

Parma Town Board meeting held on Tuesday, July 15, 2008 at the
Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York.

ATTENDANCE

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| Supervisor | Richard Lemcke |
| Councilman | Carm Carmestro |
| Councilman | James Smith |
| Councilman | Gary Comardo |
| Highway Supt. | Brian Speer |
| Recreation Director | Steve Fowler |
| Building Inspector | Jack Barton |
| Absent: | Councilman Kenneth Blackburn |

OTHERS IN ATTENDANCE

Gene DeMeyer, Jim Christ, Christopher Foote, Michael Crawford, Paula Crawford, Mike Weldon, Mary Ann Smith, Jim Zollweg, and other unidentified individuals.

CALL TO ORDER

Supervisor Lemcke called the meeting to order at 6:30 p.m. and lead those present in the Pledge of Allegiance to the Flag, followed by a moment of silence. He noted emergency exit procedures and that the meeting was being recorded.

PUBLIC HEARING – FLOOD DAMAMGE PREVENTION

Supervisor Lemcke opened the public hearing at 6:33 p.m. and read the following legal notice.

Legal Notice
Town of Parma
Introductory Local Law No. 1-2008
A Local Law to Amend the Town Code of Parma for Flood Damage Prevention and Repealing Section 165-83 C.

PLEASE TAKE NOTICE that the Town Board of the Town of Parma shall hold and conduct a public hearing to consider the enactment of Introductory Local Law No. 1-2008, a local law establishing regulations for flood damage prevention within the Town of Parma. The public hearing will be held at the Parma Town Hall, 1300 Hilton Parma Corners Road on the 15th day of July 2008 at 6:30 p.m. and all interested persons shall be heard concerning the subject matter thereof. Upon the enactment of such local law, it is also proposed that the existing Chapter 165 Article X Section 165-83 C of the Town Code of the Town of Parma, entitled Flood Hazard Area, would be repealed. A full and complete text of the proposed local law is presently on file in the Town Clerk's office where it may be examined by all interested persons during normal business hours.

Dates: June 25, 2008
Donna K. Curry, Town Clerk
Town of Parma

Supervisor Lemcke asked if there were any public comments. There were none. He reported that the Monroe County Department of Planning and Development had reviewed the application, responded and had no comments. Town Board members were asked if there were any questions. There were none.

The Town Board proceeded to review Part 1 and respond to Part 2 of the State Environmental Quality Review Assessment Form. No impacts were identified. Councilman Smith asked if this adoption would prevent anyone who farms in or near a floodplain from continuing to do so. Mr. Barton responded no, that this applied to structures

Supervisor Lemcke asked if there was anyone present who wished to speak. Michael Crawford questioned if this would have any impact on the lakeshore and lake levels. Mr. Barton noted that FEMA has remapped the Town for floodplain areas and that there were no significant changes in this regard. It was noted for any structure built near the lake the lowest floor elevation requirement was 251 and has been elevated to 253.

Supervisor Lemcke noted the title of this local law will read "Local Law #1-2008 to amend the Town Code of the Town of Parma by adding a new chapter entitled "Flood Damage Prevention" and repealing §165-83 C of the Parma Town Code" and it will take effect immediately upon filing in the office of the New York Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**NEGATIVE DECLARATION FOR REVIEW OF STATE ENVIRONMENTAL
ASSESSMENT FORM REGARDING THE APPLICATION FOR A LOCAL LAW FOR
FLOOD DAMAGE PREVENTION**

RESOLUTION NO. 179-2008 Motion by Councilman Smith, seconded by Councilman Comardo, to declare a negative declaration after review of Part 1 and Part 2 of the State Environmental Quality Review Full Environmental Assessment Form regarding the application for A Local Law for Flood Damage Prevention.

Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

**RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE
TOWN OF PARMA LOCAL LAW NO. 1-2008 – FLOOD DAMAGE PREVENTION**

RESOLUTION NO. 180-2008 Motion by Councilman Smith, seconded by Councilman Comardo

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Parma ("the Town") for a public hearing to be held by said Board on July 15, 2008 at 6:30 p.m. at Parma Town Hall, 1300 Hilton-Parma Corners Road, Parma, New York to hear all interested parties on a proposed Local Law #1-2008 to amend the Town Code of the Town of Parma by adding a new chapter entitled "Flood Damage Prevention" and repealing §165-83 C of the Parma Town Code, and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town, the Suburban News, on June 29, 2008, and posted on the Town Hall bulletin board, and

WHEREAS, said public hearing was duly held on July 15, 2008 at 6:30 p.m. at Parma Town Hall and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Town Board of said Town of Parma that adoption of said proposed Local Law would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQRA, and

WHEREAS, the Monroe County Department of Planning duly reviewed the proposed Local Law pursuant to §239-m of the General Municipal Law, and

WHEREAS, the Town Board, after due deliberation, finds it in the best interest of said Town to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby adopts said Local Law No. 1-2008 a copy of which is attached hereto and made a part of this resolution, and be it further

RESOLVED, that the Town Clerk be and hereby is directed to enter said Local Law in the minutes of this meeting and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

DATED: July 15, 2008

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| Richard Lemcke, Supervisor | Aye |
| Ken Blackburn, Board Member | Absent |
| Carmey Carmestro, Board Member | Aye |
| James Smith, Board Member | Aye |
| Gary Comardo, Board Member | Aye |

The public hearing ended at 6:47 p.m.

See Schedule A at the end of minutes for wording of Local Law No. 1-2008.

PUBLIC FORUM

Supervisor Lemcke asked if there was any citizen present who would like to address the Town Board on any topic not on the agenda.

Jim Zollweg, GIS Coordinator, provided a list and reviewed the accomplishments so far. This includes quality elevation maps which can assist town wide drainage and identification of parcels larger than 15 acres that would potentially be eligible for the proposed Planned Development – Senior Residential type of zoning. He referenced the web page he created (parmagis.googlepages.com) and it was determined that this site should be linked to the Town's website. Mr. Zollweg will be looking into obtaining a grant through New York State Archives SARA Program for GIS development. Proposed future projects include completion of town wide infrastructure datasets, drainage and stormwater support. The Town Board thanked Mr. Zollweg for all the work he has volunteered. A sampling of maps he has created was provided.

MINUTES – JULY 1, 2008

RESOLUTION NO. 181-2008 Motion by Councilman Smith, seconded by Councilman Comardo, to accept the Minutes of the June 17, 2008 meeting with the following corrections to be made: page 3 paragraph 2 “left” should be “west” and on page 5 under Liaison Reports paragraph 2 “Mill” should be “Moul”.

Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

TOWN CLERK REPORT

The Town Clerk noted that the annual free rabies clinic was held on July 12, 2008. The Dog Control Office reported a good response and 138 pets were vaccinated.

HIGHWAY DEPARTMENT REPORT

Supt. Speer reported the department has been busy finishing the Lighthouse Road project and will be starting projects for the school district and the county.

Supervisor Lemcke requested the Daily Records for Highway Department work for the time period of January 1st to July 1st. Supt. Speer said he would provide.

Councilman Smith inquired how the new recycle process for the roads was working. Supt. Speer responded that it is a good product but they have experienced equipment problems.

BUILDING DEPARTMENT REPORT

Mr. Barton reported he had met with Councilman Carmestro regarding our disaster plan being NIMS compliant.

Mr. Barton asked that consideration be given to allow the Building Department the authority to grant administrative variances for requests minor in nature. An example of how this might be used is when a request for a variance is made for a violation of 6 inches or less. Currently, the applicant must apply and appear before the Zoning Board. Supervisor Lemcke noted the purpose would be to speed the process up for minor requests and be more convenient to people when inadvertent minor problems arise. It would expedite the process by elimination of the legal notice and could assist those that encounter timing issues with closings. Mr. Barton noted there would still be a fee but perhaps not as much and there would be set parameters that they would work within. Supervisor Lemcke asked if other communities were doing this. Mr. Barton responded that some were. He also indicated that at their discretion the Building Department could send any of these requests to the Zoning Board for review. Councilman Smith supported the concept but felt that the Zoning Board should be informed of each administrative variance so that trends could be tracked and reacted to if needed.

Councilman Carmestro inquired as to the status of the Mercy Flight drainage issue. Mr. Barton responded that upon receipt of the survey for Lot 1, he will provide a copy to the neighbor. He spoke with the builder today and their surveyor has completed the survey and is awaiting the stamped copy. He noted that he reviewed the site after a recent storm and saw no adverse effect at that time as has been previously noted.

Councilman Carmestro also inquired as to the status of the Wilder Road and Marjorie Lane drainage problem and the roofing issues on Ridge Road. Mr. Barton responded that he had not received a response from the party involved in the drainage problem and inspections have been done for the tear off and the underlayment on the roofing issue. Mr. Barton will check on the final status of completion of the roofing issue.

It was noted that the Code Enforcement Officer has had difficulty contacting the owner of a Bennett Road property regarding code issues.

RECREATION DEPARTMENT REPORT

Mr. Fowler reminded the Town Board of the ribbon cutting ceremony this Wednesday at 6:05 p.m. at the back parking lot off the Parma Center Road entrance to the Town Hall Park. Patricia Stevens will be representing County Executive Maggie Brooks as the Town recognizes Monroe County Department of Planning and Development for assisting with the financing to pave the Parma Center Road entrance, road network and parking areas. It will be held at the back parking lot off Parma Center Road on Wednesday, July 16th at 6:05 p.m.

Mr. Fowler reported that the Town received notification through Senator Robach's office that it will receive a \$250,000 grant of financial support for the Town Park Field Lighting Project through the State Dormitory Authority. The project is expected to begin this fall with completion in the Spring or Fall of 2009. It will consist of sport lighting for the multi-purpose field and two baseball fields, the construction of an outdoor batting cage facility and relocation of a baseball field which will be developed into a softball field. The costs associated with the project include:

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|------------------------------|-----------|
| Project Cost | \$300,000 |
| State Grant | \$250,000 |
| Donations, Workforce Account | |
| Labor, Collaborations | \$ 30,000 |
| Town's Financial Outlay | \$ 20,000 |

PARKS DEPARTMENT

There was no Park Foreman's report.

BUSINESS ITEMS

HILTON RAIDERS YOUTH FOOTBALL AND CHEERLEADING – FIELD USE AGREEMENT

The Hilton Raider Youth Football and Cheerleading organization provided a draft copy for their Agreement for Use of Football Fields to be effective July 15, 2008. The also included a copy of their handbook and forms. The Town Board raised questions regarding paragraph 6 and the fee to be charged and the use of a neutral third party mediator (was also mentioned for paragraph 11). Clarification was asked for regarding the addition of a combination lock (paragraph 7) and the Town providing a copy of the key for access when a park attendant is not on duty. In paragraph 8, there was discussion on removal of "assist with litter pick up of" and adding "pick up litter in". Paragraph 9 references any goal posts damaged will be the Town's responsibility. The latter 3 items will be verified as being the same for the soccer club. Discussion regarding Paragraph 11 included the need for a checklist for the concessions building inspection.

If any of the noted items did not match the document provided by Hilton Heat Soccer Club, the documentation should be changed to bring in sync with the exception of time periods, fees and the appropriate side of the storage area. Councilman Carmestro inquired if Steve Fowler and Joe Petricone had reviewed the draft. He felt the \$700 fee was very low and the actual expense incurred during their functions should be calculated as is done for the soccer club. In paragraph 12, there was discussion on the determination of and amount.

The general liability insurance certificate was received today.

RESOLUTION NO. 182-2008 Motion by Councilman Comardo, seconded by Councilman Smith, to authorize the Town Supervisor to sign the Hilton Raider Youth Football and Cheerleading Field Use Agreement for 2008 with the following stipulations: pending review by the Recreation Director and the Park Foremen, verification that the wording in paragraphs 6, 7, 8, 9 and 11 match the agreement approved with the Hilton Heat Soccer Club with the exception of the fee which will be subject to review.

Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

DISPOSAL OF OLD SOUND EQUIPMENT

The new sound system has been installed. The Town has been offered \$100.00 for the mixer by the installer. Councilman Carmestro felt the equipment should be offer to local organizations first. The Town Board was in agreement. The school district and/or the Community Council of Churches should be contacted.

DISPOSAL OF FIXED ASSETS

A list of computer items was provided by the Finance Department has been retired. Several items have been made available to other departments and offered to local non-profits.

RESOLUTION NO. 183-2008 Motion by Councilman Comardo, seconded by Councilman Carmestro, to authorized the Town Clerk to dispose of retired equipment as deemed appropriate, which is no longer used by the Town of Parma and has not been donated.

Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

BRIGHTON SOUND PREPAID REQUEST

RESOLUTION NO. 184-2008 Motion by Councilman Carmestro, seconded by Councilman Comardo, to authorized payment of the sound system invoice to Brighton Sound in the amount of \$9,999 before the next bill paying session.

Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

BUDGET TRANSFERS

TRANSFERS TO BUDGET

Jul-08

| FROM | | | TO | | | REQUESTED |
|-----------|------------------|----------|-----------|-----------------|----------|-----------|
| ACCT # | DESCRIPTION | AMT. | ACCT # | DESCRIPTION | AMT. | |
| L7410.210 | OFFICE EQUIPMENT | 300.00 | L7410.411 | SUPPLIES | 300.00 | KIRK |
| | A SURPLUS | 4,000.00 | A1430.448 | GRANTS | 4,000.00 | GAVIGAN |
| A1680.211 | EQUIPMENT | 1,000.00 | A1680.445 | MAINTENANCE | 1,000.00 | GAVIGAN |
| | SAFETY | | | CONTRACTS | | |
| A3989.11A | COORDINATOR | 1,000.00 | A3989.410 | SAFETY PROGRAMS | 1,000.00 | GAVIGAN |
| | A SURPLUS | 9,999.00 | A1620.441 | EQUIPMENT | 9,999.00 | GAVIGAN |

RESOLUTION NO. 185-2008 Motion by Councilman Smith, seconded by Councilman Carmestro, to approve the Budget Transfers as submitted.

Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

INFORMATIONAL ITEMS

COMPARATO PARK PROJECT

Supervisor Lemcke read the memorandum from Town Attorney, Peter Rodgers regarding the preliminary application received by the Planning Board for the proposed Comparato Park Project at 134-140 Parma Center Road. It was the attorney’s conclusion that this would fall under the classification of a special use and therefore the applicant should apply to the Zoning Board for a special use permit where it would decide through the normal process if the proposed use fits within the criteria of for a special use permit. This would include review of the Project under SEQR and referral of the site plan to the Planning Board. Mr. Barton noted that this would start with the application to the Building Department. There was further discussion on what has transpired and the procedure will be followed.

MISCELLANEOUS

Supervisor Lemcke reported that a new agriculture business would like to make a presentation to the Town for a hydroponics operation in the near future. They are seeking grants and will use geothermal technology. More information will be provided as it becomes available.

Supervisor Lemcke noted that the County has raised the temperature settings to 78 degrees for all County office buildings with the exception of patient care areas of Monroe Community Hospital. Mr. Barton informed the Town Board that the thermostat in the Court Clerk’s office is off by 4 degrees and has been adjusted down to the compensate. They have experienced excessive heat in that room and continuous call for cooling.

Supervisor Lemcke reported that he has been gathering information to make a recommendation to the Town Board on making the Highway Superintendent and Town Clerk positions appointed rather than elected. This was prompted by recommendations made by the Commission on Local Government Efficiency and Competitiveness Initiative’s report titled “21st Century Local Government”.

Supervisor Lemcke noted the Town Board has received a copy of the Fund Balance sheets and asked the Highway Superintendent if he had provided the monthly report for his department. Supt. Speer indicated he had started it but was not completed.

LIAISON REPORTS

**Councilman Smith reported he was informed of high risk activity encountered by the Special Police and expected the issue to be resolved.

**Councilman Comardo reported the Planning Board had not met since the last Town Board meeting and that he had nothing to report from the Parks Department.

**Councilman Carmestro reported the new fire hall is progressing quickly and next week is the Fireman's carnival.

WARRANTS

RESOLUTION NO. 186-2008 Motion by Councilman Comardo, seconded by Councilman Carmestro, to approve payment of the A Fund, General Fund bills, in the amount of \$57,489.51
Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

RESOLUTION NO. 187-2008 Motion by Councilman Comardo, seconded by Councilman Smith, to approve payment of the B Fund, Part Town Bills, in the amount of \$10,600.76.
Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

RESOLUTION NO. 188-2008 Motion by Councilman Comardo, seconded by Councilman Carmestro, to approve payment of the DA Fund, Highway Townwide bills, in the amount of \$437.46.
Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

RESOLUTION NO. 189-2008 Motion by Councilman Comardo, seconded by Councilman Smith, to approve payment of the DB Fund, Highway Outside bills, in the amount of \$10,690.68.
Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

RESOLUTION NO. 190-2008 Motion by Councilman Comardo, seconded by Councilman Carmestro, to approve payment of the SD Fund for Townwide Drainage bills, in the amount of \$1,817.31.
Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

RESOLUTION NO. 191-2008 Motion by Councilman Comardo, seconded by Councilman Smith, to approve payment of the SS3 Fund for Dunbar Road East Sewer bills, in the amount of \$1,125.00.
Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

RESOLUTION NO. 192-2008 Motion by Councilman Comardo, seconded by Councilman Carmestro, to approve payment of the T Fund for Trust and Agency bills, in the amount of \$11,073.10.
Motion carried: Aye 4 Nay 0 Absent: Councilman Blackburn

There being no further business brought before the Town Board, Councilman Smith made a motion to adjourn the meeting at 7:58 p.m., seconded by Councilman Carmestro and all were in favor.

Respectfully submitted,

Donna K. Curry
Parma Town Clerk

Schedule A

“A Local Law to Amend the Town Code of the Town of Parma by adding a new Chapter entitled “Flood Damage Prevention” and repealing Section 165-83 C of the Parma Town Code.” as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

SECTION 1.0

STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Parma finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Parma and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

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

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;

- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

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

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings,

columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

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

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

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing 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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;

- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. 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 the building.

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

"Substantial damage" means 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.

"Substantial improvement" means 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. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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 by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "Historic structure" provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Parma, Monroe County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Parma, Community Number 360425, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers:

36055C0029G, 36055C0033G, 36055C0034G, 36055C0037G, 36055C0040G, 36055C0041G, 36055C0042G, 36055C0043G, 36055C0044G, 36055C0053G, 36055C0061G, 36055C0063G, 36055C0155G, 36055C0156G, 36055C0157G, 36055C0158G, 36055C0159G,

whose effective date is August 28, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York, All Jurisdictions" dated August 28, 2008.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at the Town Hall in the Building Department.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Parma from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-

made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Parma, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Department is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee which will be as established by resolution of the Town Board from time to time and shall be part of the Town's fee schedule. In addition, the applicant shall be responsible for reimbursing the Town of Parma for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

- (3) A certificate from a licensed professional engineer or architect that any utility flood proofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, flood proofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Town of Parma agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Parma for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Parma for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the Town of Parma agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Parma for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Parma for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

- (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

(i) be on site fewer than 180 consecutive days,

(ii) be fully licensed and ready for highway use, or

(iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

(4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

(1) The Zoning Board of Appeals as established by the Town of Parma shall hear and decide appeals and requests for variances from the requirements of this local law.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.

(3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

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

- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

6.2 EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the New York Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.