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CITY OF POWELL
Ordinance 2017-45
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CHAPTER 1305

Flood Control

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CROSS REFERENCES

Basis of zoning districts - see Ohio R.C. 713.10

Levees - see Ohio R.C. 717.01

Marking flood areas - see Ohio R.C. 1521.14

Conservancy districts, purpose - see Ohio R.C. 6101.04

1305.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE AND OBJECTIVES.

(a) Statutory Authorization City of Powell. 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 City Council of the City of Powell, State of Ohio, does ordain as follows:

(b) Findings of Fact. The City of Powell 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, flood proofed, 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 potential buyers are aware that property is in an area of special flood hazard;
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (9) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (10) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (11) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (12) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (13) Meet community participation requirements of the National Flood Insurance Program.

(d) Methods of Reducing Flood Losses. 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.

(Ord. 2009-11. Passed 4-7-09.)

1305.02 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" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

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

(c) "Area of special flood hazard" means the land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.

(d) "Base Flood" means 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 one hundred (100) year flood.

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

(f) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling

operations or storage of equipment or materials.

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

(h) "Executive Order 11988 (Floodplain Management)" means the order issued by President Carter in 1977, which requires 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)" means the agency with the overall responsibility for administering the National Flood Insurance Program.

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

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

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

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

(l) "Flood Hazard Boundary Map (FHBM)" means 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)" means 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" means the zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

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

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

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

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

(5) Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

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

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

(o) "Flood Insurance Study (FIS)" means 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 (FPE)" is the base flood elevation plus one (1) foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

(q) "Floodway" 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" means 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" is 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; or

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

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

(t) "Hydrologic and hydraulic engineering analysis" is 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)" 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 plan metric 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" means 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" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. 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, 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)" 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" means structures for which the "start of construction" commenced on or after the initial effective date of the City of Powell Flood Insurance Rate Map, March 4, 1985, 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" is 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" is 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" is a person registered as a professional engineer under Chapter 4733 of the Revised Code.

(ee) "Registered Professional Surveyor" is 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", 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, A1 30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

(gg) "Start of construction" is 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" is a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

(ii) "Substantial Damage" is 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" is 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" means a grant of relief from the standards of these regulations consistent with the variance conditions herein.
- (ll) "Violation" means the failure of a structure or other development to be fully compliant with these regulations. (Ord. 2009-11. Passed 4-7-09.)

1305.03 GENERAL PROVISIONS.

(a) Lands to Which This Regulation Applies. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Municipality as identified by the Federal Emergency Management Agency or the U. S. Department of Housing and Urban Development referenced in subsection (b) hereof, including any areas of special flood hazard annexed by the City.

(b) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard have been identified by the Federal Emergency management Agency or the U.S. Department of Homeland Security in a scientific and engineering report entitled "Flood Insurance Study for Delaware County, Ohio and Incorporated Areas, effective April 16, 2009". This study, with accompanying Flood Insurance Rate Maps for Delaware County, Ohio and Incorporated Areas, dated April 16, 2009, and any revisions thereto adopted by reference and declared to be part of this regulation. The Flood Insurance Study is on file at the City of Powell, 47 Hall Street, Powell, Ohio 43065. In addition, any hydrologic and hydraulic engineering analysis authorized by a registered Professional Engineer in the State of Ohio which has been approved by the City of Powell as required by Section [1305.06](#)(a)(3) Subdivisions and Large Scale Developments.

(c) Any hydrologic and hydraulic engineering analysis authorized by a registered Professional Engineer in the State of Ohio which has been approved by the City of Powell as required by Section [1305.06](#)(a)(3) Subdivisions and Large Scale Developments.

(d) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances (resolutions) including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance (resolution), 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.

(e) 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.

(f) 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 City of Powell, 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.

(g) 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. 2009-11. Passed 4-7-09.)

1305.04 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Director of Development of the City of Powell 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 [1305.03](#)(b) 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 as established in Section [1305.03](#)(b). 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. Application for a Development Permit shall be made to the Floodplain Administrator. 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. Applications shall include, but not be limited to:

- (1) Site plans in duplicate 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. Flood proofing certification for non-residential flood proofed structure as required in Section [1305.06\(a\)\(4-5\)](#).

B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section [1305.06\(a\)\(4\)\(E\)](#) are designed to automatically equalize hydrostatic flood forces.

C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section [1305.06\(a\)\(8\)](#).

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 [1305.06\(c\)](#).

E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section [1305.06\(a\)\(8\)](#).

F. Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section [1305.06\(a\)\(3\)](#).

G. The application for a Development Permit shall be accompanied with the plan filing and review fee equal to that which is established by the Municipality for a development Plan.

(Ord. 2009-11. Passed 4-7-09.)

1305.05 REVIEW AND APPROVAL OF A FLOODPLAIN DEVELOPMENT PERMIT APPLICATION.

(a) Review.

(1) After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section [1305.04\(d\)](#) has been received by the Floodplain Administrator.

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

(b) Approval. Within 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.

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

(d) 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 Section [1305.05\(g\)\(1\)](#), a Letter of Map Revision.

(e) 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 Board of

Zoning Appeals in accordance with Section [1305.07](#) of these regulations.

(f) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:

- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
- (3) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.

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

(g) 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 City of Powell flood maps, studies and other data identified in Section [1305.03](#)(b) 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 [1305.06](#)(a)(3).

B. It is the responsibility of the applicant to have technical data, required in accordance with Section [1305.05](#)(g)(1), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

C. The 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 Section [1305.05](#)(g)(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 floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City Manager of the City of Powell, 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 City of Powell 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 City of Powell's Flood Insurance Rate Map accurately represent the City of Powell boundaries, include within such notification a copy of a map of the City of Powell suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Powell has assumed or relinquished floodplain management regulatory authority.

(h) 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 [1305.07](#).

(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.

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

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

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

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

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. 2009-11. Passed 4-7-09.)

1305.06 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

(a) 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 [1305.03\(b\)](#) or [1305.05\(h\)\(1\)](#).

(1) Use Regulations.

A. Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by City of Powell are allowed provided they meet the provisions of these regulations.

B. Prohibited Uses.

1. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.

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

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

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

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

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

(3) Subdivisions and Large Developments.

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

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

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

D. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.

E. The applicant shall meet the requirement to submit technical data to FEMA in Section [1305.05\(g\)\(1\)A.4](#). when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section [1305.06\(a\)\(3\)C](#).

(4) Residential Structures.

A. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring in this section and construction materials resistant to flood damage in Section [1305.06\(a\)\(4\)B](#). are satisfied.

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

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

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

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

1. Be used only for the parking of vehicles, building access, or storage; and
2. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
3. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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

G. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section [1305.06\(a\)\(4\)](#).

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

(5) Nonresidential Structures.

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section [1305.06\(a\)\(4\)](#)A. to C. and E. to H.

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

1. Be dry flood proofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Flood proofing Certificate, that the design and methods of construction are in accordance with Section [1305.06\(a\)\(5\)](#)B.1-2.

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

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

- A. They shall not be located on sites in special flood hazard areas for more than 180 days, or
- B. They must be fully licensed and ready for highway use, or
- C. They must meet all standards of Section [1305.06\(a\)\(4\)](#).

(7) 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.

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

A. Development in Floodways.

1. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
2. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - a. Meet the requirements to submit technical data in Section [1305.05\(g\)\(1\)](#).
 - b. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;

- c. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
- d. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
- e. Concurrence of the City Manager of City of Powell and the Chief Executive Officer of any other communities impacted by the proposed actions.

B. Development in Riverine Areas with Base Flood Elevations but No Floodways.

1. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 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,
2. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - a. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - b. Section [1305.06\(a\)\(8\)A.2.](#)

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

1. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
2. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Powell specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
4. The applicant shall meet the requirements to submit technical data in Section [1305.05\(g\)\(1\)C.](#) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts. (Ord. 2009-11. Passed 4-7-09.)

1305.07 APPEALS AND VARIANCES.

(a) Appeals. The City of Powell Board of Zoning Appeals is hereby appointed to 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. 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 Board of Zoning Appeals provided that such person shall file, within 20 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, along with the appropriate filing fees as determined by City Council. 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 Board of Zoning Appeals.

Upon receipt of the notice of appeal, the Board of Zoning Appeals 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.

(b) Variance Procedure.

(1) Planning and Zoning Commission. The Planning and Zoning Commission, as established by the Municipality shall hear and decide requests for variances from the requirements of this chapter.

A. The decisions of the Planning and Zoning Commission shall be reduced to writing and served upon the applicant at the address stated in the application by ordinary mail. Those aggrieved by the decision, or any taxpayer, may appeal such decision by filing the appeal within ten days of the date of the foregoing notice to the Delaware County Court of Common Pleas, as provided in Ohio R.C. Chapter 2506.

B. 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 Planning and Zoning Commission. In passing upon such application, the Planning and Zoning Commission shall consider, and make findings of facts on, all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

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 which 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 with existing and anticipated development;
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 flood waters and the effects of wave action, if applicable, expected at the site; and
11. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

C. Upon consideration of the factors of subsection (b)(1)B.1 to 11 and the purposes of this chapter, the Planning and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

D. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(2) Conditions for variances.

A. 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 (e)(1)D. have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

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

D. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. 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 to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this regulation, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in subsection (e)(1) or conflict with existing local laws or ordinances.
4. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(c) Appeal to the Court. Those aggrieved by the decision of the Planning and Zoning Commission or the Board of Zoning Appeals may appeal such decision to the Delaware Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
(Ord. 2009-11. Passed 4-7-09.)

1305.08 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 [1305.05\(f\)](#).

(2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with [1305.08\(c\)](#).

(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 Section [1305.08\(c\)](#).

(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 therefore 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 minor misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be assessed a fee or imprisoned as provided by the laws of the City of Powell. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Powell from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Powell shall prosecute any violation of these regulations in accordance with the penalties stated herein.

CHAPTER 1309

Fences

EDITOR'S NOTE: Current Municipal regulations concerning fences are located in the Zoning Code.

CROSS REFERENCES

Barbed wire fences prohibited - see GEN. OFF. [521.07](#)

TITLE THREE - Technical Codes

- Chap. [1311](#). Ohio Building Code.
Chap. [1315](#). Residential Code of Ohio
Chap. [1323](#). Property Maintenance Code.

CHAPTER 1311

Ohio Building Code

- [1311.01](#) Adoption.
[1311.02](#) Purpose.
[1311.04](#) Compliance.
[1311.05](#) Existing structures.
[1311.08](#) Conflict.
[1311.99](#) Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261

Power to enact further and additional regulations - see Ohio R.C. 3781.01

Authorization by Board of Building Standards - see Ohio R.C. 3781.12

Enforcement - see Ohio R.C. 3781.03, 3781.031, 3781.10(E), 3781.102, 3781.19

Final jurisdiction - see Ohio R.C. 3781.04

Application - see Ohio R.C. 3781.06, 3781.10(E), 3781.11(A)

Submission of plans - see Ohio R.C. 3791.04

Dead bolt locks in apartment buildings - see Ohio R.C. 3781.103

Smoke detection system for apartments and condominiums - see

Ohio R.C. 3781.104

Automatic sprinkler systems - see Ohio R.C. 3781.105, 3791.041 et seq.

Fire suppression systems - see Ohio R.C. 3781.108

Use of public buildings by handicapped persons - see Ohio R.C. 3781.111

Abandoned service stations - see Ohio R.C. 3791.11 et seq.

Safety standards for refuse containers - see Ohio R.C. 3791.21

1311.01 ADOPTION.

Pursuant to Ohio R.C. 731.231, there is hereby adopted by the Municipality, the Ohio Building Code (OBC) and related codes as adopted by the Ohio Board of Building Standards, Ohio Department of Commerce as published in Division 4101:1et seq. of the Ohio Administrative Code (OAC), and as the same may be amended, save and except such portions as are hereinafter deleted, modified or amended by this chapter. Such Code is hereby adopted and incorporated as if fully set out herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the city. One copy of such Code has been and is now filed in the office of the Clerk of Council, with copies available for distribution to the public at cost. A copy is also available on file in the county law library.

1311.02 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 energy conservation, 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.

1311.04 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, construction tradesmen, 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)

1311.05 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 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.

1311.08 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 may make further and additional regulations, not in conflict with Ohio R.C. Chapters 3781 and 3791 or with the rules of the Board of Building Standards. However 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.

(c) Other Rules. As provided in division (B) of Ohio R.C. 3781.11, the rules of the Board of Building Standards shall supersede and govern any order, standard or rule of the Divisions of State Fire Marshal or Industrial Compliance in the Department of Commerce, and the 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 Ohio R.C. Chapter 3743 prevail in the event of a conflict.

The rules of the Board of Building Standards adopted pursuant to Ohio R.C. 3781.10 shall govern any rule or standard adopted by the Board pursuant to Ohio R.C. 4104.02 and 4105.011.

1311.99 PENALTY.

See Section [1325.99](#) for General Building Code penalty.

CHAPTER 1315 Residential Code of Ohio

[1315.01](#) Adoption.

CROSS REFERENCES

Adoption of technical codes - see Ohio R.C. 731.231

1315.01 ADOPTION.

- (a) Pursuant to Ohio R.C. 731.231, there is hereby adopted by the Municipality, the Residential Code of Ohio (RCO) and related codes as adopted by the Ohio Board of Building Standards, Ohio Department of Commerce as published in Division 4101:8 et seq. of the Ohio Administrative Code (OAC), and as the same may be amended, save and except such portions as are hereinafter deleted, modified or amended by this chapter. Such Code is hereby adopted and incorporated as if fully set out herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the city. One copy of such Code has been and is now filed in the office of the Clerk of Council, with copies available for distribution to the public at cost. A copy is also available on file in the county law library.
- (b) The municipality hereby adopts Appendix G Swimming Pools, Spas and Hot Tubs of the ICC International Residential Code/2009.

CHAPTER 1323 Property Maintenance Code

- [1323.01](#) Purposes.**
- [1323.02](#) Definitions.**
- [1323.03](#) Applicability.**
- [1323.04](#) Owner and occupant duties and responsibilities.**
- [1323.05](#) Exterior appearance of premises and structures.**
- [1323.06](#) Freedom from infestation.**
- [1323.07](#) Administrative provisions.**
- [1323.08](#) Where access by Inspectors is refused.**
- [1323.09](#) Procedure where violation is discovered.**
- [1323.10](#) Application for inspection.**
- [1323.11](#) Application for status report.**
- [1323.12](#) Inspection and status report fees.**
- [1323.13](#) Certificate of necessity.**
- [1323.14](#) Issuance of certificate and conditions.**

[1323.15](#) Procedure where access is refused.

[1323.16](#) Severability.

[1323.99](#) Penalty.

1323.01 PURPOSES.

The purpose of this chapter is to protect the public health, safety and welfare of the citizens and inhabitants of the City of Powell by preventing property deterioration and by establishing minimum standards governing the maintenance, appearance and conditions of all residential and non-residential premises; to fix certain responsibilities and duties upon owners and occupants; to authorize and establish procedures for the inspection of residential and non-residential premises; to fix penalties for violations of this chapter; and to provide for the right of access across adjoining premises to permit repairs. This chapter is hereby declared to be remedial and essential for the public interest and it is intended that this chapter be liberally construed to effectuate the purposes as stated above.

(Ord. 95-06. Passed 2-21-95.)

1323.02 DEFINITIONS.

The following terms, wherever used herein or referred to in this chapter, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

- (a) "Accessory structure" means a detached building or structure in a secondary or subordinate capacity from the main building.
- (b) "Building" means a combination of materials enclosed within walls or exterior walls, built, erected and framed of component structured parts designed for the housing, shelter, enclosure and support of individuals, business, institutions, animals, or property of any kind.
- (c) "Building Code" means the Building Code as adopted by the Council of the City of Powell.
- (d) "Deterioration" means the condition or appearance of a building or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect, or lack of maintenance.
- (e) "Dwelling" means any structure designed for use by human occupants for sleeping and living purposes, whether occupied or vacant.
- (f) "Dwelling unit" means any room or group of rooms located within a building forming a single habitable unit.
- (g) "Exposed to public view" means any premises, or any part thereof, or any building or any part, which may be lawfully viewed by the public or any member thereof, from a sidewalk, street, alleyway, open-air parking lot, or from any adjoining or neighboring premises.
- (h) "Exterior of the premises" means those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.
- (i) "Fire hazard" means anything or act which increases or may cause any increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire, or that which may obstruct, delay, or hinder or may become the cause of any obstruction, delay, or hindrance or may become the cause of any obstruction, delay, hazard, or hindrance to the prevention, suppression, or extinguishment of fire.
- (j) "Garbage" means putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.
- (k) "Immediate neighborhood" means an area separated by no appreciable space and specially denoting a limited number of properties in a very close space relationship to each other.
- (l) "Infestation" means the presence of insects, rodents, vermin, or other pests on the premises which constitute a health hazard.
- (m) "Mixed occupancy" means any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses.
- (n) "Natural growth" means dead trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the

vicinity thereof.

(o) "Nuisance" means:

(1) Any public nuisance known in equity jurisprudence, or as provided by the Statutes of the State of Ohio or the Ordinances of the City of Powell.

(2) Conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist and where the conditions are perilous by active and negligent operation thereof.

(3) Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this Chapter.

(4) Fire hazards.

(p) "Occupant" means any person who has charge, care, or control of a building, structure, dwelling, or premises (or a part thereof), whether with or without the knowledge and consent of the owner.

(q) "Owner" means the owner or owners of the premises including the holder of title thereto subject to contract of purchase, a vendee in possession, a mortgagee or receiver in possession, lessee or joint lessees of the whole thereof or an agent or any other person, firm, corporation, or fiduciary directly in control of the premises.

(r) "Overhangings" means loose and overhanging objects which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof.

(s) "Premises" means a lot, plot, or parcel of land, including the buildings or structures thereon.

(t) "Property Maintenance Officer" means the Zoning and Inspector of the City of Powell or such other public official or deputy property maintenance officer as shall be appointed by the Mayor by the advice and consent of Council.

(u) "Refuse" means all putrescible and nonputrescible solid wastes (except body wastes) including but not limited to garbage, rubbish, ashes, dead animals, and solid market and industrial wastes; an accumulation of brush, broken glass, stumps, and roots that present a safety hazard, and includes garbage, trash and debris which present an unsanitary and/or safety hazard.

(v) "Registered mail" means registered or certified mail.

(w) "Rooming unit" means any room or group of rooms forming a single habitable unit other than a dwelling unit, which is rented or available for rent for sleeping purposes with or without cooking facilities.

(x) "Rubbish" means nonputrescible solid wastes consisting of both combustible wastes, such as paper, wrappings, tin cans, yard clippings, leaves, wood, glass, crockery, and similar materials.

(y) "Structure" means a combination of any materials, whether fixed or portable, forming a construction.

(z) "Weathering" means deterioration, decay, or damage caused by exposure to the elements.
(Ord. 95-06. Passed 2-21-95.)

1323.03 APPLICABILITY.

(a) Every residential and non-residential building and the premises on which it is situated in the City, used or intended to be used for dwelling, retail, commercial, business, light manufacturing, or industrial occupancy; shall comply with the provisions of this chapter, whether or not such building has been constructed, altered, or repaired before or after the enactment of this chapter, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or for the installation or repair of equipment of facilities prior to the effective date of this chapter. This chapter establishes minimum standards for the initial and continued occupancy and use of all such buildings and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building.

(b) In any case, where the provisions of this chapter impose a higher standard than set forth in any other ordinances of the City or under the laws of the State, then the standards as set forth herein shall prevail; but if the provisions of this chapter impose a lower standard than any other ordinances of the City or of the laws of the State, then the higher standard contained in any such ordinance or law shall prevail.

(c) After the date of enactment hereof, all licenses and permits shall be issued upon compliance with

this chapter as well as compliance with the ordinances under which such licenses and permits are granted.

(d) No license or permit or other certification of compliance with this chapter shall constitute a defense against any violation of any other ordinance of the City applicable to any structure or premises, nor shall any provision herein relieve any owner or occupant from complying with any such other provision, nor any official of the City from enforcing any such other provision.

(Ord. 95-06. Passed 2-21-95.)

1323.04 OWNER AND OCCUPANT DUTIES AND RESPONSIBILITIES.

(a) Owners shall have all the duties and responsibilities as prescribed in this chapter and the regulations promulgated pursuant thereto, and no owner shall be relieved from any such duty and responsibility, nor be entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible therefor and in violation thereof.

(b) Unless expressly provided to the contrary in this chapter the respective obligations and responsibilities of the owner and the occupant shall not be altered or affected by an agreement or contract by and between any of the aforesaid or between them and any other parties.

(c) The exterior of the premises and all structures thereon shall be kept free of all nuisance and any hazards to the safety of the occupants, pedestrians, and other persons utilizing the premises; and free of unsanitary conditions; and any of the foregoing shall be promptly removed and abated by the owner. It shall be the duty of the owner to keep the premises free of hazards which include but are not limited to refuse, natural growth, and/or overhangings.

(Ord. 95-06. Passed 2-21-95.)

1323.05 EXTERIOR APPEARANCE OF PREMISES AND STRUCTURES.

(a) Residential. The exterior of the premises, the exterior of dwelling structures, and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall reflect a level of maintenance in keeping with the standard set forth in this chapter and so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of the immediate neighborhood with the accompanying diminution of property values, including the following.

- (1) Storage of commercial and industrial material. There shall not be stored or used at a location visible from the sidewalk, street, or other public area, equipment and materials relating to commercial or industrial uses, unless permitted under the Zoning Ordinance from the premises.
- (2) Storage of inoperable, unlicensed or junk vehicles. Outdoor storage of inoperable, unlicensed or unused motor vehicles or trailers or parts thereof on a lot, for a period in excess of seven (7) days is prohibited. Said vehicles stored on the premises must be stored within a building so as not to be visible from any adjoining property or public road. Such vehicles shall not be used for storage or other purposes unless enclosed within a building on the premises.
- (3) Landscaping. Premises shall be maintained. Lawns, hedges, and bushes shall be kept from becoming overgrown and unsightly where exposed to public view, and where same constitute a blighting factor depreciating adjoining property and impairing the good residential character of the immediate neighborhood.
- (4) Signs. All signs permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair, and printed matter, pictures, or illustrations contained thereon shall be completely maintained or, when no longer in use, completely removed.
- (5) Maintenance of exteriors of dwelling structures and secondary or appurtenant structure.
 - A. All exterior parts of every dwelling structure, including exterior walls, parapet walls, decorative additions, chimneys, fences, and all other exterior structures, either above or below the roof line, shall be maintained in a safe condition, weathertight, and so as to resist decay or deterioration from any cause.
 - B. Any dwelling structure or secondary or appurtenant structure whose exterior

surface is bare, deteriorated, ramshackle, tumbledown, decaying, disintegrating, or in poor repair must be repaired or razed.

1. All buckled, rotted, or decayed walls, doors, windows, porches, floors, steps, trim, railings and their missing members, must be replaced and put in good condition.
2. All replacements must match and conform to original design or be replaced completely.
3. The structure shall be maintained free of broken windows, crumbling stone or brick, or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and the adjoining properties and the immediate neighborhood protected from blighting influences.

(b) Nonresidential. The exterior of the premises and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereon shall be reflect a level of maintenance in keeping with the standards of the immediate neighborhood so that the appearance of the premises and structures shall not constitute a blighting factor for the adjoining property owner nor an element leading to the progressive deterioration and downgrading of the immediate neighborhood with the accompanying diminution of property values, including the following:

- (1) Landscaping. Premises shall be maintained. Lawns, hedges, and bushes shall be kept from becoming overgrown and unsightly where exposed to the public view and where the same constitute a blighting factor which depreciates any adjoining property.
- (2) Signs and billboards. All permanent signs and billboards exposed to public view permitted by reason of other regulations or as a lawful nonconforming use, shall be maintained in good repair. Any signs which have weathered or are faded, or those upon which the paint has peeled or cracked shall, with their supporting members, be removed forthwith, or put into a good state of repair. All nonconforming or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.
- (3) Windows. All windows exposed to public view shall be kept free of foreign substances, except when necessary in the course of changing displays. No storage of materials, stock or inventory shall be permitted in window display areas or other areas ordinarily exposed to public view unless such areas are first screened from public view by drapes, by venetian blinds, or by other permanent rendering of the windows to make them opaque to the public view. All screening of interiors shall be maintained in a clean and an attractive manner and kept in a good state of repair.
- (4) Store fronts. All store fronts shall be kept in good repair, painted where required, and shall not constitute a safety hazard or a nuisance. In the event repairs to a store front become necessary such repairs shall be made with the same (or with similar) materials as used in the construction of the store front in such a manner as to permanently repair the damaged area or areas. Any cornice visible above a store front shall be kept painted, where required, and in good repair.
- (5) Awnings and marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk, or other portion of the premises shall be maintained in good repair, and shall not constitute a nuisance or a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event such awnings or marquees are made of cloth, plastic, or similar materials, such cloth or plastic, where exposed to public view, shall be maintained in good condition and shall not show evidence of weathering, discoloration, ripping, tearing, or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks, or other parts of the public domain.

(Ord. 95-06. Passed 2-21-95.)

1323.06 FREEDOM FROM INFESTATION.

All parts of the premises shall be maintained so as to prevent infestation by insects or termites and rodents. All provisions for garbage shall be constructed so as not to be accessible to dogs, cats or other animals.

(Ord. 95-06. Passed 2-21-95.)

1323.07 ADMINISTRATIVE PROVISIONS.

(a) Property Maintenance Officer. The Zoning Officer of the City is hereby designated to serve as the Property Maintenance Officer hereunder together with such additional or other public officials to serve as deputy or otherwise appointed by the Mayor with the advice and consent of Council; all inspections, regulations and enforcement on violations of the provision of this chapter, unless expressly stated to the contrary, shall be under the direction or supervision of the foregoing officials.

(b) When Inspections Are To Be Made.

(1) Residential. All buildings and premises subject to this chapter are subject to inspection from time to time by the enforcing officer of the City. At the time of such inspections, all the exterior parts of the premises must be available and accessible for such inspection, and the owner, and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made between the hours of 8:00 a.m. and 4:00 p.m., unless the premises are not available during the foregoing hours for inspections, or there is a reason to believe a violation exists of a character which is an immediate threat to health or safety, thereby requiring inspection and abatement without delay.

(2) Nonresidential. All buildings and premises subject to this chapter are subject to inspection from time to time by the enforcing officer. At the time of such inspections, all exterior parts of the premises must be available and accessible for such inspections, and the owner or occupant are required to provide the necessary arrangements to facilitate such inspections. Such inspections shall be made during the regular open hours of the business occupying such premises unless there is a reason to believe a violation exists of a character which is an immediate threat to health or safety, thereby requiring inspection and abatement without delay.

(3) Conduct of Inspectors. Inspectors shall conduct themselves so as to avoid intentional embarrassment or inconvenience to occupants.

(Ord. 95-06. Passed 2-21-95.)

1323.08 WHERE ACCESS BY INSPECTORS IS REFUSED.

(a) Where the Property Maintenance Officer or his agent is refused access, or is otherwise impeded or prevented by the owner or occupant from conducting an inspection of the premises, such person shall be in violation of this chapter and subject to the penalties contained herein.

(b) In addition to the provisions herein, the Property Maintenance Officer may apply to the Delaware Municipal Court, upon affidavit, for a search warrant, setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this chapter exists on the premises and, if the Court is satisfied as to the matter set forth in such affidavit, the Court may authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation exists. A warrant for access may be issued by the Court upon affidavit of the Property Maintenance Officer establishing the grounds therefore.

(Ord. 95-06. Passed 2-21-95.)

1323.09 PROCEDURE WHERE VIOLATION IS DISCOVERED.

Where a violation of this chapter or the regulations hereunder is found to exist, a written notice from the Property Maintenance Officer shall be served upon the person or persons responsible for the correction thereof.

(a) Contents of Notice. The notice shall specify the violation or the violations committed, what must be done to correct the same, a reasonable period of time (not to exceed forty-five (45) days) to

correct or abate the violation, the right of the person served to request a hearing, and that the notice shall become an Order of the Property Maintenance Officer in ten days after service, unless a hearing is requested pursuant to the provisions in subsection (c) herein.

(b) Service of Notice. Notice may be served personally or by mail with postage prepaid, addressed, to the last known address of the person to be served. Where it is ascertained that the owner does not reside on the premises, the last known address shall be the address of the owner as shown in the office of the Delaware County Auditor. If the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the building. The Property Maintenance Officer shall file and provide notice to any owner or occupant of any violation at any address other than the last known address provided hereunder if such other address is filed with the Property Maintenance Officer personally or by certified mail addressed to the Property Maintenance Officer. Date of service of the notice shall be determined (where service is by mail) as the day following the day of mailing for notices to addresses within the City and as of the fourth day after the day of mailing for notices to addresses outside the City. Where the day of service would fall upon a Sunday or other day when mail is not ordinarily delivered, then the day of service shall be the next regular delivery day. Notwithstanding any other provisions herein contained where premises are subject to registration and have been so registered, notice served upon the agent designated therein shall constitute service upon the owner, or lessor of the premises, jointly and severally.

(c) Notice To Become An Order Unless Hearing Is Requested. Within ten (10) days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon before Council, serving a written request within the ten (10) day period, in person or by mail, on the Clerk and Mayor. Such request for a hearing before the Council shall set forth briefly the grounds or reasons on which the request for a hearing is based and the factual matters contained in the notice of violation which are to be disputed at the hearing. The Clerk, upon receipt of the request shall, within thirty (30) days therefrom and upon five (5) days' notice to the party aggrieved, set the matter down for hearing.

(d) Determination at Hearing. At any hearing provided hereunder, the Council shall be vested with all the powers provided by law to compel the attendance of witnesses and parties in interest by the issuance and service of subpoena; to require by subpoena the production of books, records, or other documents at any such hearing which may be pertinent to matters to be determined by them; and to enforce any such subpoena or secure any other for the enforcement of any such subpoena, as provided by law. Determination shall be made within ten (10) days from the completion of the hearing. The Council shall issue an order either incorporating the determination and directions contained in the notice, modifying the same, or withdrawing the notice.

(e) Extension of Time. The Property Maintenance Officer may extend the time for correction or abatement of the violations for an additional period of time not to exceed thirty (30) days, except where major capital improvements or renovations are involved, in which instance the time for completion may be extended for a period of time not to exceed ninety (90) days beyond the expiration date of the original notice.

(f) Noncompliance with Notice. Whenever the owner, agent, occupant, or operator of a structure or premises fails, neglects, or refuses to comply with any notice of the Property Maintenance Officer that becomes a final order, the Property Maintenance Officer may advise the Solicitor of the circumstances, and request him to institute an appropriate legal action to compel compliance.

(g) Referral of Violations. Any violation of any ordinance other than this chapter, discovered by the Property Maintenance Officer or his representative, shall be reported to the official or agency responsible for the enforcement of such ordinance.

(Ord. 95-06. Passed 2-21-95.)

1323.10 APPLICATION FOR INSPECTION.

Whenever an owner or occupant, a bona fide prospective purchaser, mortgagee, or a bona fide prospective occupant requests an inspection in order to ascertain if any section of this chapter has been violated, the Property Maintenance Officer shall, upon payment of the fee hereunder stated, cause an

inspection to be made of the premises and issue an informational certificate or report of the inspection to the applicant, indicating therein any violation of this chapter on the premises. The applicant for such inspection shall state in writing his full name, his residence, and the reasons and basis for which the inspection is requested. The Property Maintenance Officer may deny the application for failure to comply with this requirement.

(Ord. 95-06. Passed 2-21-95.)

1323.11 APPLICATION FOR STATUS REPORT.

Where, in lieu of an inspection, an owner or occupant, lessee, bona fide prospective purchaser, mortgagee, or bona fide prospective occupant requests a status report as to whether or not there are any known violations presently pending on such premises, upon payment of the fee prescribed herein and the written request, a copy of any notice or order or any violation then pending shall be sent to the applicant.

(Ord. 95-06. Passed 2-21-95.)

1323.12 INSPECTION AND STATUS REPORT FEES.

The fee for any inspection or status report of any structure made at the request of the owner, occupant, or agent of either the owner or the occupant shall be in accordance with the fee schedule adopted by the City.

(Ord. 95-06. Passed 2-21-95.)

1323.13 CERTIFICATE OF NECESSITY.

(a) Who May Apply. Where any owner or occupant is required to make repairs or otherwise improve his property and is unable to comply with this chapter without having right of access to the building or premises through or across adjoining premises not owned by him or under his control, and where right of access has been refused the owner or occupant; or where the owner or person responsible for granting permission cannot be found or located; then, upon the filing of an affidavit setting forth the facts with the Property Maintenance Officer, the Property Maintenance Officer shall serve a five (5) day notice, in writing, of a hearing upon the owner or the occupant of any adjoining premises affected by the application.

(b) Hearing. On the day fixed for hearing, the Planning and Zoning Commission shall provide opportunity for the owner or occupant of the adjoining property or properties to state why access should not be granted across such adjoining properties.

(Ord. 95-06. Passed 2-21-95.)

1323.14 ISSUANCE OF CERTIFICATE AND CONDITIONS.

If the Planning and Zoning Commission determines that access is deemed absolutely necessary for compliance with this chapter, then the Planning and Zoning Commission shall issue a certificate of necessity setting forth therein the person or persons to whom the certificate shall apply, such conditions as shall be necessary to protect the adjoining property, reasonable time limits during which such certificate shall operate, precautions to be taken to avoid damages and, where the Planning and Zoning Commission deems proper, that a bond be procured at the expense of any persons seeking access to secure the adjoining property against damage to persons or property arising out of such rights of access. The bond shall not exceed ten thousand dollars (\$10,000) unless conditions deemed advisable by the Planning and Zoning Commission appear otherwise; and the amount set shall take into consideration the extent, nature, and the duration of the repairs, the proximity of the improvement on the premises affected, and the potential risk of damage thereto. The bond shall be filed with the Property Maintenance Officer.

(Ord. 95-06. Passed 2-21-95.)

1323.15 PROCEDURE WHERE ACCESS IS REFUSED.

Any refusal to comply with this section or any interference with access to premises pursuant to a certificate issued hereunder shall be a violation of this chapter and, in addition to the penalties provided hereunder, the Property Maintenance Officer may, upon affidavit, apply to the Municipal Court for a warrant under the procedure set forth herein or to the Common Pleas Court for an order granting access to the subject premises.

(Ord. 95-06. Passed 2-21-95.)

1323.16 SEVERABILITY.

If any section, subsection, paragraph, sentence, clause, phrase, or word contained in this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall remain in full force and effect, and to this end, the provisions of this chapter are hereby declared to be severable.

(Ord. 95-06. Passed 2-21-95.)

1323.99 PENALTY.

(a) Fines For Violations. A first violation of any section of this chapter shall be punishable by a fine of not more than one hundred dollars (\$100.00) for the violation committed hereunder. Each violation of a section of this chapter shall constitute a separate and distinct violation independent of any other section or subsection or any order issued pursuant to this chapter. Each day's failure to comply with any such section or subsection shall constitute a separate violation. Where the defendant is other than a natural person or persons, this section shall also apply to any agent, superintendent, officer, member, or director, or partner who shall alone or with others have charge, care, or control of the premises.

Any subsequent offense pursuant to any section of this chapter shall result in a fine of not more than three hundred dollars (\$300.00) for each violation committed hereunder. Each violation of a section of this chapter shall constitute a separate and distinct violation independent of any other section or subsection or any order issued pursuant to this chapter.

(b) Other Legal Action. The imposition of any penalty shall not preclude the Solicitor from instituting an appropriate action of proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance; or to restrain, correct, or abate a violation; to prevent the occupancy of a building, structure, or premises; to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules, or regulations, or the orders or determinations of the Property Maintenance Officer or the Planning and Zoning Commission.

(Ord. 95-06. Passed 2-21-95.)

TITLE FIVE - Municipal Building Code

| | |
|-----------------------------|-------------------------------------|
| Chap. 1325. | General Provision and Code Penalty. |
| Chap. 1327. | Division of Building Regulations. |
| Chap. 1329. | Permits and Fees. |
| Chap. 1331. | Contractor's Registration. |
| Chap. 1335. | Certificate of Occupancy. |
| Chap. 1337. | Construction Requirements. |
| Chap. 1339. | Swimming Pools. |
| Chap. 1341. | Nuisance Abatement. |

CHAPTER 1325

General Provision and Code Penalty

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|-------------------------|--|
| 1325.01 | Scope. |
| 1325.02 | Definitions. |
| 1325.03 | Conformance required. |
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CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.26, 715.29, 737.28, 737.37

Technical codes adopted - see [Title Three](#) of Part Thirteen

1325.01 SCOPE.

Within the City of Powell, Ohio, this Building Code covers:

- (a) All buildings and structures used for single family, two family and three family, non-industrialized, residential units, and their associated accessory buildings or structures, including but not limited to garages, carports, barns, storage building larger than 75 square feet of floor area, decks, swimming pools, and patios. This Building Code does not apply to any building for which a permit is required from the Department of Commerce of the State of Ohio or any building or structure of less than 75 square feet of floor area.
- (b) The demolition of any building or structure within the City which has more than 75 square feet of floor area.
- (c) The moving of any building or structure, which has more than 75 square feet of floor area, through, into, or out of the City.

(Ord. 87-26. Passed 10-20-87.)

1325.02 DEFINITIONS.

The definitions of words given in this section shall be used in this Building Code unless the context of any section of any chapter specifically indicates that such definitions are not applicable.

- (a) "Accessory use or building" means a portion of a building or a subordinate building whose use is incidental to the permitted use of the remainder of the building or the main building.
- (b) "Alteration"
 - (1) "Alter or Alteration" means any change in, addition to, rearrangement of, or modification in construction of the existing facilities, or, the moving of partitions from one location or position to another.
 - (2) "Structural alteration" means any change in the supporting members of a building such as bearing walls, columns, lintels, beams or girders, or floor construction.
- (c) "Builder" means any person, corporation or entity to which a building permit is issued.
- (d) "Building or Structure" means an edifice, or any construction or arrangement of construction, materials located under or above the surface of the ground which falls under the jurisdiction of this Building Code.
- (e) "Chief Building Official" is the person, corporation or entity authorized and empowered by the Council to administer and enforce this Building Code.
- (f) "Building Inspector" is any person, corporation, or entity serving as the authorized representative of the Chief Building Official.
- (g) "Garage" means building or portion of a building for the housing of motor vehicles.
- (h) "Lot line" means the line of demarcation between properties, either public or private.
- (i) "Nonindustrialized Residential Units" are all residential units which are not defined as "industrialized residential units" in Section 3781.06 of the Ohio Revised Code as such sections may be amended, revised or incorporated into other sections of the Ohio Revised Code.
- (j) "Occupancy" means the purpose for which a building or part of a building is used or intended to be used. Change of occupancy is not construed to include change of tenants or properties.
- (k) "Residence, dwelling" means the general term implying place of human habitation.
 - (1) "Single family dwelling" means a residential building arranged, intended or designed to be occupied by one family.
 - (2) "Two family dwelling" means a residence building arranged, intended or designed for two families living independently of each other and each doing their own cooking in or at the premises occupied by that family upon facilities for such purposes used exclusively by that family.
 - (3) "Three family dwelling" means a residence building arranged, intended or designed for three family living independently of each other and each doing their own cooling in or at the

premises occupied by that family upon facilities for such purposes used exclusively by that family.

- (l) "Shall" is mandatory.
- (m) "Use" means the application of premises or building to a particular purpose.
(Ord. 87-26. Passed 10-20-87.)

1325.03 CONFORMANCE REQUIRED.

(a) No building or structure shall be constructed, altered, remodeled, razed, relocated or removed except in conformity with the provisions of this Building Code and any lawful rule of the Chief Building Official made hereunder.

(b) No building, structure or part thereof that has been erected or altered in violation of the provisions of the Building Code after its effective date may be maintained, occupied or used.
(Ord. 87-26. Passed 10-20-87.)

1325.05 CONFLICT OF REGULATIONS.

Whenever any provision of the Building Code conflicts with or is inconsistent with the provisions of codes adopted by reference herein the more restrictive provisions shall apply.
(Ord. 87-26. Passed 10-20-87.)

1325.06 REPAIRS; ENLARGEMENTS; CHIEF BUILDING OFFICIAL'S AUTHORITY.

(a) No building shall hereafter be altered or enlarged in such a manner as to violate any of the provisions of this Building Code.

(b) No existing building shall be altered or repaired when the value of such alterations or repairs is equal or greater than one-half of the value of the building, exclusive of the value of the foundation, unless upon completion of such alterations or repairs, the entire building will meet all requirements for the buildings hereafter erected.

(c) Any existing building which may be damaged to an extent of fifty percent or more of its value, exclusive of the value of the foundation, may be repaired or rebuilt only when upon completion of such repairs or rebuilding the entire building will meet all the requirements for buildings hereafter erected. Any existing building which is damaged to an extent of fifty percent or more of its value, exclusive of the value of the foundation, and cannot be repaired in such a manner as to meet the requirements of this Building Code, must be torn down.

(d) Under the provisions of this section the amount and extent of the damage and the value of the building damaged, altered, repaired or sought to be altered, repaired or rebuilt, shall be determined by the Chief Building Official. Provided, however, that any property owner dissatisfied with the determination may file a written notice of appeal from the Chief Building Official's decision with the Council which shall act upon such appeal within thirty (30) days of receipt of same by the City Clerk and affirm or reverse the decision of the Chief Building Official.

(Ord. 87-26. Passed 10-20-87.)

1325.07 MOVING BUILDINGS OR STRUCTURES.

(a) No person shall move any building or structure having more than 75 square feet of floor area into, out of, or through the City without obtaining a permit from the Chief Building Official. The applicant shall provide evidence acceptable to the Chief Building Official of sufficient bonds or insurance coverage to pay all damages to the property of the City or of other persons, caused by, or in any way growing out of, the moving of any building in the City, or the occupancy of any street or alley by such building or the equipment used in connection with such operations and will pay all damages for injury to or death of any person or persons arising from such moving or occupancy; and shall indemnify and save harmless the City from all liability, loss, damages and expenses of every nature growing out of such moving or occupancy.

(b) The Chief Building Official shall, designate the streets or other public places to be used in the moving of such building or structure, together with the time which such building or structure may remain upon the street or other public place and it shall be unlawful for any person to take a different route than the

one designated in such permit or to allow a building or structure to remain in the streets or public places a longer time than so designated.

(c) No building or structure shall be permitted to be in any street or alley, or part thereof, from 30 minutes before sunset to 30 minutes after sunrise, unless the licensee moving such building shall adequately warn all persons using such street or alley of the obstruction by placing adequate signs, lights and barricades.

(d) The terms of the permit shall include other requirements as deemed necessary by the Chief Building Official.

(Ord. 87-26. Passed 10-20-87.)

1325.08 DEMOLITION

(a) No person shall demolish a building or structure having more than 75 square feet of floor area without obtaining a permit from the Chief Building Official. The applicant shall provide evidence acceptable to the Chief Building Official of sufficient bonds or insurance coverage to pay all damages to property of the City or other persons, caused by, or growing out of the demolition of the building or structure, including the hauling away of the material, structure, parts and debris, and shall indemnify and save harmless the City from all liability, loss, damage and expense of every nature growing out of such demolition activities.

(b) No demolition activity shall begin or be carried out without adequate lights, barricades and signs to safeguard the public or without gaining approval of the plan and schedule of demolition.

(c) The terms of the permit shall include the requirements as deemed necessary by the Chief Building Official.

(Ord. 87-26. Passed 10-20-87.)

1325.09 REMOVAL OF STOP WORKING ORDERS PROHIBITED.

No person or corporation shall remove or cause the removal of a posted stop work order on any structure, building or premise except the Chief Building Official or his authorized representative. The removal of a stop work order shall subject the person or corporation to the revocation of any or all licenses to work in the City; the revocation of any or all permits issued for the structure, building or premise for which the stop work order was issued and the general code penalty of Section [1325.99](#).

(Ord. 87-26. Passed 10-20-87.)

1325.10 NOTICE.

Unless otherwise stated in this Building Code, written notice shall be deemed to have been given at such time as it is posted on the building, structure or the premises on which the revocation or conditions causing the written notice have been found or are associated with.

(Ord. 87-26. Passed 10-20-87.)

1325.99 GENERAL CODE PENALTY.

Whoever violates any provision of this chapter or any Code adopted herein fails to comply with any provision of this Building Code for which no other penalty has been provided, or fails to comply with any order or regulation made thereunder, or builds in violation of a building permit or certificate issued thereunder shall be guilty of misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) for each and every violation and noncompliance. A separate offense shall be deemed committed each day during or on which an offense occurs or continues. The imposition of a penalty shall not excuse the violation or permit it to continue and the application of such penalty shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 1327

Division of Building Regulations

[1327.01](#) **Organization and duties.**

[1327.02](#) **Enforcement by the Chief Building Official.**

[1327.03](#) **Powers and duties of the Chief Building Official.**

[1327.04](#) **Qualifications of Chief Building Official.**

- [1327.05](#) Prohibited activities.
- [1327.08](#) Personal nonliability.
- [1327.09](#) Cooperation of other officials.
- [1327.99](#) Penalty.

CROSS REFERENCES

- Permits and fees - see BLDG. Ch. [1329](#)
- Inspections - see BLDG. Ch. [1333](#)
- Certificate of occupancy - see Ch. [1335](#)

1327.01 ORGANIZATION AND DUTIES.

- (a) There is established in the City the Division of Building Regulation which shall be under the jurisdiction of the Committee of Public Safety of the Council.
- (b) The Division shall consist of a Chief Building Official and such inspectors, deputies and assistants as may be provided by Council. The positions shall be filled either through employment of personnel or by contracting with persons or corporations.
- (c) The Division shall be responsible for carrying out the requirements of, and the enforcement of the Building Code of the City, and such other duties and powers as are now or may hereafter be conferred upon the Division or the employees thereof by the ordinance of the City.
(Ord. 87-26. Passed 10-20-87.)

1327.02 ENFORCEMENT BY THE CHIEF BUILDING OFFICIAL.

- The Chief Building Official is authorized and directed to enforce the provisions of the Building Code. For such purpose, he shall have the powers of a police officer.
(Ord. 87-26. Passed 10-20-87.)

1327.03 POWERS AND DUTIES OF THE CHIEF BUILDING OFFICIAL.

- The Chief Building Official shall be the head of the Division of Building Regulations and have the management of all matters and affairs pertaining thereto, including the following:
 - (a) He shall prescribe rules and regulations for the persons or corporations engaged in the service of the Division. Such persons or corporations shall do and perform such duties as he may require or direct and be under his direction, supervision and control.
 - (b) He shall be charged with the survey and inspection of buildings and structures and with the enforcement of all parts of this Building Code.
 - (c) He shall enforce all other laws and ordinances on the same subject matter.
 - (d) He shall be in charge of the examination and approval of all plans and specifications before a permit may be issued and sign and issue all permits, certificates and notices required by this Building Code.
 - (e) He shall issue all contractor licenses required by the Building Code.
 - (f) He shall keep proper record showing the location, value and character of every building, structure or other work for which a certificate or permit is issued and a copy of every report or inspection of a building, structure or work with the name of the inspector making the inspection and the date thereof.
 - (g) He shall determine the value or valuation under any of the provisions of this Building Code.
(Ord. 87-26. Passed 10-20-87.)

1327.04 QUALIFICATIONS OF CHIEF BUILDING OFFICIAL.

- The Chief Building Official shall be an architect or engineer registered in the State of Ohio or be licensed by the Department of Commerce of the State of Ohio as an electrical or structural inspector, have at least five years of experience in building construction, design, or inspection. He shall be generally informed about the quality and strength of building materials, the prevailing methods of building construction, good practice in fire prevention, the accepted requirements for safe exit facilities and the proper installation of plumbing, electrical wiring, elevators and other installations for the safety, comfort and convenience of occupants. He

shall be in good health and physically capable of making the necessary examinations and inspections of buildings in the course of construction.

(Ord. 87-26. Passed 10-20-87.)

1327.05 PROHIBITED ACTIVITIES.

The Chief Building Official and any employees of the Division of Building Regulations is prohibited from knowingly performing any of the following activities for a structure or building for which a permit is to be or has been issued by the Division of Building Regulations.

- (a) Designing or redesigning any portion, component or part of a structure, system, equipment or use of material for a structure or building.
- (b) Having any interest whatever in the sale or manufacturing of any material process or device entering into or used in connection with a building or structure.
- (c) Receiving any fees, gratitude, or items as trade from any source other than the City of Powell for his services and inspections.
- (d) In the case of consultants, or corporations working under contract to the City for services to the Division of Building Regulations, any work for which prohibited activities have been performed shall be reviewed by another consultant, individual or corporation.

(Ord. 87-26. Passed 10-20-87.)

1327.08 PERSONAL NONLIABILITY.

Any suit brought against any officer or employee of the City because of any act performed by him in the enforcement of any provisions of the Building Code shall be defended by the City provided said officer or employee is acting within the scope of his employment as such officer or employee until the final termination of the proceedings therein. The City shall save such officer or employee harmless from personal liability.

(Ord. 87-26. Passed 10-20-87.)

1327.09 COOPERATION OF OTHER OFFICIALS.

The Chief Building Official may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of the City Engineer in fixing grades, the Chief of Police in enforcing orders, the City Solicitor in prosecuting violations, and other City officials.

(Ord. 87-26. Passed 10-20-87.)

1327.99 PENALTY.

See Section [1325.99](#) for General Building Code penalty. In addition to the penalty described in Section [1325.99](#), any employee of the Division of Building Regulations may be fired upon failure to perform his/her duties as described herein or upon violation of Section [1327.05](#).

(Ord. 87-26. Passed 10-20-87.)

CHAPTER 1329 Permits and Fees

- [1329.01](#) Permits required.
- [1329.02](#) Permit application.
- [1329.03](#) Amendment of permit.
- [1329.04](#) Underground structures.
- [1329.05](#) Plans; specifications; construction layout; exceptions.
- [1329.06](#) Grading plan required.
- [1329.07](#) Permit issuance.
- [1329.08](#) Refusal of permits.
- [1329.09](#) Retention of plans.
- [1329.10](#) Effect of permit issuance.

- [1329.12](#) Permit revocation; notice.
- [1329.13](#) Fees required; double fees.
- [1329.99](#) Penalty.

CROSS REFERENCES

Contractor's registration - see BLDG. Ch. [1331](#)
Certificate of occupancy - see BLDG. Ch. [1335](#)

1329.01 PERMITS REQUIRED.

No person shall commence to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure in the City or cause the same to be done, without first obtaining a separate permit for each such building or structure from the Chief Building Official and without being licensed from the intended activity by the Chief Building Official. The specific permits are as follows:

- (a) A Building Permit is required for any work on an existing or new structure or building except for the moving of a building or structure or the demolition of a building or structure, which requires separate permits. A building permit may cover all work or the electrical, plumbing and heating, ventilation and air conditioning work may be covered under separate building permits. The building permit shall include the temporary use of sidewalks or streets for storage of materials or equipment.
- (b) A Remodeling Permit may be issued for any interior alterations to an existing building or structure which effects less than fifty percent (50%) of the finish floor area prior to the interior alterations and costs less than three thousand dollars (\$3,000).
- (c) A Demolition Permit is required for the demolition and removal of any building or structure having more than seventy-five square feet of floor area within the City. Approval of the Planning and Zoning Commission must be obtained prior to the issuance of a demolition permit for any building or structure within the Architectural Review District or any other Zoning District requiring such approval.
- (d) A Moving Permit is required for the moving through, into or out of the City of Powell, any building or structure which has more than 75 square feet of floor area. Approval of the Planning and Zoning Commission must be obtained prior to the issuance of a moving permit for any building or structure within the Architectural Review District or any other Zoning District requiring the same.
(Ord. 87-26. Passed 10-20-87.)
- (e) A temporary sanitary facilities permit is required whenever a permit is issued pursuant to the provisions of subsection (a) to (d) hereof. Before either a building permit, remodeling permit, demolition permit, or moving permit is issued pursuant to the provisions of the Powell Building Code, a temporary sanitary facilities permit shall be issued by the Chief Building Official. The Chief Building Official shall ascertain, before issuing said permit, that there are adequate temporary toilet facilities located upon the premises or within 300 feet of the premises for which a building, remodeling, demolition or moving permit is issued as otherwise provided pursuant to the terms of the Powell Building Code. The temporary sanitary facilities required herein must be located on the site or within 300 feet of the site for which a building permit, remodeling permit, demolition permit, or moving permit is otherwise issued pursuant to the terms of the Powell Building Code.
(Ord. 90-24. Passed 7-5-90.)

1329.02 PERMIT APPLICATION.

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Each application shall:

- (a) Describe the land on which the proposed work is to be done, by lot, block tract, house and street address or similar description that will readily identify and definitely locate the proposed building or work;
- (b) Show the use or occupancy of all parts of the building or structure;
- (c) Be accompanied by plans and specifications as are required in Section [1329.05\(a\)](#);
- (d) State the valuation of the proposed work;
- (e) Give all other information as reasonably may be required by the Chief Building Official.

(Ord. 87-26. Passed 10-20-87.)

1329.03 AMENDMENT OF PERMIT.

If, during the prosecution of work under a permit, it is necessary to make any changes in the plans or contract, the permit holder shall notify the Chief Building Official in writing of the proposed changes. If approved, the changes shall be added to the original permit file, and if the cost of the work is thereby increased so much as to require a higher permit fee, the additional sum shall be collected in accordance with the schedule set forth herein.

(Ord. 87-26. Passed 10-20-87.)

1329.04 UNDERGROUND STRUCTURES.

(a) All utilities, prior to installation of any underground structure, shall submit an application in writing stating the name of the utility, the type of the structure and its desired placement to the Mayor for approval. Such application shall be accompanied by a detailed set of plans or drawings showing the type of structure and its exact location.

(b) No construction shall be accomplished until the Mayor or his designee approves such application in writing. Should an application not be acted upon within thirty days after it is submitted, the utility may appeal directly to Council for approval.

(c) All plans and specifications accompanying an application shall become a permanent part of the City records.

(Ord. 87-26. Passed 10-20-87.)

1329.05 PLANS; SPECIFICATIONS; CONSTRUCTION LAYOUT; EXCEPTIONS.

(a) Each application for a permit shall be accompanied by two sets of plans and specifications.

(b) Plans and specifications for buildings or structures shall be prepared by a licensed architect, engineer or qualified draftsman and be drawn to scale upon a substantial paper or cloth of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that it will conform to the provisions of the Building Code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the lot number and subdivision name, the street address of the work and the name of the owner or agent and person who prepared them. Plans shall include a plot plan signed by a registered surveyor showing the location of the proposed building and of every existing building adjacent on the property. In lieu of detailed specifications, the Chief Building Official may approve references on the plans to a specific section or part of the Building Code. Diagrams and other data sufficient to show the correctness of the plans shall be submitted when required by the Chief Building Official.

(c) The outline of the proposed building shall be staked out on the ground by a registered surveyor with sufficient permanency that the inspector may determine that the footers and walls are constructed according to the layout stakes.

(d) Plans and specifications need not be submitted for small and unimportant work when authorized by the Chief Building Official.

(e) When authorized by the Chief Building Official, the use of a registered surveyor may be waived for building additions, small buildings or structures, and work on or within an existing building or structure.

(Ord. 87-26. Passed 10-20-87.)

1329.06 GRADING PLAN REQUIRED.

No building permit shall be issued until a grading plan showing existing and proposed grades and drainage from or onto adjacent property has been approved by the City Engineer.

(Ord. 87-26. Passed 10-20-87.)

1329.07 PERMIT ISSUANCE.

(a) Applications, plans and specifications filed by an applicant for a permit shall be examined by the Chief Building Official or his authorized representative. Plans shall be forwarded to other City departments for review if deemed necessary by the Chief Building Official, to determine compliance with the laws and

ordinances under their jurisdiction. If the Chief Building Official is satisfied that the work described in the application for a permit and the plan filed will conform to the requirements of the Building Code and other pertinent laws and ordinances, he shall issue a permit therefor to the applicant, provided that prior to issuing the Building Permit, the applicant has submitted proof in form and substance satisfactory to the Chief Building Official that:

- (1) The proposal has been submitted in writing to the Homeowners Association involved with the property in question, if architectural review is required by deed restrictions.
- (2) That such submittal was received by the Association.
- (3) That one of the following has occurred:
 - A. That the applications have been approved by the Association.
 - B. That more than thirty days have elapsed since such submittal and such submittal has not been denied by the Homeowners Association or the Homeowners Association has failed to take any action in writing denying such application.
 - C. The Homeowner Association has acted in denying such application and listed the reasons behind such denial, but the Commissioner finds the homeowner has made a good faith effort to accommodate the concerns of the Homeowners Association.

(b) When the Chief Building Official issues the permit, he shall endorse in writing or stamp on sets of plans and specifications "APPROVED". Approved plans and specifications from the Chief Building Official shall not be changed without written authorization of the Chief Building Official.

(Ord. 99-84. Passed 1-4-00.)

1329.08 REFUSAL OF PERMITS.

The Chief Building Official shall refuse a permit to an applicant:

- (a) Who has outstanding and unpaid judgments against him arising from or growing out of failure to perform work under a construction contract or failure to perform work in a good and workmanlike manner.
- (b) Who has previously obtained a permit by making material misrepresentations.
- (c) Who has previously performed work on a premises knowing that the permit thereof was obtained by material fraudulent misrepresentations.
- (d) Who is in violation of this Building Code, who is under citation by the Chief Building Official for any violation of the Building Code, or who has willfully failed to comply with a lawful order of the Chief Building Official or his authorized representative.
- (e) Who has failed to obtain a contractor's license from the City.
- (f) Who cannot substantiate the technical expertise or financial ability to complete the work in accordance with the plans and specifications in a timely manner as determined by the Building Department.

(Ord. 00-21. Passed 6-6-00.)

1329.09 RETENTION OF PLANS.

One set of approved plans, specifications and computations shall be retained by the Chief Building Official for a period of not less than the requirements set forth in the City of Powell Retention Schedule. One or more sets of the approved plans and specifications shall be returned to the applicant, of which one set shall be kept on such building or work at all times during which the work authorized is in progress.

(Ord. 87-26. Passed 10-20-87.)

1329.10 EFFECT OF PERMIT ISSUANCE.

(a) The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for an approval of any violation of any provisions of the Building Code.

(b) The issuance of a permit based upon plans and specifications shall not prevent the Chief Building Official from thereafter requiring the correction of errors in such plans and specifications or from preventing building operations being carried on thereunder when in violation of the Building Code or any other ordinances of the City.

(Ord. 87-26. Passed 10-20-87.)

1329.12 PERMIT REVOCATION; NOTICE.

Each permit issued by the Chief Building Official shall be subject to revocation by the Chief Building Official whenever it appears that such building or structure is being constructed so that any part of it encroaches upon any street, alley, easement or other public lands; that such building or structure is being constructed as to violate any of the terms or requirements of the Building Code or any ordinance of the City or any State law; or that there has been a material misrepresentation made to obtain the permit. Written notice shall be given of such revocation as required in Section [1325.10](#).

(Ord. 87-26. Passed 10-20-87.)

1329.13 FEES REQUIRED; DOUBLE FEES.

(a) Any person desiring to do or cause to be done any work for which a permit is issued shall pay fees as provided on the Fee Schedule established by the Council and in force on the date permit is issued or the approval is given.

(b) Where work for which a permit is required by the Building Code is started or proceeded with, prior to obtaining such a permit, the fees shall be doubled but the payment of double fees shall not relieve any persons from fully complying with requirements of the Building Code in the execution of the work nor from any other penalties prescribed.

(Ord. 87-26. Passed 10-20-87.)

1329.99 PENALTY.

See Section [1325.99](#) for General Building Code penalty.

(Ord. 87-20. Passed 10-20-87.)

CHAPTER 1331 Contractor's Registration

- [1331.01](#) Registration required.
- [1331.02](#) Definitions.
- [1331.03](#) Required registrations/exemptions.
- [1331.04](#) Registration procedures.
- [1331.05](#) Revocation of registration certificate.
- [1331.99](#) Penalty.

CROSS REFERENCES

Permits and fees - see BLDG. Ch. [1329](#)

Certificate of occupancy - see BLDG. Ch. [1335](#)

1331.01 REGISTRATION REQUIRED.

The City of Powell/Liberty Township Department of Building Regulations hereby requires registration and insurance for all electrical, mechanical, plumbing/hydronics, fire protection, subcontractors, general contractors and water and sewer line installers or any other trade performing services in the City/Township on any project.

(Ord. 2011-24. Passed 11-1-11.)

1331.02 DEFINITIONS.

As used in this Chapter the following terms shall have the meanings respectively ascribed to them:

(a) Electrical contractor: Any person who is engaged in the business, or who, pursuant to written or oral agreement with another person, undertakes any electrical work or portion thereof involving that particular trade, art or craft.

(b) Mechanical/Refrigeration contractor: Any person who is engaged in the business, or who, pursuant

to written or oral agreement with another person, undertakes any heating, ventilating, air conditioning, or refrigeration work or portion thereof involving that particular trade, art or craft.

(c) Plumbing/Hydraulics contractor: Any person who is engaged in the business, or who pursuant to a written or oral agreement with another person, undertakes any plumbing/hydraulics work or portion thereof involving that particular trade, art or craft.

(d) Fire protection contractor: Any person, who is engaged in the business, or who, pursuant to written or oral agreement with another person, undertakes the fire protection work or portion thereof involving that particular trade, art or craft.

(e) General contractor: Any person who is engaged in the business, or who, pursuant to written or oral agreement with another person, undertakes any general construction work, on a project requiring a permit issued by the Building Department.

(f) Other trade: Any person who is engaged in the business, or who, pursuant to written or oral agreement with another person undertakes any work on any project requiring a permit issued by the Building Department including but not limited to, signs, concrete, landscaping, drywall, masonry, stucco, insulation, excavation, painting, roofing, paving, carpentry (e.g. rough, trim), fireplaces, moving (e.g. structures/buildings), etc.

(g) Subcontractor: Any person who performs a special skill, trade, craft or profession as a business for profit in the City, and as part of a construction contract, whether on behalf of the general contractor, building owner, or the agent of an owner.

(Ord. 2011-24. Passed 11-1-11.)

1331.03 REQUIRED REGISTRATIONS/EXEMPTIONS.

(a) Except as otherwise provided by this chapter, no person within the jurisdiction of this chapter shall:

(1) Act or hold himself or herself to be a contractor, or undertake to perform any such work as a contractor, without first having obtained a registration certificate in the manner specified in this chapter, provided, however, that in the event such person shall be a firm or corporation, it may act as or represent itself to be a contractor if any work is under the actual and immediate supervision of a duly and appropriately registered member, partner, officer or employee of such firm or corporation.

(2) Permit or cause any work as hereinafter defined to be undertaken or performed other than by a duly registered contractor on a contract with an owner or lessee or an owner and a lessee.

(b) Any contractor whether general or subcontractor shall not permit his name or registration to be used by another owner, contractor or agent. Any contractor found guilty of violating this section shall, subject to appeal, immediately forfeit his registration for a period of one year, without refund of any registration fees.

(c) Exemptions. Except as otherwise provided in this chapter, the following are not required to be registered:

(1) The property owner who performs the work himself or herself.

(2) Work done or caused to be done by the United States of America, the State of Ohio, or any agency or subdivision thereof.

(Ord. 2011-24. Passed 11-1-11.)

1331.04 REGISTRATION PROCEDURES.

(a) Upon receipt of any such foregoing certificates and recommendations, the Building Department may issue registration certificates in accord therewith, provided, however that it shall not be mandatory upon the Building Department to issue any such registration certificate should it be established to its satisfaction that the applicant in question has been guilty of any of the acts or practices for which a registration certificate could be revoked as hereinafter set forth.

(b) Every registration certificate issued pursuant to this chapter shall expire on December 31 of the year for which the same shall be issued. No registration fee required under the provisions of this chapter shall, after payment thereof to the City, be refunded for any cause whatsoever.

(c) No registration certificate shall be issued or continue in effect pursuant thereto unless the applicant has prepaid to the City a registration fee or a renewal fee as set forth herein. If the renewal fee is not received by January 31, new registration will be required at the fee for new registration. In addition, the

applicant shall give evidence that the following items are valid and remain in effect for the duration of the registration certificate:

- (1) General liability insurance of five hundred thousand dollars (\$500,000).
- (2) A Certificate of Workers' Compensation when the applicant employs one or more people.
- (3) Those contractors performing radon mitigation must be licensed by the Ohio Department of Health pursuant to Ohio R.C. 3723.02 and shall furnish a copy of their license at the time of application.
- (4) Contractors performing electrical, mechanical or refrigeration, plumbing, or hydronics, must be licensed by the Ohio Construction Industry Licensing Board pursuant to Ohio R.C. 4740.01 and shall furnish a copy of their license at the time of application.
- (5) Fire protection contractors shall be certified or fire protection installers shall be licensed by the Ohio Fire Marshal pursuant to Ohio R.C. 3781.105 and shall furnish a copy of their certification or license at the time of application.
- (d) Any individual desiring a certificate of registration shall be eighteen years of age or older and shall make a written application and file the same with the Building Department. Every application shall be on forms prescribed and shall furnish all information and data required thereby. (Ord. 2011-24. Passed 11-1-11.)

1331.05 REVOCATION OF REGISTRATION CERTIFICATE.

(a) Upon written complaint of any person, and after investigation of the complaint, the Building Department may recommend to the Chief Building Official (CBO) that the contractor's registration certificate be revoked. The CBO may, upon recommendation of the Building Department, authorize and empower the Building Department to revoke, modify, or suspend any registration certificate issued pursuant to the provisions of this chapter for any of the following acts or omissions of the holder of any certificate:

- (1) Violation of any of the provisions of this chapter or the Building Code;
- (2) Misrepresentation of a material fact in order to become registered or in the renewal of registration;
- (3) Failure to secure permits, inspections and approvals required by this Building Code and regulations of the Building Department;
- (4) Use of registration to obtain a permit for another;
- (5) Having outstanding violations of the Building Code or outstanding violations issued by the Building Official;
- (6) Continuing work after receipt of stop work order;
- (7) Having a building permit refused or revoked;
- (8) 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 Building Official or the Building Official's designee;
- (9) Unethical business practices; a conviction of moral turpitude; or when revocation is deemed necessary in the public interest;
- (10) Conversion of property or funds belonging to another;
- (11) Failure to complete any contract or work undertaken under the authority of such registration certificate;
- (12) Unreasonable delay in the prosecution or completion of any work to which such a registration certificate may be a party;
- (13) Use of unapproved or fraudulent material;
- (14) Departure from the plans or specifications prescribed by any provision of law or ordinance;
- (15) Involuntary petition in bankruptcy by such registration certificate holder or an assessment by him or her for the benefit of his or her creditors or the appointment of a receiver or trustee to take charge of the property, assets and affairs of such registration certificate holder; or
- (16) For any valid reason adversely affecting health, safety and welfare of the residents of the City.

(b) However, no registration certificate shall be revoked without at least fifteen days advance written notice by the Building Department to the registration certificate holder to such effect and without affording to such registration certificate holder the opportunity to appeal by submitting the request in writing and stating the reason for the appeal and filing the request with the CBO of the City of Powell within ten days after

receipt of notice of revocation.
(Ord. 2011-24. Passed 11-1-11.)

1331.99 PENALTY.

See Section [1325.99](#) for General Building Code penalty.
(Ord. 2011-24. Passed 11-1-11.)

CHAPTER 1335
Certificate of Occupancy

[1335.02](#) Requirements for certificate.

[1335.04](#) Requirements for temporary certificate.

[1335.99](#) Penalty.

CROSS REFERENCES

Permits and fees - see BLDG. Ch. [1329](#)

Construction requirements - see BLDG. Ch. [1337](#)

1335.02 REQUIREMENTS FOR CERTIFICATE.

The following requirements must be fulfilled and approved prior to the issuance of a Certificate of Occupancy:

- (a) The building or structure is constructed and completed as per plans and specifications.
- (b) The curb box and water valve are installed properly.
- (c) The curb, driveway approach and public sidewalk are free from cracks and constructed as per the requirements of the City.
- (d) All manholes and sewers located on private property are free from debris and installed properly and to grade.
- (e) All final grades are completed as per accepted plot and grading plans, the lot pins are in and the lot is seeded or sodded.
- (f) The lot and street in front of the lot is clean, free of debris, mud and building material.
- (g) All fees and penalties have been paid.

(Ord. 87-26. Passed 10-20-87.)

1335.04 REQUIREMENTS FOR TEMPORARY CERTIFICATE.

A request for a temporary Certificate of Occupancy may be granted by the Building Inspector upon request when:

- (a) The requirements of Section [1335.02](#)(a) and (g) have been met;
- (b) In the opinion of the Chief Building Official, the requirements of Section [1335.02](#)(a), through (f) that have not been met are delayed for valid reasons and the delay in their completion will not endanger the health and safety of any resident of the City.
- (c) A letter signed by the property owner, the general contractor and an officer of the financial institution making the permanent loan on the property, or the property owner and general contractor or such other persons or organizations acceptable to the Chief Building Official when there will be no permanent loan on the property, stating that sufficient funds have been escrowed for the purpose of completing the work required for the issuance of a Certificate of Occupancy together with the completion date.

(Ord. 87-26. Passed 10-20-87.)

1335.99 PENALTY.

See Section [1325.99](#) for general Building Code penalty.
(Ord. 87-26. Passed 10-20-87.)

CHAPTER 1337
Construction Requirements

- [1337.01](#) **Modification of reference codes minimum requirements.**
- [1337.02](#) **Construction operations.**
- [1337.03](#) **Safeguarding the public.**
- [1337.11](#) **Plumbing.**
- [1337.12](#) **Electrical.**
- [1337.15](#) **No polluted water in storm drainage system.**
- [1337.16](#) **Lot pins.**
- [1337.17](#) **Driveways.**
- [1337.18](#) **Seeding or sodding.**
- [1337.19](#) **Exterior siding storage and installation.**
- [1337.99](#) **Penalty.**

CROSS REFERENCES

- Ohio Building Code - see BLDG. Ch. [1311](#)
- Residential Code of Ohio- see BLDG. Ch. [1315](#)
- Swimming pools - see BLDG. Ch. [1339](#)

1337.01 MODIFICATION OF REFERENCE CODES MINIMUM REQUIREMENTS.

Certain provisions of the codes which were adopted in Section [1325.04](#) are modified or expanded upon by the requirements of this chapter. The most restrictive provisions of this chapter or the reference codes shall apply. The requirements set forth in this chapter and Section [1325.04](#) are minimum requirements for construction and nothing contained herein or in the reference codes shall be construed as preventing the builder or property owner from using more restrictive, safer or stronger procedures, materials or equipment. Any disputes which arise regarding whether or not any procedure, material, or equipment meets or exceeds the minimum requirements of the reference code or this chapter, shall be resolved by the Chief Building Official.

(Ord. 87-26. Passed 10-20-87.)

1337.02 CONSTRUCTION OPERATIONS.

(a) It shall be unlawful to conduct construction operations between 9:00 p.m. and 7:00 a.m. Monday through Friday, 9:00 p.m. and 8:00 a.m. Saturday and 9:00 p.m. and 12:00 noon Sunday, Memorial Day, July 4th and Labor Day, or at any time on Thanksgiving, Christmas and New Year's Day except by written conditional permit issued by the Chief Building Official.

(Ord. 01-75. Passed 12-18-01.)

(b) Before construction begins a gravel driveway and storage area shall be installed of sufficient size to provide enough area to park vehicles and for delivery vehicles to use. Additional gravel area is to be provided if materials are to be stored on gravel. All equipment and vehicles shall use the gravel drive to enter and leave the lot.

(c) The builder shall clean the streets on a daily basis of all mud and debris resulting from his construction and associated activities regardless of where the mud and debris is deposited.

(d) Within ten (10) days after the foundation walls are completed and backfilled or as soon after ten (10) days as weather permits, all the disturbed areas of the lot, except an area within twenty (20) feet of the foundation wall, shall be leveled sufficiently to permit the application of temporary seeding and shall be seeded. Temporary seeding shall be annual rye grass applied at the minimum rate of two (2) pounds per 1000 square feet either raked into the ground or mulched. The disturbed areas covered by gravel will not require temporary seeding.

(e) In lieu of temporary seeding the builder may, within ten (10) days after the foundation walls are completed and backfilled, stake straw bales along the lot lines where the runoff water enters the street right-of-way or a drainage course which drains more than one lot. The bales shall be staked so that they will trap settlement from the runoff water. The bales shall be maintained and the area behind the bales kept clear of settlement until the lot is seeded or sodded.

(f) Each builder shall be guilty of a misdemeanor and subject to the costs and penalties provided for herein for violation of this section if he fails to comply within twenty-four (24) hours of receipt of written notice of violation from the Chief Building Official, excluding Sundays and national holidays. Written notice shall have been deemed received at such time as it is posted on the lot from which or on which a violation is found.

(g) Upon receipt of the notice of violation or upon becoming aware that this section has been violated, the builder may request in writing, a time extension of no more than forty-eight (48) hours from the Chief Building Official prior to the expiration of the twenty-four (24) hour period after the posting of the notice of violation. Additional time extensions may only be granted by the Mayor in writing.

(h) Failure of the builder to make corrections within twenty-four (24) hours of receipt of notice of violation or within the time limit set in a time extension which has been granted by the City, shall result in a one hundred dollar (\$100) fine. Each day the violation for which the notice was given continues should result in an additional one hundred dollars (\$100) per day fine.

(i) If the violation has not been remedied after five (5) days, of the receipt of notice of violation or the end of the time extension granted by the City, excluding Sunday and national holidays, the Chief Building Official shall place a stop order on the construction and no further work shall be done until the violation is corrected and the fines paid.

(j) No certificate of occupancy shall be issued until any and all fines have been paid and any and all violations corrected.

(k) Nothing in this section shall preclude the City from pursuing other remedies of law.
(Ord. 87-26. Passed 10-20-87.)

1337.03 SAFEGUARDING THE PUBLIC.

It shall be the duty of all owners, contractors, builders, or persons having control or supervision of any or all buildings, structures or parts thereof in the course of construction to see that:

(a) All excavations are properly protected, and satisfactory measures are taken to safeguard the public against injury resulting from live wires, power tools, insecure scaffolding, falling material, stacked or piled construction material and equipment.

(b) Where a permit has been issued which provides for the temporary use of the street for storage of materials, lights, barricades and signs are displayed and maintained at each end of every pile of such material in the street, and that similar warning lights and barricades are displayed for excavations immediately adjacent to sidewalks or public streets.

(c) The lot is kept free of building material waste, piles of trash, stumps, brush and leftover materials, and any construction debris.

(Ord. 87-26. Passed 10-20-87.)

1337.11 PLUMBING.

(a) The waterline into the house shall be a minimum of 3/4" diameter until the first 1/2" waterline takes off from the main waterline.

(b) All plumbing fixtures shall have a shut off valve at the fixture.

(c) All drain pipes which are to be embedded in concrete shall be at least 1 3/4" diameter.

(d) When both ABS and PVC plastic pipe are used, transition fittings shall be used to change from one material to the other.

(e) Dissimilar metals shall be joined using dielectric fitting. Dissimilar metals shall not be laid next to each other.

(f) Septic tanks may be used for sewage only when a public sewage system is not available, and shall be installed and used in compliance with the Delaware County Board of Health Regulations and all other applicable ordinances of the City.

(g) Every dwelling house and every building designed for the occupancy of persons within the City shall be separately connected with the public sanitary sewer system when such dwelling house or building is within 200 feet of a public sanitary sewer within a street, easement, or other public right-of-way abutting the

lot, land or parcel upon which said dwelling house or building designed for the occupancy of persons is located.

(Ord. 87-26. Passed 10-20-87.)

1337.12 ELECTRICAL.

(a) Driveway, front yard and security lights shall be sheltered to prevent over spilling of light onto the neighbors.

(Ord. 87-26. Passed 10-20-87.)

1337.15 NO POLLUTED WATER IN STORM DRAINAGE SYSTEM.

All polluted water from the premises, including backwash water from filters and softeners, and water from swimming and wading pools, and sink and laundry tubs shall be drained into the sanitary sewer system when available.

(Ord. 87-26. Passed 10-20-87.)

1337.16 LOT PINS.

After the completion of site grading and prior to sodding/seeding grade stakes shall be set and inspected by engineering department personnel. Prior to the issuance of a certificate of occupancy for any lot the builder shall furnish a certificate signed by a registered land surveyor stating that iron pins have been set at all lot corners and at all angle points and beginning or ends of curves of front, side and rear lot lines. Iron pins may be one-half inch by thirty-six inch solid iron bars or three-quarter inch by thirty inch iron pipe driven flush with the ground. If the point to be marked falls in a blacktop drive, a railroad spike not less than six inches long may be used and if the point to be marked falls in a concrete drive, a P.K. nail or drill hole may be used.

(Ord. 87-26. Passed 10-20-87.)

1337.17 DRIVEWAYS.

All driveways shall have an asphalt, concrete or brick surface course. Other materials may be approved for use by the Development Department.

(Ord. 87-26. Passed 10-20-87.)

1337.18 SEEDING OR SODDING.

All areas disturbed during construction shall be seeded, sodded and landscaped in a manner to provide sufficient ground cover to eliminate erosion. This does not mean that areas cannot be left in a natural state or returned to a natural state provided that erosion is controlled.

(Ord. 87-26. Passed 10-20-87.)

1337.19 EXTERIOR SIDING STORAGE AND INSTALLATION.

(a) The handling and storage of all siding materials shall be done utilizing the best available construction methods. Manufacturer specifications for handling and storage of all exterior siding materials shall be followed. The recommendations in recognized building industry evaluation service reports shall also be followed.

(b) Cement-fiber product requirements:

(1) Upon delivery, any cement-fiber product must not be stored with exposure to weather and be stored on a flat and level surface as determined appropriate by the Chief Building Official.

(2) The use of code accepted rigid wall sheathing and weather resistant wrap is required. No less than 5/8" foam rigid wall sheathing is required if foam is utilized.

(c) On any existing residence, the total replacement of any existing siding material with new siding material shall require the removal of the existing siding material and installation of the new material as required by code and this section.

(Ord. 2004-06. Passed 2-17-04.)

1337.99 PENALTY.

See Section [1325.99](#) for general Building Code penalties.
(Ord. 87-26. Passed 10-20-87.)

CHAPTER 1339

Swimming Pools, Spas, and Hot Tubs

- [1339.01](#) Definitions.
- [1339.02](#) Permit and authorization required; exceptions.
- [1339.03](#) Compliance required.
- [1339.04](#) Enclosures.
- [1339.05](#) Location.
- [1339.06](#) Compliance with zoning district regulations.
- [1339.07](#) Swimming prohibitions.
- [1339.08](#) Decks, concrete aprons.
- [1339.09](#) Electrical grounds.
- [1339.10](#) Structural safety.
- [1339.11](#) Off-street parking and loading requirements.
- [1339.99](#) Penalty.

CROSS REFERENCES

Appendix G Swimming Pools, Spas and Hot Tubs of the ICC International Residential Code/2009.

1339.01 DEFINITIONS.

In addition to the definitions in Section [1325.02](#), the following definitions are to be used in the chapter.

- (a) "Approved water supply" means water supply approved by the Health Commissioner.
- (b) "Commercial swimming pool" means a public swimming pool, with an approved water supply, which is located on land not publicly owned and operated on a commercial basis or primarily for private gain.
- (c) "Health Commissioner" means the health authority having jurisdiction over swimming pools in the City of Powell or his authorized representatives.
- (d) "Person" means any person, firm, corporation, association, organization or institution.
- (e) "Private swimming pool" means a swimming pool used only by the owner of the pool and friends as an additional accessory use at a private residence.
- (f) "Private wading pool" means a wading pool used only by the owner of the pool and friends.
- (g) "Prohibited pools" means all bodies of water and watercourses, where bathing and wading are prohibited.
- (h) "Public swimming pool" means any swimming pool other than a private swimming pool, provided with an approved water supply, public or semipublic in character.
- (i) "Public wading pool" means any other pool.
- (j) "Swimming pool" means a natural or artificially constructed area, either permanent or portable, filled or capable of being filled with water to a depth of twenty-four or more inches at any point therein and used, or designated to be used, for swimming or recreational bathing.
- (k) "Wading pool" means a natural or artificially constructed area, either permanent or portable, filled or capable of being filled with water at any point therein to a depth of more than twelve inches and less than twenty-four inches and used, or designated to be used for wading, swimming or other aquatic recreation.

(Ord. 87-26. Passed 10-20-87.)

1339.02 PERMIT AND AUTHORIZATION REQUIRED; EXCEPTIONS.

- (a) No person shall locate, construct or install any swimming pool or wading pool or make any change

in such pools or appurtenances thereof, unless and until such person has submitted an application and plans therefore, and has secured a permit and authorization from the Chief Building Official.

(b) No person shall use, operate, repair or maintain any swimming pool or wading pool except as authorized by the Chief Building Official.

(c) Private wading pools that are portable or of temporary construction are exempted from the requirement of a building permit.

(Ord. 87-26. Passed 10-20-87.)

1339.03 COMPLIANCE REQUIRED.

No person shall locate, construct, use, operate, repair or maintain any swimming pool or wading pool except in compliance with:

(a) The provisions of this chapter;

(b) The Building Code and other ordinances, standards, rules and regulations enforced by the Building Inspector;

(c) The standards, rules and regulations of the Delaware General Health District; and

(d) For public pools, the standards, rules and regulations of the State Board of Health governing public swimming pools.

(Ord. 87-26. Passed 10-20-87.)

1339.04 ENCLOSURES.

(a) No person shall locate, construct, install, make, change, maintain or use a private swimming pool or private wading pool unless the pool or the premises upon which it is located is enclosed by a barrier as prescribed in Appendix G Swimming Pools, Spas and Hot Tubs of the ICC International Residential Code/2009 and the City of Powell Zoning Code.

(b) Commercial and Public pools shall meet the enclosed standards set by the Health Commissioner; except, however, the standards set for private pools shall be taken as minimum standards for commercial and public pools.

(Ord. 87-26. Passed 10-20-87.)

1339.05 LOCATION.

No swimming or wading pool shall be located in any front yard on any lot or between any street and any required building line. A swimming pool may be located in part of the rear yard behind a residence as an additional authorized accessory use.

(Ord. 87-26. Passed 10-20-87.)

1339.06 COMPLIANCE WITH ZONING DISTRICT REGULATIONS.

No swimming pool and no wading pool shall be located, constructed, installed, used, operated or maintained except in compliance with the provisions and regulations for each zoning district and the off-street parking requirements of this chapter. Commercial pools shall be restricted to commercial and industrial districts.

(Ord. 87-26. Passed 10-20-87.)

1339.07 SWIMMING PROHIBITIONS.

Any body of water not complying with the conditions of Sections [1337.02](#) and [1337.03](#) shall not be used for swimming or wading pools and swimming and wading therein shall be prohibited, unless and until the same have been approved by the Chief Building Official as to any structural work and by the health authority.

(Ord. 87-26. Passed 10-20-87.)

1339.08 DECKS, CONCRETE APRONS.

All swimming pools shall have wooden or concrete decks or aprons at least four feet wide.

(Ord. 87-26. Passed 10-20-87.)

1339.09 ELECTRICAL

All electrical equipment shall comply with the requirements of the current adopted edition of NFPA 70 (National Electrical Code).
(Ord. 87-26. Passed 10-20-87.)

1339.10 STRUCTURAL SAFETY.

No swimming pool and no wading pool shall be located, constructed or used unless and until the plans therefore have been approved, and the construction of the same has been approved by the Chief Building Official as to structural safety.
(Ord. 87-26. Passed 10-20-87.)

1339.11 OFF-STREET PARKING AND LOADING REQUIREMENTS.

Provisions shall be made for access, and off-street parking and loading facilities, as required by the Zoning Code.
(Ord. 87-26. Passed 10-20-87.)

1339.99 PENALTY.

See Section [1325.99](#) for general Building Code penalty.
(Ord. 87-26. Passed 10-20-87.)

CHAPTER 1341 Nuisance Abatement

- [1341.01](#) Nuisance.
- [1341.02](#) Notice of violation.
- [1341.03](#) Service of notice.
- [1341.04](#) Posting of signs.
- [1341.05](#) Effect on lien holders.
- [1341.06](#) Appeal.
- [1341.07](#) Right to demolish.
- [1341.08](#) Emergency conditions, waiver of notice.
- [1341.99](#) Penalty.

CROSS REFERENCES

Property Maintenance Code - see BLDG. Ch. [1323](#)

1341.01 NUISANCE.

A building or structure or any portion thereof which is structurally unsafe or has inadequate means of ingress or egress, or which constitutes a fire hazard, or is otherwise dangerous to human life or health is declared to be a nuisance and shall be abated by repair or demolition pursuant to the provisions of this chapter.
(Ord. 87-26. Passed 10-20-87.)

1341.02 NOTICE OF VIOLATION.

- (a) The Chief Building Official shall examine or cause to be examined every building or structure or portion thereof reported as or believed to be a nuisance as defined in this chapter. Should he find that such structure or any portion thereof constitutes a nuisance, he shall give notice thereof to the owner or owners thereof. Such notice shall also be served upon any purchasers under a recorded land contract and upon the holder of any legal or equitable lien of record on the real property upon which such structure is located.
- (b) The written notice shall state with specificity the defects that cause such structure to be a nuisance and shall further state that the work necessary to either complete proper repair of the specified defect or demolish and remove the building or structure or specified portion thereof shall be commenced within thirty days and shall set a time for the completion of the demolition or repairs. It shall further state that in the event

the structure or portion thereof is demolished and removed the premises shall be left in a safe, sanitary condition.

(c) All occupants of such nuisance shall vacate such premises within twenty four hours of the posting of signs on the building, and the notice shall so indicate.

(Ord. 87-26. Passed 10-20-87.)

1341.03 SERVICE OF NOTICE.

Notice shall be served by the Chief Building Official or a person designated by him for such purpose. Notice shall be served by personal service, residence service or certified mail. In the event of a failure to obtain service upon anyone entitled to notice for the reasons that such person's residence is unknown and cannot with reasonable diligence be ascertained, the Chief Building Official shall endorse such fact in his file on the case and may serve such person or entity by causing a true copy of the notice to be published once per week for two consecutive weeks in a newspaper of general circulation within the City and by posting a copy of the notice in a conspicuous place in or about the affected building or structure. Service shall be complete upon the second publication.

(Ord. 87-26. Passed 10-20-87.)

1341.04 POSTING OF SIGNS.

Upon completion of the notice procedures of Section [1341.03](#), the Chief Building Official shall cause to be posted at each entrance to such building a notice which reads:

"DO NOT ENTER, UNSAFE BUILDING.
BUILDING DEPARTMENT, CITY OF POWELL."

Such notice shall remain posted until the required repairs are made or demolition completed. No person shall remove such notice before repair or demolition is complete. No person shall enter such building other than policemen or firemen in pursuit of their duties or persons engaged in making the required repairs or in demolishing such building, unless such demolition or repairs are complete.

(Ord. 87-26. Passed 10-20-87.)

1341.05 EFFECT ON LIEN HOLDERS.

The holders of liens of record may contract with the City to perform the required repairs or removal upon failure of the property owner to perform the same within the time allowed by law.

(a) The Chief Building Official shall complete the service of notice process and may lift some or all of the restriction at such time as the immediate danger has been removed.

(b) The lifting of portions of the restriction stated in a notice does not void any other requirements stated in the notice.

(c) The City shall be reimbursed for its costs associated with the requirements of this section. If the City is not immediately reimbursed the amount thereof shall be certified to the County Treasurer and levied as a special assessment against the property on which the building or structure is located and shall be collected in the manner provided for special easements.

(Ord. 87-26. Passed 10-20-87.)

1341.06 APPEAL.

(a) Any person entitled to notice under this chapter may appeal all or any part of the order contained in such notice by filing with the Clerk of Council a written notice of appeal within thirty days of service of such notice.

(b) Such notice of appeal shall specify that portion of the order appealed and the name and address of the appealing party.

(c) The Clerk of Council shall schedule a hearing before the Planning Commission not less than ten nor more than forty-five days from the dates of filing of the notice of appeal.

(d) The Clerk shall give notice in writing of the scheduled hearing date, time and place to the appellant and the Chief Building Official and at the time and place so specified, the Commissioner shall appear and

show cause to the Planning Commission for the issuance of the order. The Commissioner shall affirm, vacate or modify the order of the Chief Building Official but shall affirm unless, and except to the extent that he fails to show adequate cause for the order.

(e) The building shall remain vacant during the appeal process.
(Ord. 87-26. Passed 10-20-87.)

1341.07 RIGHT TO DEMOLISH.

Repair or demolition of the structure, which is the subject of the notice, shall be commenced within thirty days from service of notice, provided that the expiration of such thirty days shall be extended during such period of time as an appeal of the Chief Building Official's order is pending before the Planning Commission. Repair or demolition shall proceed expeditiously and shall be completed within a period of time set by the Chief Building Official or the Planning Commissioner.

(a) In the event of failure of the owner of record and/or a purchaser under a land contract to comply with the order of the Chief Building Official or Planning Commissioner or to commence or complete demolition or repair as requested by this chapter, such owner or purchaser shall be fined not more than five hundred dollars (\$500.00). Each day of failure to comply shall constitute a separate offense.

(b) In addition to the penalty provided in Section [1341.07](#)(a) hereof, the Chief Building Official shall, upon failure of the owner of record, or purchaser under a recorded land contract, to comply with the order to repair or demolish, proceed to have the building or structure demolished and removed from the premises, leaving the premises in a clean, safe and sanitary condition and cost of such work shall be paid by the City. If the City is not immediately reimbursed for such costs, the amount thereof shall be certified to the County Treasurer and levied as a special assessment against the property on which the building or structure is located and shall be collected in the manner provided for special assessments.

(Ord. 87-26. Passed 10-20-87.)

1341.08 EMERGENCY CONDITIONS, WAIVER OF NOTICE.

When it is determined by the Chief Building Official that any condition of the building or structure, or any part thereof, presents an immediate danger of physical harm to persons in or adjacent to the building or structure, he shall immediately post signs on the building or structure as provided in Section [1341.03](#), order the immediate vacation of the building or structure, and if or cause the entrance and surrounding area to be barricaded even though the service of notice process as described in Section [1341.03](#) has not been completed.

(a) The Chief Building Official shall complete the service of notice process and may lift some or all of the restrictions at such time as the immediate danger has been removed.

(b) The lifting of any portion of the restriction stated in a notice does not void any other requirements stated in the notice.

(c) The City shall be reimbursed for its costs associated with the requirements of this section. If the City is not immediately reimbursed, the amount thereof shall be certified to the County Treasurer and levied as a special assessment against the property on which the building or structure is located and shall be collected in the manner provided for special assessments.

(Ord. 87-26. Passed 10-20-87.)

1341.99 PENALTY.

See Section [1325.99](#) for General Building Code penalty.
(Ord. 87-26. Passed 10-20-87.)

CODIFIED ORDINANCES OF POWELL