravel base on areas to be paved. Soil stabilization measures should be appropriate for the time of year, site conditions and estimated time of use.

(3) Topsoil shall be maintained in a useable condition for sustaining vegetation if reused on the site.

(f) Permanent Stabilization.

(1) A permanent vegetative cover shall be established on disturbed areas as specified in Table 2 below.

Table 2: Permanent Stabilization

Area Requiring Permanent Stabilization	Time Frame To Apply Erosion Controls
Any area that will lie dormant for one (1) year or more.	Within two (2) days of the most recent disturbance.
Any areas within 50 feet of any stream or ditch and at final grade.	Within two (2) days of reaching final grade.
Any area at final grade.	Within seven (7) days of reaching final grade within that area.

(2) Permanent vegetation shall not be established until a ground cover is achieved which is mature enough to control soil erosion and will survive severe weather conditions.

(g) Cut and fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion and slippage. Consideration shall be given to the length and steepness of the slope, soil type, up-slope drainage area, groundwater conditions and slope stabilization.

(h) Protection of Adjacent Properties and Public Right-of-Ways. Properties, Public Right-of-Ways, and thoroughfares adjacent to the site of a land-disturbing activity shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer at the perimeter of the site whenever possible, by installing perimeter controls such as sediment barriers, filters, dikes, sediment basins, or by combination of such measures as applicable.

(i) Sediment Control Structures.

(1) Erosion and sediment control practices employed to satisfy these performance standards shall meet the standards and specifications in the latest edition of Rainwater and Land Development. The design engineer shall design and implement control practices which comply with these minimum requirements.

(2) Sediment control structures shall be used to control erosion and trap sediment on a site which remains disturbed for more than 14 days. Such structures may include, but are not limited to, silt fences, storm drain inlet protection, sediment basins and diversions or channels which direct runoff to a sediment basin. All sediment control practices must be capable of ponding runoff in order to be considered functional.

(3) Sediment control structures shall be set up within seven (7) days from the start of grubbing and shall be made functional before other land-disturbing activities take place. Earthen structures such as dams, dikes and diversions shall be seeded and mulched as soon as the installation is complete. Sediment control structures shall be functional throughout the course of land-disturbing activity and until the site is stabilized with permanent vegetation.

(4) Sheet flow runoff from disturbed areas of the site shall be intercepted by silt fence or diversions. 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 Schedule [1335.06](#) (i) (1).

Schedule 1335.06 (i) (1) Maximum Drainage Area For Silt Fence

Maximum drainage area (in acres) per 100 linear feet of silt fence	Range of slope for a particular drainage area (in percent)
0.5	<2%
0.25	>2% but <20%
0.125	>20% but <50%

(5) Concentrated storm water runoff from denuded areas flowing at rates that exceed the design capacity of sediment barriers shall pass through a sediment-settling facility. The facility shall be designed according to Rainwater and Land Development, latest edition.

(6) 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 (10) acres.

(7) A centralized sedimentation basin shall be utilized for common drainage areas equal to or greater than ten (10) acres.

(8) The Village Engineer may require sediment basins or traps for smaller disturbed areas where deemed necessary.

(9) If, based upon hydrological and hydraulic data, the Village Engineer determines that site conditions do not warrant its construction, the storm water detention requirement may be modified.

(j) Stabilization of Waterways and Outlets. All on-site storm water conveyance channels shall be designed and constructed to withstand the expected velocity of flow. Methods adequate to minimize erosion shall also be provided at the outlets of all pipes and paved channels.

(k) Storm Sewer Inlet Protection.

(1) Unless otherwise provided for on the approved Stormwater Management Plan, storm sewer inlets shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment, unless otherwise approved by the Village Engineer.

(2) There shall be no sediment-laden discharges to drainage channels resulting from dewatering activities. If any sediment-laden ground water is encountered during trenching activities, then the sediment-laden ground water must pass through an effective sediment control device prior to being discharged from the construction site.

(3) Areas designated for the storage or disposal of solid, sanitary, and toxic wastes, dumpsters, concrete truck washout pits, and fuel tanks shall be shown on Storm Water Management (SWM) plan.

(l) Working In or Crossing Watercourses.

(1) Construction activities shall be kept out of watercourses to the maximum extent possible. Where in-channel work is necessary, precautions shall be taken to stabilize the work area during construction to minimize erosion. The channel (including bed and banks) shall be restored, and all disturbed areas stabilized immediately after in-channel work is completed.

(2) Where a watercourse will be crossed regularly during construction, a non-erodible temporary stream crossing shall be provided.

(m) Construction Access Routes.

(1) Measures shall be taken to prevent soil transport onto surfaces where runoff is not checked by sediment controls, such as public roads. Stone construction entrances(s) shall be installed as soon as possible. The entrances shall be planned and installed according to the requirements in the most recent edition of the Ohio Rainwater and Land Development manual or as directed by the Village Engineer.

(2) Where soil is transported onto public road surfaces, the roads shall be cleaned thoroughly by either sweeping or scraping at the end of each work day or more frequently if so ordered by the Village Engineer, in order to ensure public safety. Street washing shall be allowed only after shoveling or sweeping has removed most of the soil.

(3) Erodible material ramps in streets (which enable equipment to cross curbs) shall be properly removed immediately after use.

(n) Maintenance and Removal of Temporary Measures.

(1) All temporary erosion and sediment control practices shall be maintained and repaired to assure continued performance.

(2) All temporary erosion and sediment control measures shall be removed within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation, and the final grade shall be re-established.

(o) Control of Construction Site Debris and Wastes. All owners, applicants, contractors and developers shall control wastes such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other debris on the site. Site management practices shall be implemented to prevent toxic materials, hazardous materials, or other debris from entering drainage channels. These practices shall include, but are not limited to, the following:

(1) A dumpster shall be furnished at the site and property maintained for the proper disposal of construction site discarded building materials, litter, garbage, plaster, drywall, grout, gypsum and etc. If applicable, a second covered dumpster shall be provided for the proper disposal of toxic and hazardous wastes.

(2) No washing of any concrete material into a street, catch basin, or other public facility or natural resource shall be permitted. A designated area for concrete washouts shall be made available and used for all concrete washouts.

(3) All fuel 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 the largest container in the storage area. All additional requirements of the local fire authority shall be followed. If the fuel tanks have a self-contained dike, the plug shall be kept in the dike at all times.

(4) Any chemicals, toxic or hazardous wastes and/or contaminated soils must be disposed of according to all applicable environmental laws and statutes and in accordance with local health districts and Ohio EPA recommendations.

(5) Paint, paint washing liquids, excess paints and other paint wastes are considered solid wastes, and shall be disposed of in accordance with applicable Ohio EPA regulations. Appropriate handling of these wastes shall occur at the site so as to prevent the discharge of these wastes into surface or ground waters.

A. Water-based paint washing liquids and small quantities of excess water-based paints may be disposed of by flushing down a connected sanitary sewer, but may not be disposed of in an on-lot disposal system.

B. All other paints, paint thinners, and paint cleaning materials shall be disposed of in the site's hazardous waste disposal dumpster.

(6) Temporary sanitary facilities (such as portable toilets) shall be furnished and maintained at the site in accordance with all local health district regulations.

(p) Use, Safety and Maintenance of Storm Water Practices.

(1) Storm water management practices shall be designed for the ultimate use of the site and shall function safely and with minimal maintenance. Development areas shall provide a storm water management system for the ultimate development of all the land.

(2) If an inspection by a representative of the Village of South Amherst reveals that a control practice is in need of repair or maintenance, upon proper notice, the permittee shall repair same according to the Timeline Correction Table as identified in Section [1335.09](#) (g).

(q) Inspection of Storm Water Controls. (See Subsection 1335.09 (h) for specific requirements).

(1) All on-site and off site (if applicable) control practices shall be periodically inspected by both the construction site operator's representative and a representative of the Village of South Amherst to ensure proper function and to identify failures. (Ord. 1273. Passed 11-26-07.)

on: short-term vegetated cover such as oats, rye, or wheat, used to stabilize the soil surface until final grading and installation of permanent vegetation.

(ee) Watercourse: any natural or artificial surface waterway (including, but not limited to, streams, rivers, creeks, ditches, channels, canals, waterways, gullies, ravines, or washes) in which waters flow in a definite direction or course either continuously or intermittently, and including any area adjacent thereto which is subject to inundation by overflow of flood water.

(Ord. 1273. Passed 11-26-07.)

1335.07 SITE DEVELOPMENT PLAN.

(a) Any person seeking approval of residential, industrial, commercial, office and industrial purposes, including land development proposals for non-agricultural uses and public infrastructure uses, shall develop and submit to the Village Engineer for review and approval a Site Development Plan prepared and sealed by a Professional Engineer licensed to practice in the State of Ohio as detailed below.

(b) Site Development Plan Requirements

(1) Site Plan Map that indicates the location of existing features and proposed improvements on the site including:

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

B. Area of land not to be disturbed shall be indicated.

C. Surface water locations, including known springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of stream channels and the first subsequent named receiving water(s).

D. The general directions of surface water flow and the 100-year floodway and floodplain where applicable.

E. All existing and proposed improvements, including but not limited to: buildings, retaining walls, sidewalks, streets, sewers, parking lots, driveways, utilities and storm water basins, drainage impoundments, channels and outlets, etc.

(2) A description of the nature and type of the land-disturbing/construction activity (e.g. residential, commercial, highway, etc.).

(3) A photocopy of the appropriate soil survey sheet from the USDA Soil Survey of Lorain County with location of site identified thereon.

(4) An estimate of the percent imperviousness resulting from the proposed land-disturbing activity.

(c) Site Development Plan Submission, Review and Action.

(1) Submission by an applicant of a Site Development Plan to the Village initiates the review process.

(2) The Village Engineer shall review the Site Development Plan.

(3) The Village Engineer shall also consider any information submitted to the Village by the public.

(4) Review of the Site Development Plan shall be completed within thirty (30) days from submittal.

(5) The Village Engineer shall either:

A. Approve the Site Development Plan; or

B. Conditionally approve the Site Development Plan pending receipt of additional information and/or the incorporation of recommended revisions.

C. Reject the plan with reason(s) stated. A revised plan may be re-submitted as described in A.).

(Ord. 1273. Passed 11-26-07.)

1335.08 STORM WATER MANAGEMENT (SWM) PLAN REQUIRMENTS.

(a) Storm Water Management (SWM) plans shall provide critical information on all soil erosion and runoff control activities and Best Management Practices (BMPs) to be used and incorporated at the site both during and after site development. This information includes, but is not limited to, site grading, storm water management facilities and practices, erosion and runoff control information, maintenance plans, and other measures that focus on managing the effects of land-disturbing activities

that occur as a result of site development. Said plan shall be prepared and sealed by a Licensed Professional Engineer licensed to practice in the State of Ohio.

(b) Each SWM plan shall provide site design that meets the Performance Standards presented in Section [1335.06](#) and shall provide practical treatment for both water quality and quantity of storm water from the site.

(c) In general, SWM plans shall address:

(1) Erosion and Sediment Control. Provide measures to insure that land-disturbing activities at the site during and after development shall be managed in a manner that will minimize increased erosion and sedimentation from the site resulting in impacts to water quality and that meet the Performance Standards specified in Section [1335.06](#).

(2) Runoff Control. Providing measures to insure that the rate of surface water runoff from the development site during and after construction will approximate the pre-development conditions and that meet the Performance Standards specified in Section [1335.06](#).

(d) A SWM Plan shall specifically include all the following:

(1) The minimum elements required in the Site Development Plan described in Subsection [1335.07](#) (b).

(2) The contents of the Storm Water Pollution Prevention Plan (SWP3) required by the Ohio EPA's NPDES Construction Activity Permit #OHC000002 and incorporated here by reference. The contents of the Storm Water Management (SWM) plan shall include, but are not limited to:

A. A determination of runoff coefficients for both the pre-construction and post-construction site conditions.

B. For all disturbances of five (5) or more acres of land (or less than five (5) acres, but part of a larger common plan of development or sale which will "in total" disturb five (5) or more acres of land), a description of post construction BMP(s) chosen and designed to detain and treat a water quality volume (WQv) equivalent to the volume of runoff from a 0.75-inch rainfall in accordance with Ohio EPA Storm Water Permit Methodology.

C. For all disturbances of more than one (1) acre but less than five (5) acres of land and is not a part of a larger common plan of development or sale which will disturb five (5) or more acres of land, a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed.

D. An implementation schedule which describes the sequence of major construction operations (e.g. clearing, grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion, sediment and storm water management practices or facilities to be employed during each operation of the sequence.

E. A detailed drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.

F. A detailed description of the storm water controls to be incorporated and how these meet or exceed the appropriate Performance Standards presented in Section [1335.06](#).

G. A detailed maintenance plan that describes procedures (e.g. inspections) needed to ensure the continued performance of control practices and the responsible party (i.e. Homeowner Association). Such plans must ensure that pollutants collected within structural post-construction practices, be disposed of in accordance with local, state, and federal regulations.

H. A Site Map including:

1. Limits of land-disturbing activity of the site including associated offsite borrow or spoil areas.

2. Soil types on the site, including locations of unstable or highly erodible soils.

3. Existing and proposed topographic contours. A delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed, in acres.

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

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

6. Sediment and storm water management basins with their sediment settling volume and contributing drainage area indicated.

7. Permanent storm water management practices to be used to control pollutants in storm water after construction operations have been completed.

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

9. The location of designated construction entrances where vehicles will access the site.

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

11. A copy of the Ohio EPA NPDES permit shall be included and referenced on the SWM plan.

(e) Post-Development Runoff.

(1) Each SWM plan shall include an evaluation of pre-development conditions together with construction (disturbed), and post-development impacts that quantifies the volume and rate of runoff from the site by subdrainage areas. This evaluation shall be prepared according to methods prescribed in the latest edition of Rainwater and Land Development or other appropriate sources. The evaluation shall:

A. Show delineation and sequence of subdrainage units which comprise the area proposed for development.

B. Indicate the hydraulic length of slope per individual subdrainage unit and the length of the natural or manmade watercourse which accommodates the surface runoff from each subdrainage unit.

C. Indicate within the legend the average percent slope, erosion factor (K) and runoff curve number (CN) per individual subdrainage unit for a 24-hour storm of a one-year frequency.

D. Include a hydrograph for a 24-hour storm of the critical frequency to be controlled and all calculations made pertinent to evaluation the effects of the proposed development on the pre-development runoff conditions of the site.

(2) Calculations for the design of storm water management facilities shall demonstrate the following for each subdrainage unit:

A. The peak rate of runoff from the Critical Storm and all more frequent storms occurring on the site does not exceed the peak rate of runoff from a one (1) year frequency, twenty four (24) hour duration storm occurring on the same site under pre-development conditions.

B. Discharge from storms of less frequent occurrence than the Critical Storm, up to the 100 year storm shall have peak runoff rates no greater than 0.25 cubic feet per second (CFS) per contributing developed drainage acre unless otherwise approved by the Village Engineer.

(Ord. 1273. Passed 11-26-07.)

C. The Village Engineer may determine that the 25-year storm is the critical storm that satisfies the requirements of this Ordinance, notwithstanding other Ohio EPA regulations.

(3) Storm water detention Volume shall be no less than one-tenth (0.1) acre-foot per contributing low-density residential development drainage acre, and shall be no less than two-tenths (0.2) acre-foot per contributing high-density residential or non-residential developed drainage acre, unless otherwise approved by the Village Engineer. The Village Engineer may determine that this volume (with the restricted peak runoff rate of one-quarter cubic foot per second (0.25 CFS) per acre at full volume) satisfies the requirements of this chapter, notwithstanding other Ohio EPA regulations.

(Ord. 1406-12. Passed 7-23-12.)

(4) Calculation of a critical storm for each subdrainage unit of the site shall be determined as follows:

A. Calculate by appropriate hydrologic methods, such as the NRCS Technical Release 55

1 , (TR55), the total volume of runoff from a one-year frequency, 24-hour storm occurring on the development area before, during and after development.

B. From the volumes determined in A. above, determine the percentage increase in volume of runoff due to the proposed development, and using this percentage, select the 24-hour critical storm from the following table:

Table: Twenty-Four Hour Critical Storm Runoff Rate
If the percentage of increase in runoff volume is:

Equal to or greater than	And Less Than	The Critical Storm Runoff Rate will be Limited To:
0	10	1 year
10	20	2 years
20	502	5 years
50	100	10 years
100	250	25 years
250	500	50 years
500	-	100 years

¹ Urban Hydrology for Small Watershed, Technical Release TR55, 1986, Natural Resources Conservation Service

C. The Village Engineer shall approve or reject any calculation method based on its technical validity for the given situation. Downstream capacity may further reduce maximum discharge requirements.

(5) Off-Site Storm Water Control Facilities.

A. Exceptions to requiring permanent on-site runoff control on the site may be considered by the Village Engineer provided the applicant can prove that:

1. The intent and standards of this chapter for runoff control can be best achieved by the utilization of off-site storm water control facilities.
2. Runoff from the site can be conveyed to off-site storm water facilities in a manner and by means which satisfy or surpass the standards of this chapter.
3. The applicant has ownership of or the right to use the off- site facility in question.

(f) Storm Water Management (SWM) Plan Submission, Review and Action.

- (1) The applicant is encouraged to meet and consult with the Village Engineer at the time of application.
- (2) The initial Deposit of funds in accordance with this chapter and submission of two (2) sets of the SWM plan with other supporting data required by this regulation to the Village initiates the review process.
- (3) The SWM plan shall be reviewed by the Village Engineer to:

A. Verify information furnished by the applicant and evaluate the proposed development in relation to existing site conditions.

B. Assess the SWM plan in relation to the Performance Standards and requirements of this chapter.

C. The Village Engineer shall also consider any information submitted to the Village by the public.

(4) Upon submission of the SWM plan, the Village Engineer shall complete a review within thirty days and shall either:

A. Approve the SWM plan as submitted by the applicant; or

B. Conditionally approve the SWM plan pending review of additional information submitted by the applicant or the incorporation of recommended revisions; or

C. Disapprove the SWM plan with reasons stated. A Revised Plan may be re-submitted as described in b).

(5) Action by the Village of South Amherst Approval Authority and the authorized agent(s) approving or disapproving the SWM plan is a final order for purposes of judicial review.

(Ord. 1273. Passed 11-26-07.)

1335.09 COMPLIANCE RESPONSIBILITY.

(a) Performance Liability. No provision of this chapter shall limit, increase or otherwise affect the liabilities of the applicant nor impose any liability upon the Village of South Amherst not otherwise imposed by law.

(b) No release from Other Requirements. No condition of this permit shall release the applicant from any responsibility or requirements under other federal, state, or local environmental regulations. If requirements vary, the most restrictive requirements shall prevail.

(c) Proceeding with Activity. Land-disturbing activities regulated under this chapter shall not begin until all necessary state and federal permits and appropriate approvals of Site Development Plans or Storm Water Management Plans have been granted to the site owner/applicant.

(d) Performance Responsibility. The applicant is responsible to carry out all provisions of the approved Site Development Plan or SWM plan and to meet all the standards and requirements of this regulation.

(e) Enforcement.

(1) All development sites are subject to inspections by the Village of South Amherst authorized agent(s) under the direction of the Village Engineer to ensure compliance with the approved Site Development Plan and SWM plan.

(2) Any reports issued by the Village of South Amherst or by the Village Engineer shall be distributed to the applicant and the contractor (if applicable) and the Professional Engineer of record who prepared the SWM and Site Development Plans.

(3) If it is found that the construction or development operations are being conducted in violation of the approved Site Development Plan and SWM plan, a stop-work order may be issued by the Village of South Amherst until the identified violations cease.

(4) After the issuance of a stop-work order provided for in subsection 1335.09 (e) (c) above, the applicant may meet with the Law Director and the Village Engineer to show cause why work should not be stopped.

(5) Following the issuance of a stop-work order, the Village of South Amherst shall determine if and when the development may proceed. Any determination by the Village of South Amherst pursuant to this section is a final order for purpose of judicial review.

(f) Violations.

(1) The Village of South Amherst shall notify the Storm Water applicant of any violations in writing. Said notice shall indicate the exact nature of the violations and other specific corrections which are required.

(2) The permittee shall comply with the timeline for correction in Table A listed below. Timeline extension for adverse weather conditions may be granted upon recommendation of the Village Engineer.

(3) Violations.

Table A: Timeline for Corrective Action

Nature of Violation	Number of Days from Notice To Correct Functioning of Control Practice
Silt Fence	Within Three (3) Days
Outlet Control Structure	Within Three (3) Days
Temporary or permanent stabilization within 50' of drainage channels.	Within Three (3) Days
Temporary or permanent stabilization for all other disturbed areas.	Within Three (3) Days
Stabilized Construction Entrance	Within Three (3) Days
Pumping Sediment laden discharge into	Immediately upon Notice

drainage channel	
Sediment Settling Pond	Within Ten (10) Days
Any other control practice not addressed in this table	Within Three (3) Days

(g) Penalties Subsequent To Issuance of Stop-Work Order.

(1) Subsequent to the issuance of a stop-work order, one or more of the following penalties may be imposed.

A. If the land-disturbing activity involves a subdivision, the applicable penalties (including fines) provided for in the subdivision regulations of the Village of South Amherst shall apply. Applicable penalties as described in Section [1335.09](#) (o).

B. Through its Village Engineer or authorized agent(s), the Village of South Amherst may enter the site and make any modifications necessary to correct the situation(s) involving excessive erosion or sedimentation, and place the cost of such corrective actions on the tax duplicate of the land owner.

C. The Village Engineer may request the Law Director of the Village of South Amherst to seek an injunction or other appropriate relief to abate excessive erosion or sedimentation and to secure compliance with this Ordinance. In granting such relief, the court may order the construction of sediment control improvements and/or the implementation of other control measures and/or fines as identified in Subsection [1335.09](#) (n)(1) or any other relief the court determines.

(h) Internal Inspections.

(1) All controls on the site shall be inspected by the applicant at least once every seven (7) calendar days and within 24 hours after any rainfall greater than one-half inch of rain per 24-hour period. The site owner and/or applicant shall assign a qualified Professional Engineer experienced in the installation and maintenance of erosion and runoff controls to conduct these inspections to ensure that all storm water control practices are functional, that all provisions of the SWM plan and this regulation are being met, and whether additional control measures are required.

(2) The site owner shall maintain the records for three (3) years following the final stabilization of the site. The records shall include:

- Name of site.
- Name(s) and qualifications of personal making the inspections.
- The date(s) of inspections.
- Weather conditions.
- Major observations relating to the implementation of the SWM plan and a certification as to whether the site is in compliance with the SWM plan, SWP3, and NPDES permit, if applicable.
- This record shall also identify any incidents of non-compliance, actions taken to correct any problems and the date(s) corrective action(s) was taken.

(3) A copy of all of the inspection log sheets shall be submitted to the Village Engineer within five (5) working days of the date that the inspection was conducted (See Exhibit "A").

(i) Ownership and Maintenance of Storm Water Facilities.

(1) In the case of proposed subdivisions, inspection and maintenance agreements shall be approved before the Village of South Amherst accepts the final plat of the proposed subdivision. Said agreement shall be incorporated into the Developer's Agreement when applicable. This agreement shall bind all current and subsequent owners of land served by the storm water facilities.

(2) All inspection and maintenance agreements shall do the following:

A. Designate the party(ies) responsible for the maintenance of all storm water management facilities and practices including mowing, landscaping, debris pick-up, and to ensure that all inlet and outlet structures are free of obstructions and in good repair.

1. For subdivisions, unless otherwise approved by the Village of South Amherst, responsible party(ies) shall be an entity of common ownership (e.g. Land/Homeowner's Association) within the proposed subdivision.

B. Prohibit unauthorized alterations of all storm water management facilities. Any revisions shall be approved by the Village Engineer.

C. Provide adequate access to all storm water management facilities for inspection by the Village of South Amherst authorized agent(s) and corrective actions by the owner.

(3) As applicable, all storm water management facility easements shall be shown on the record plat, prior to approval by the Village of South Amherst, and a reference shall be made to the entity or individual(s) responsible for their maintenance.

(4) The Village of South Amherst Planning Commission may require the owner and/or the applicant to follow the maintenance procedure outline in "Appendix A: Ohio Revised Code 6131.63." The Village of South Amherst may require of the owner and/or applicant any one or more of the following items in the maintenance agreement:

A. To benefit two or more property owners.

B. To be designed for cost-effective maintenance.

C. To be determined by the Village of South Amherst Planning Commission or authorized agent(s) to be appropriate addition to this jurisdiction's existing storm drainage system.

D. To not be better suited for private maintenance by an individual or group of property owner(s), which ultimate responsibility for maintenance in the event of default on the part of the owner(s) remaining with jurisdiction.

(5) The following conditions shall apply to all drainage easements:

A. Easements shall be approved by the Village Engineer prior to approval of the final plat, and shall be recorded with said plat in separate instruments.

B. Unless otherwise determined by the Village Engineer, drainage easements shall be no less than twenty (20) feet wide.

C. Unless otherwise determined and approved by the Village Engineer, storm water management facilities, including basin, ponds or other retention/detention practices, shall lie on separate parcels held and maintained by an entity of common ownership (i.e. Land/Homeowners Association).

D. Those lots that contain or are crossed by a drainage easement shall have the following restriction: "Any area reserved for drainage purposes shall at all times be kept free of any obstructions to the flow of water. No improvements or modifications within the identified drainage easement area shall be allowed without the approval of the Village Engineer.

(j) Fees. All costs to the Village of reviewing, approving or rejecting, inspecting, testing and reporting (including costs invoiced by the Village Engineer and the Law Director) shall be wholly reimbursed by the applicant from funds deposited in advance from time to time in the Village's account. The village Engineer shall recommend the amount of initial and subsequent deposits thereto.

(k) Complaints. The Village of South Amherst authorized agent(s) shall investigate any complaint related to earth disturbing activities covered by this chapter.

(l) Variances.

(1) The Village of South Amherst may grant a variance to these regulations where the owner or his appointed representative can show that a hardship exists under which compliance with these regulations is not appropriate, in consideration of the following:

A. That exceptional or extraordinary conditions exist that are peculiar to the particular parcel of land.

B. That the grant of a variance is necessary for the preservation and enjoyment of substantial property rights.

C. That the strict interpretation of these regulations would deprive the owner of rights enjoyed by other property owners.

D. That the grant of a variance will not adversely affect adjacent land.

(2) Adverse economic conditions or hardship shall not be considered as a valid reason for a variance request to be granted. No variances will be granted where activities occur that will defeat the purposes of these regulations.

(3) The request for variance shall be submitted to the Village Board of Appeals and shall state the specific variances sought and shall include sufficient information to justify the granting of a variance.

(m) Appeals. Any person aggrieved by any order, requirement, determination, or any other action or inaction by the Village of South Amherst or its representatives in relation to this regulation may appeal to the Court of Common Pleas. Such appeal shall be made within thirty (30) days of the date of an order or decision and shall specify the grounds for appeal.

(n) Violations. No person shall violate or cause or knowingly permit to be violated any of the provisions of this chapter , or fail to comply with any of its provisions or with any lawful requirements of any public authority made pursuant to it, or knowingly use or cause or permit the use of any lands in violation of this chapter or in violation of any approval permit granted under this chapter. Violations of these regulations which will result in enforcement actions, include but are not limited to:

- (1) Failure to install control practices specified in state and federal permits.
- (2) Improper installation of control practices according to Rainwater and Land Development, current edition, and/or as recommended by the manufacturer.
- (3) Inadequate design and/or unacceptable performance of the control practices as judged by the Village Engineer.
- (4) Failure to properly maintain control practices put in place as determined by the Village Engineer.
- (5) Failure to remove control practices after the site has reached final stabilization.

(o) Penalties.

(1) Violation of any provision of this or any amendment or supplement thereto, or failure to comply with any of the requirements herein shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. Any person or persons violating any of the provisions herein shall upon conviction be fined up to one hundred fifty dollars (\$150.00) per day that the violation exists and, in addition, shall pay all costs and expenses involved in the case.

(2) Upon notice from the Village of South Amherst and/or its authorized agent(s), that work is being carried out contrary to this chapter, such work shall immediately stop. Such notice shall be in writing and shall be given to the applicant, and shall state the conditions under which such work may resume; provided, however, in instances where immediate action is deemed necessary for the public safety or the public interest, the Village of South Amherst's authorized agent may require that work be stopped upon verbal order pending issuance of the written order.

(3) The imposition of any other penalties provided herein shall not preclude the Village of South Amherst, by or through its Law Director and/or any of its assistants, from instituting an appropriate actions 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 authorized agent(s).

(Ord. 1273. Passed 11-26-07.)

1339.01 PURPOSE AND SCOPE.

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the Village of South Amherst through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This regulation

establishes methods for detecting and eliminating the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

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

(Ord. 1272. Passed 11-26-07.)

1339.02 APPLICABILITY.

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and any lands in the Village of South Amherst, except for those discharges generated by the activities detailed in Section [1339.07](#) (a)(1) to (a)(3) of this regulation.

(Ord. 1272. Passed 11-26-07.)

1339.03 DEFINITIONS.

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

(a) Best Management Practices (BMPs): means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(b) Community: means the Village of South Amherst, its designated representatives, boards, or commissions.

(c) Environmental Protection Agency or United States Environmental Protection Agency (USEPA): means the United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA), or any duly authorized official of said agency.

(d) Floatable Material: in general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.

(e) Hazardous Material: means any material including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(f) Illicit Discharge: as defined at 40 C.F.R. 122.26 (b)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in Section [1339.07](#) of this regulation.

(g) Illicit Connection: means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the Municipal Separate Storm Sewer System (MS4).

(h) Municipal Separate Storm Sewer System (MS4): as defined at 40 C.F.R. 122.26 (b)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(1) Owned or operated by a State, city, village, county, district, municipality, township, or other public body (created by or pursuant to State law) having jurisdiction over sewage, industrial wastes, including special districts under State law such as a sewer district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges to waters of the United States;

(2) Designed or used for collecting or conveying storm water;

(3) Which is not a combined sewer; and

(4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.

(i) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

(j) Off-Lot Discharging Home Sewage Treatment System (Off-Lot HSTS): means a system designed to treat home sewage on-site and to discharge treated wastewater effluent off the property into a storm water or surface water conveyance or system.

(k) Owner/Operator: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.

(l) Pollutant: means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.

(m) Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(n) Wastewater: The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

(Ord. 1272. Passed 11-26-07.)

shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and any lands in the Village of South Amherst, except for those discharges generated by the activities detailed in Section [1339.07](#)

(a)(1) to (a)(3) of this regulation.

(Ord. 1272. Passed 11-26-07.)

1339.04 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

(Ord. 1272. Passed 11-26-07.)

1339.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

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

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

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

(d) Failure of the Village of South Amherst to observe or recognize non-compliant, hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village of South Amherst, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. 1272. Passed 11-26-07.)

1339.06 RESPONSIBILITY FOR ADMINISTRATION.

The Village of South Amherst shall administer, implement, and enforce the provisions of this regulation. The Village of South Amherst may contract with the Lorain County General Health District, other agencies, the Village Engineer, or

private engineering companies to conduct inspections and monitoring and to assist with enforcement actions.

(Ord. 1272. Passed 11-26-07.)

1339.07 DISCHARGE AND CONNECTION PROHIBITIONS.

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

(1) Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the Village of South Amherst to be significant contributors of pollutants to the MS4.

(2) Discharges specified in writing by the Village of South Amherst as being necessary to prohibit to protect public health and safety.

(3) Discharges from off-lot discharging home sewage treatment systems (off-lot HSTS) permitted by the Lorain County General Health District for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29-02(6) until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for residential 1, 2, or 3 family dwellings. These discharges are exempt unless such discharges are deemed to create a public health nuisance by the Lorain County General Health District.

In compliance with the Village of South Amherst Storm Water Management Program, discharges from all off-lot discharging home sewage treatment systems must either be eliminated, or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available, then discharges from off-lot discharging home sewage treatment systems shall no longer be exempt from the requirements of this regulation.

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

(1) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

(Ord. 1272. Passed 11-26-07.)

1339.08 MONITORING OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS.

(a) Establishment of an Illicit Discharge and Illicit Connection Monitoring Program: The Village of South Amherst shall establish a program to detect and eliminate illicit discharges and illicit connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and home sewage treatment systems known to be connected to the MS4; the routine inspection of storm water outfalls to the MS4, and the field screening of potential residential, commercial, industrial, and institutional facilities for the sources of any non-storm water dry weather flows found as the result of these inspections.

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

(1) The Village of South Amherst shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.

(2) The Village of South Amherst shall have the right to set up at facilities subject to this regulation such devices that are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the Village of South Amherst Engineer.

(3) The Village of South Amherst shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the Village of South Amherst Engineer to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the Village of South Amherst Engineer and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.

(5) Unreasonable delays in allowing the Village of South Amherst access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.

(6) If the Village of South Amherst is refused access to any part of the facility from which storm water is discharged, and the Village of South Amherst demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the Village of South Amherst may seek

issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.

(7) Any costs associated with these inspections shall be assessed to the facility owner/operator.

(Ord. 1272. Passed 11-26-07.)

1339.09 ENFORCEMENT.

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

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

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

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

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

(e) Injunctive Relief: It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to O.R.C. 3709.211. If a owner/operator has violated or continues to violate the provisions of this regulation, then the Village of South Amherst may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations, or to compel the owner/operator to perform abatement or remediation of the violation.

(Ord. 1272. Passed 11-26-07.)

1339.10 REMEDIES NOT EXCLUSIVE.

The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law, and it is in the discretion of the Village of South Amherst to seek cumulative remedies.
(Ord. 1272. Passed 11-26-07.)

SECTION 2: This Ordinance shall repeal all Ordinances in conflict herewith.

SECTION 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the Village, wherefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval.

First Reading: _____

Second Reading: _____

PASSED: _____

David Leshinski, Mayor

ATTEST: _____
Fiscal Officer

I, Michelle Henke, Fiscal Officer of the Village of South Amherst, certify there is no newspaper of general circulation published in the municipality and the publishing of this Ordinance No. _____ was made by posting true copies thereof in at least five of the most public places in the said Village, determined by Council, for a period of not less than fifteen (15) days, following the passage.

Fiscal Officer

APPROVED AS TO FORM:

Michelle D. Nedwick, Law Director