

AGENDA
HAYES TOWNSHIP BOARD OF TRUSTEES

7:00p.m. October 10, 2022

Hayes Township Hall
9195 Major Douglas Sloan Road
Charlevoix, Michigan 49720

ZOOM

<https://us02web.zoom.us/j/81125583222?pwd=RGp0UDhyNUxCTjdjQllnV2tlbzg1dz09>

Meeting ID: 811 2558 3222

Passcode: 519159

+1 312 626 6799 US (Chicago)

1. Call to Order
2. Pledge of Allegiance
3. Review and Approval of Agenda
4. Public Comments
5. Approval of Regular Meeting Minutes of September 12, 2022
6. Treasurers Report
7. Clerks Report: Approval of Warrants
8. Reports: County Commissioner, Zoning Administrator, Planning Commission, Zoning Board of Appeals, Parks and Recreation, Trustee's, and Supervisor Reports.

NEW BUSINESS

9. Fire Contract
10. Fiber Presentation
11. November 8, 2022 Election Inspectors
12. Fee Schedule Update
13. FEMA Resolution
14. Public Comment
15. Board of Trustee Comment

ADJOURN MEETING

To best facilitate a hybrid meeting (in person as well as ZOOM) for the public, please adhere to the following guidelines:

In person attendance

1. Doors to the hall will open at 6:45 pm
2. Please voluntarily provide a name for the record
3. Please hold all comments until the appropriate designated public comment agenda item
4. To maintain an orderly meeting while providing opportunity for the public to be heard, Deputy Clerk will call names in appropriate order
5. We ask that you voluntarily state your name for the record
6. Direct all comments to the BOT
7. Keep comments brief and to the point (3 minutes per person); deputy clerk will advise when time is up
8. Do not speak while others are speaking
9. Minutes may not be yielded to other speakers
10. Be respectful- abusive language will not be tolerated.

Via ZOOM attendance

1. Upon signing into the meeting, please voluntarily provide a name for the record
2. All ZOOM participants will be admitted from the waiting room prior to the start of the meeting
3. All ZOOM participants will remain muted until called on during the appropriate designated public comment agenda item
4. Please raise your hand to be called on during public comments
5. Direct all comments to the BOT
6. Keep comments brief and to the point (3 minutes per person); participant will be muted at 3 minutes
7. Minutes may not be yielded to other speakers.
8. Be respectful- abusive language will not be tolerated.

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ADJOURN MEETING

Type	Name	Memo	Amount
101 Char. State Bank Check 2643			
Check	CHARLEVOIX GARDEN CLUB	COPIER	-32.00
Check	VISA	CRASHPLAN,ZOOM,SUPPLIES,PARK, FOOD BANK	-1,095.33
Check	B&G ENTERPRISES	HALL, FIRE BARN, CEMETERY	-388.00
Check	GREAT LAKES ENERGY	HALL/FIRE BARN/UNDINE/STREET LIGHTS/PARK	-606.00
Check	CHARTER COMMUNICATIONS	MODEM CHARGES/TELEPHONE	-94.26
Check	MUNICIPAL UNDERWRITERS OF MIC POLICY PACKAGE		-10,451.00
Check	K&J SEPTIC	PIT POTTIES PARK	-350.00
Check	QUILL	SUPPLIES	-222.33
Check	ACCIDENT FUND COMPANY	ANNUAL POLICY	-1,275.00
Check	CORKY MEIER	HOST HOUSE WATER	-747.50
Check	GATEHOUSE MEDIA	POSTING	-161.16
Check	QUADIENT	POSTAGE LEASE	-132.73
Check	IRS	38-2352841	-3,444.52
Check	STATE OF MICHIGAN	38-2352841	-580.13
Paycheck	ALISA ABINEY	09/01/2022-09/30/2022	-2,220.52
Paycheck	LESLIE CUNNINGHAM	09/01/2022-09/30/2022	-44.04
Paycheck	APRIL HILTON	09/01/2022-09/30/2022	-941.79
Paycheck	THOMAS DARNTON	09/01/2022-09/30/2022	-101.58
Paycheck	RODNEY SLOCUM	09/01/2022-09/30/2022	-74.89
Paycheck	REX GREENSLADE	09/01/2022-09/30/2022	-74.88
Paycheck	JANICE VEDDER-WHIPPLE	09/01/2022-09/30/2022	-277.51
Paycheck	PAUL ZARDUS	09/01/2022-09/30/2022	-44.05
Paycheck	JULIE COLLARD	10/15/2022-11/16/2022	-2,491.03
Paycheck	RON VAN ZEE	10/15/2022-11/16/2022	-4,051.68
Paycheck	KRISTIN BARANSKI	10/15/2022-11/16/2022	-2,935.35
Paycheck	MATTHEW CUNNINGHAM	10/15/2022-11/16/2022	-313.85
Paycheck	DOUGLAS KUEBLER	10/15/2022-11/16/2022	-406.45
ARRA	DTE	NATURAL GAS EMS	-4,635.00
ARRA	DTE	NATURAL GAS FIRE BARN	-4,635.00
ARRA	DTE	NATURAL GAS HALL	-4,635.00
Check	MDC	Zoning Application Reimbursement	-880.00
			-48,342.58

October 2022 Treasurer Report

(As of October 6, 2022)

Charlevoix State Bank

1. General Fund-\$461,729.27

(\$251,729.27 available, \$210,000 Recommended Reserve)

2. Tax Account-\$280,746.78 (restricted Treasury Funds)

3. Township Warrant Checking-\$35,415.09

4. Pantry-\$2,647.79

5. ARPA (restricted funds)-\$202,020.56

6. Fundraising Account-\$2,294.43

7. EMS Construction Account (restricted funds)-\$ 994,279.42

Forefront

8. Metro Account Revenue Sharing-\$66,371.63

9. Prime Share Account-\$134.57

Horizon Bank

10. Road Fund (RESTRICTED FUNDS)-\$303,150.95

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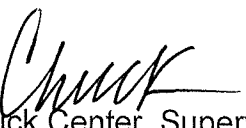
Type	Name	Memo	Amount
Total 101 Char. State Bank Check 2643			-48,342.58
TOTAL			
Installment	EMS BUILDING	Offset with Lease Payment	10248.13
Road Fund	Bay Shore Subdivision Paving		162,008.01
Construction	upon inspection		103,838.54

July 26, 2022

We are enclosing the current fire contracts as previously discussed. We ask that you sign one copy and return it to Charlevoix Township. You may retain the other one for your records.

We are also giving you the opportunity to select your payment plan. Please let us know your preferred method of payment and check the appropriate line in the signed contract.

Once we have received your contract, we will invoice you accordingly.


Chuck Center, Supervisor
Charlevoix Township

HAYES TOWNSHIP AGREEMENT FOR FIRE PROTECTION

THIS AGREEMENT is effective as of July 1, 2022, by and between the Township of Charlevoix, a Municipal Corporation of the County of Charlevoix, State of Michigan, hereinafter referred to as the “Provider”, and the Township of Hayes, a Municipal Corporation of the County of Charlevoix, State of Michigan, hereinafter referred to as the “Township”.

WITNESSETH:

WHEREAS, the Provider maintains an organized and equipped Fire Department and the Township desires to have the services of the Provider’s Fire Department; and

WHEREAS, the Provider is willing to cooperate with the Township in providing said fire services in consideration for Township’s contributing to the expense of equipping and maintaining the Fire Department;

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. The Provider agrees to furnish the Township and its residents fire fighting services, utilizing the Provider’s firemen and fire fighting apparatus and equipment owned and operated by said Provider, as the Fire Chief of said Provider shall determine on an “as available” basis. The Fire Chief of the Provider shall determine the number of firemen and the type of equipment which is reasonably necessary to respond to a particular fire or other emergency. The Provider agrees to cooperate with the Township’s Fire Committee by providing a fire truck and operator to assist in testing and evaluating the Township’s fire protection water supply systems. Testing shall be done twice a year and should normally be done in April and October of each year. The specific time and date for the testing and evaluating will be mutually agreed to between the parties when each testing period comes due.
2. The fire services described hereunder shall begin at 12:00 a.m. on July 1, 2022 and shall continue for two (2) year(s) thereafter terminating at 11:59 p.m. June 30, 2024. Either party shall have the right to terminate the Agreement only after a substantial breach

constituting good cause for termination and only after providing a written notice of intent to terminate to the other party which shall include a thirty (30) day opportunity to cure any such default or breach.

3. For each one (1) year period of time during which this Agreement shall be in effect, said Township agrees to pay to the Provider as follows:

July 1, 2022 – June 30, 2023 \$93,600.00

July 1, 2023 – June 30, 2024 \$98,000.00

The contract price shall be due on July 1st of each year and shall be paid as follows;

- ☐ ____ In annual payments of the entire amount due by July 1st of each year
- ☐ ____ In semi-annual payments equal to one-half of the yearly amount due on July 1st and on January 1st of each year
- ☐ ____ In quarterly payments equal to one-quarter of the yearly amount due on each July 1st, October 1st, January 1st and April 1st of each year

The contract price shall not be increased except by the agreement in writing of both parties.

4. It is hereby expressly agreed that the Provider, in extending the services of its Fire Department to the Township, as herein set forth, is doing so exclusively for the purpose of cooperating with and assisting the Township in the Township's carrying out of a governmental function. In doing so, the Provider, its agents, and employees in discharging any duty of service as prescribed hereunder shall be construed as engaged in a governmental function of the Township and in so doing shall not be construed as being engaged in a propriety endeavor.
5. Any such fire protection service provided hereunder, is subject to prior calls involving property located within the Provider's fire district. The Provider may elect not to respond to a request for fire protection services in the Township only if in the judgment of the officer in charge of the Provider's Fire Department a response to a request for fire protection services in the Township would immediately jeopardize the Provider's ability to respond to an existing, on-going fire or similar emergency in the Provider's own jurisdiction. However, under such circumstances the Provider shall immediately summon a mutual aid fire company to the Township. When a mutual aid fire company is called,

the Provider shall not be responsible for any loss or claim which may result from failure to respond promptly to any call for fire protection or service from the Township.

6. The Provider agrees to indemnify and hold Township harmless from all damages, claims, demands, costs, or expenses which the Township or other parties sustain or may be subject to as a result of any act or omission (regardless of whether such act or omission is by negligence, gross negligence, or intentional) on the part of Provider or Provider's employees, agents, or representatives, in connection with the services provided pursuant to this Agreement.
7. The Township agrees to indemnify and hold Provider harmless from all damages, claims, demands, costs, or expenses which the Provider or other parties sustain or may be subject to as a result of any act or omission (regardless of whether such act or omission is by negligence, gross negligence, or intentional) on the part of Township or Township's employees, agents, or representatives, in connection with the services provided pursuant to this Agreement.
8. The fire protection services to be provided under this Agreement are not limited merely to fighting fires, but include any emergency situation to which the Provider's Fire Department is authorized by law to respond in its own jurisdiction. This includes, by way of example and not limitation, responding to spills of toxic or hazardous substances, rescue runs, etc. Reference in this Agreement merely to fire calls, responding to a fire or similar terminology shall be broadly construed as to be consistent with this provision. The Provider reserves the right to refuse to perform or provide services which it, in Provider's sole discretion, is not equipped, trained or otherwise capable of providing or which it is legally not authorized to provide.
9. The individuals signing this Agreement on behalf of their municipality expressly state that they have been authorized by appropriate resolution of their municipality's governing body to execute this Agreement.

HAYES TOWNSHIP
(Township)

Dated: _____

By: _____
Ron Vanzee
Its: Supervisor

By: _____
Kristin Baranski
Its: Clerk

CHARLEVOIX TOWNSHIP
(Provider)

Dated: 7-26-2022

By: Charles Center
Charles Center
Its: Supervisor

By: Sandra Witherspoon
Sandra Witherspoon
Its: Clerk

HAYES TOWNSHIP AGREEMENT FOR FIRE PROTECTION

THIS AGREEMENT made and entered into this 13th day of July, 2020, by and between the Township of Charlevoix, a Municipal Corporation of the County of Charlevoix, State of Michigan, hereinafter referred to as the "Provider", and the Township of Hayes, a Municipal Corporation of the County of Charlevoix, State of Michigan, hereinafter referred to as the "Township".

WITNESSETH:

WHEREAS, the Provider maintains an organized and equipped Fire Department and the Township desires to have the services of the Provider's Fire Department; and

WHEREAS, the Provider is willing to cooperate with the Township in providing said fire services in consideration for Township's contributing to the expense of equipping and maintaining the Fire Department;

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. The Provider agrees to furnish the Township and its residents fire fighting services, utilizing the Provider's firemen and fire fighting apparatus and equipment owned and operated by said Provider, as the Fire Chief of said Provider shall determine on an "as available" basis. The Fire Chief of the Provider shall determine the number of firemen and the type of equipment which is reasonably necessary to respond to a particular fire or other emergency. The Provider agrees to cooperate with the Township's Fire Committee by providing a fire truck and operator to assist in testing and evaluating the Township's fire protection water supply systems. Testing shall be done twice a year and should normally be done in April and October of each year. The specific time and date for the testing and evaluating will be mutually agreed to between the parties when each testing period comes due.
2. The fire services described hereunder shall begin at 12:00 a.m. on July 1, 2020 and shall continue for five year(s) thereafter terminating at 11:59 p.m. June 30, 2025. Either party shall have the right to terminate the Agreement only after a substantial breach

constituting good cause for termination and only after providing a written notice of intent to terminate to the other party which shall include a thirty (30) day opportunity to cure any such default or breach.


3. For each one (1) year period of time during which this Agreement shall be in effect, said Township agrees to pay to the Provider the sum of \$34,875.00 per year in advance and due by July 1 of each year, beginning July 1, 2020. The contract price shall not be increased except by the agreement in writing of both parties.
4. It is hereby expressly agreed that the Provider, in extending the services of its Fire Department to the Township, as herein set forth, is doing so exclusively for the purpose of cooperating with and assisting the Township in the Township's carrying out of a governmental function. In doing so, the Provider, its agents, and employees in discharging any duty of service as prescribed hereunder shall be construed as engaged in a governmental function of the Township and in so doing shall not be construed as being engaged in a propriety endeavor.
5. Any such fire protection service provided hereunder, is subject to prior calls involving property located within the Provider's fire district. The Provider may elect not to respond to a request for fire protection services in the Township only if in the judgment of the officer in charge of the Provider's Fire Department a response to a request for fire protection services in the Township would immediately jeopardize the Provider's ability to respond to an existing, on-going fire or similar emergency in the Provider's own jurisdiction. However, under such circumstances the Provider shall immediately summon a mutual aid fire company to the Township. When a mutual aid fire company is called, the Provider shall not be responsible for any loss or claim which may result from failure to respond promptly to any call for fire protection or service from the Township.
6. The Provider agrees to indemnify and hold Township harmless from all damages, claims, demands, costs, or expenses which the Township or other parties sustain or may be subject to as a result of any act or omission (regardless of whether such act or omission is by negligence, gross negligence, or intentional) on the part of Provider or Provider's employees, agents, or representatives, in connection with the services provided pursuant to this Agreement.
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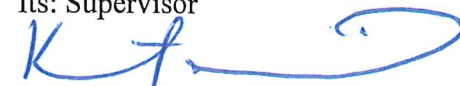
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9. The individuals signing this Agreement on behalf of their municipality expressly state that they have been authorized by appropriate resolution of their municipality's governing body to execute this Agreement.

HAYES TOWNSHIP
(Township)

Dated: 7-13-20

By: 
Ron Vanzee

Its: Supervisor

By: 
Kristin Baranski

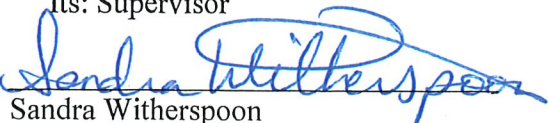
Its: Clerk

CHARLEVOIX TOWNSHIP
(Provider)

Dated: 07-13-20

By: 
Charles Center

Its: Supervisor

By: 
Sandra Witherspoon

Its: Clerk

Karen Draves

From: Jesse Silva
Sent: Tuesday, October 4, 2022 8:03 PM
To: Karen Draves
Subject: Fw: Hayes Township - Fiber and Network Connection
Attachments: Proposal Hayes Township Fiber and network cabling.pdf

Print for me thanks If you will

From: Gordon Compton <gordon@six7.com>
Sent: Tuesday, October 4, 2022 4:30 PM
To: Jesse Silva <jesses@lcemsami.gov>
Subject: Hayes Township - Fiber and Network Connection

Please find attached the Top Line estimate for fiber to link the Hayes Township building and pole barn to the new station. This also includes a network equipment locking cabinet, and network cabling for the various locations we discussed during our survey.

My parts and labor estimate is \$2700. For budget purposes they may want to include \$3000.

This assumes they get their cameras from you when we submit the order with CDW-G. The cost estimate is \$1273 for 7 dome cameras, the same model used in your building. The plan is to use your main controller to manage their cameras (adding their cameras will max out your controller, which is fine).

While working on this I realize I missed including a "power" section in my earlier budget estimate for you. Not a big deal I'm sure, but the budget for those components is \$419. The same components are required on the Hayes side and are part of the estimate above.

I'm glad to provide more detailed information as required.

Thank you,
Gordon



PROPOSAL

5057 Sawyer Woods Drive
Traverse City, MI 49685
231-922-8626
www.toplineelectric.us

Commercial • Industrial • Residential • Outdoor Utility • Automation • Low Voltage Systems • Technology

Proposal Submitted to: Hayes Township

ATTN: Gordon

9/28/22

Provide all labor, equipment and materials to perform the following work at:

Scope of Work:

- We will bore and install a 1-1/4" conduit between the pole building and the township office building approximately 180' see Attached drawing.
- We will then pull in 6 strands of outdoor single mode fiber between the 2 locations. We will then install 6 strands of indoor fiber from pole building to the new EMS IT closet. We will splice the 2 fibers together in the pole building.
- We will supply and install a new 24"X24"X24" enclosed cabinet in the township office building, in the kitchen area.
- We will install network cabling to 7 camera locations, 1 AP location and 6 – 2D cable office locations. See Drawing
- Once we get everything cabled to the new location, we will move your modem to the new cabinet.
- All cables will be terminated and tested.
- Cameras and any network switches will be by Gordon.
- We will hang all cameras.

Total for Proposal: \$11,253.00



Acceptance of Proposal

The above prices, specifications and conditions are satisfactory
And are hereby accepted.
You are authorized to do the work as specified.

Signature: _____

Date: _____

Name: _____ Gary Griffin

Phone #: _____ 231-649-1094

Email: _____ garyg@toplineelectric.us

Note: This proposal may be withdrawn by us if not accepted within
_____ days.

"Pay when Paid" contract clauses will not be considered by Top Line
Electric.

Payment to be made as follows:

Net 10. Any invoices outstanding after 30 days are over due and are subject to a service charge of 1 ½% per month. Should it be necessary to place a past due invoice(s) with an attorney or collection agency, Buyer agrees to pay all reasonable collection costs and attorney fees in addition to all other sums due.

Disclaimer of All Warranties: THERE ARE NO OTHER WARRANTIES EITHER EXPRESS OR IMPLIED PROVIDED. ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDED IMPLIED WARRANTIES OF FITNESS ARE EXPRESSLY EXCLUDED.

5057 Sawyer Woods Drive, Traverse City, MI 49685

Election Inspectors November 8th, 2022 General Election

Kristin Baranski	Republican
April Hilton	Republican
Janice Vedder-Whipple	Democrat
Karen Wooster	Democrat
Pam Hooper-Griffitts	Republican
Doug Kuebler	Republican
Steve Ritter	Democrat
Nancy Simon	Democrat
Letha Parsons	Republican
Terry Hilton	Republican
Doris Hosmer	Republican
Mark Hosmer	Republican
Eugene Brannigan	Democrat

FEE SCHEDULE

Current Fee Schedule for ZBA is \$700.00 per request.

Actual Costs are as follows:

Chair per diem	110.00
Member per diem	85.00 (x4)
Recording Secretary	200.00
Zoning Administrator	200.00
<u>Publication and mailing</u>	<u>85.00</u>
Total set expenses	934.00
Additional hours billed at \$20.00/hour	



FEMA

August 11, 2022

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Ron VanZee
Supervisor, Township of Hayes
9195 Old U.S. Route 31 North
Charlevoix, Michigan 49720

Dear Supervisor VanZee:

I am writing this letter as an official reminder that the Township of Hayes, Michigan, has until September 15, 2022, to adopt and have the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office approve floodplain management measures that satisfy 44 Code of Federal Regulations (CFR) Section 60.3 (e) of the National Flood Insurance Program (NFIP) regulations.

The Township of Hayes must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum NFIP requirements (copy enclosed) by September 15, 2022, to avoid suspension from the NFIP. If suspended, your community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.

Under the Flood Disaster Protection Act of 1973, as amended, flood insurance must be purchased by property owners seeking any Federal financial assistance for construction or acquisition of buildings in Special Flood Hazard Areas (SFHAs). This financial assistance includes certain federally guaranteed mortgages and direct loans, federal disaster relief loans and grants, as well as other similarly described assistance from FEMA and other agencies.

In addition, all loans individuals obtain from Federally regulated, supervised, or insured lending institutions that are secured by improved real estate located in SFHAs are also contingent upon the borrower obtaining flood insurance coverage on the building. However, purchasing and maintaining flood insurance coverage on a voluntary basis is frequently recommended for properties located outside SFHAs.

Your NFIP State Coordinator and FEMA would like to assist the Township of Hayes to ensure it remains in good standing with the NFIP and avoids suspension from the Program. If your

The Honorable Ron VanZee
August 11, 2022
Page 2

community is suspended, it may regain its eligibility in the NFIP by enacting the floodplain management measures established in 44 CFR Section 60.3 of the NFIP regulations. As stated in my previous correspondence, I recommend you contact your NFIP State Coordinator or the FEMA Regional Office if the Township of Hayes is encountering difficulties in enacting its measures.

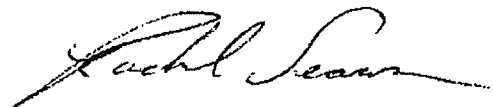
I recognize that your community may be in the final adoption process or may have recently adopted the appropriate floodplain management measures. Please submit these measures to the Floodplain Management Program at the Michigan Department of Environment, Great Lakes, and Energy. Matthew Occhipinti, P.E., CFM, the NFIP State Coordinator, is accessible by telephone at (616) 204-1708, in writing at 350 Ottawa Avenue Northwest, Unit Ten, Grand Rapids, Michigan 49503-2316, or by electronic mail at occhipintim@michigan.gov.

The FEMA Regional staff in Chicago, Illinois, is also available to assist you with your floodplain management measures. The FEMA Regional Office may be contacted by telephone at (312) 408-5500 or in writing. Please send your written inquiries to the Director, Mitigation Division, FEMA Region 5, at 536 South Clark Street, Sixth Floor, Chicago, Illinois 60605.

In the event your community does not adopt and/or submit the necessary floodplain management measures that meet or exceed the minimum NFIP requirements, I must take the necessary steps to suspend your community from the NFIP. This letter is FEMA's final notification before your community is suspended from the Program.

Additional information on community suspensions as proposed, other notices of current NFIP community status information, and details regarding updated publication requirements of community eligibility status information under the NFIP can be found on the Community Status Book section of our website at www.fema.gov/flood-insurance/work-with-nfip/community-status-book. Notices for scheduled suspension will be available on the National Flood Insurance Community Status and Public Notification section of our website at www.fema.gov/flood-insurance/work-with-nfip/community-status-book/public-notification. Individuals without internet access will be able to contact their local floodplain management official and/or NFIP State Coordinating Office directly for assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Sears", with a stylized flourish at the end.

Rachel Sears, Director
Floodplain Management Division
Mitigation Directorate | FEMA

The Honorable Ron VanZee
August 11, 2022
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Enclosure

cc: Thomas C. Sivak, Regional Administrator, FEMA Region 5
Matthew Occhipinti, P.E., CFM, NFIP State Coordinator, Michigan Department of
Environment, Great Lakes, and Energy
Kristin Baranski, Clerk, Township of Hayes

and then selected from this register for ratemaking studies on the basis of the following considerations—

(a) Recommendations of State officials;

(b) Location of community and urgency of need for flood insurance;

(c) Population of community and intensity of existing or proposed development of the flood plain, the mudslide (i.e., mudflow) and the flood-related erosion area;

(d) Availability of information on the community with respect to its flood, mudslide (i.e., mudflow) and flood-related erosion characteristics and previous losses;

(e) Extent of State and local progress in flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management, including adoption of flood plain management regulations consistent with related ongoing programs in the area.

[41 FR 46968, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979]

§ 59.24 Suspension of community eligibility.

(a) A community eligible for the sale of flood insurance shall be subject to suspension from the Program for failing to submit copies of adequate flood plain management regulations meeting the minimum requirements of paragraphs (b), (c), (d), (e) or (f) of § 60.3 or paragraph (b) of § 60.4 or § 60.5, within six months from the date the Federal Insurance Administrator provides the data upon which the flood plain regulations for the applicable paragraph shall be based. Where there has not been any submission by the community, the Federal Insurance Administrator shall notify the community that 90 days remain in the six month period in order to submit adequate flood plain management regulations. Where there has been an inadequate submission, the Federal Insurance Administrator shall notify the community of the specific deficiencies in its submitted flood plain management regulations and inform the community of the amount of time remaining within the six month period. If, subsequently, copies of adequate flood plain management regulations are not received by the Federal Insurance Administrator, no later than 30

days before the expiration of the original six month period the Federal Insurance Administrator shall provide written notice to the community and to the state and assure publication in the FEDERAL REGISTER under part 64 of this subchapter of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective upon the expiration of the six month period. Should the community remedy the defect and the Federal Insurance Administrator receive copies of adequate flood plain management regulations within the notice period, the suspension notice shall be rescinded by the Federal Insurance Administrator. If the Federal Insurance Administrator receives notice from the State that it has enacted adequate flood plain management regulations for the community within the notice period, the suspension notice shall be rescinded by the Federal Insurance Administrator. The community's eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Federal Insurance Administrator.

(b) A community eligible for the sale of flood insurance which fails to adequately enforce flood plain management regulations meeting the minimum requirements set forth in §§ 60.3, 60.4 and/or 60.5 shall be subject to probation. Probation shall represent formal notification to the community that the Federal Insurance Administrator regards the community's flood plain management program as not compliant with NFIP criteria. Prior to imposing probation, the Federal Insurance Administrator (1) shall inform the community upon 90 days prior written notice of the impending probation and of the specific program deficiencies and violations relative to the failure to enforce, (2) shall, at least 60 days before probation is to begin, issue a press release to local media explaining the reasons for and the effects of probation, and (3) shall, at least 90 days before probation is to begin, advise all policyholders in the community of the impending probation and the additional premium that will be charged, as provided in this paragraph, on policies sold or renewed during the period of

probation. During this 90-day period the community shall have the opportunity to avoid probation by demonstrating compliance with Program requirements, or by correcting Program deficiencies and remedying all violations to the maximum extent possible. If, at the end of the 90-day period, the Federal Insurance Administrator determines that the community has failed to do so, the probation shall go into effect. Probation may be continued for up to one year after the community corrects all Program deficiencies and remedies all violations to the maximum extent possible. Flood insurance may be sold or renewed in the community while it is on probation. Where a policy covers property located in a community placed on probation on or after October 1, 1986, but prior to October 1, 1992, an additional premium of \$25.00 shall be charged on each such policy newly issued or renewed during the one-year period beginning on the date the community is placed on probation and during any successive one-year periods that begin prior to October 1, 1992. Where a community's probation begins on or after October 1, 1992, the additional premium described in the preceding sentence shall be \$50.00, which shall also be charged during any successive one-year periods during which the community remains on probation for any part thereof. This \$50.00 additional premium shall further be charged during any successive one-year periods that begin on or after October 1, 1992, where the preceding one-year probation period began prior to October 1, 1992.

(c) A community eligible for the sale of flood insurance which fails to adequately enforce its flood plain management regulations meeting the minimum requirements set forth in §§60.3, 60.4 and/or 60.5 and does not correct its Program deficiencies and remedy all violations to the maximum extent possible in accordance with compliance deadlines established during a period of probation shall be subject to suspension of its Program eligibility. Under such circumstances, the Federal Insurance Administrator shall grant the community 30 days in which to show cause why it should not be suspended. The Federal Insurance Administrator

may conduct a hearing, written or oral, before commencing suspensive action. If a community is to be suspended, the Federal Insurance Administrator shall inform it upon 30 days prior written notice and upon publication in the FEDERAL REGISTER under part 64 of this subchapter of its loss of eligibility for the sale of flood insurance. In the event of impending suspension, the Federal Insurance Administrator shall issue a press release to the local media explaining the reasons and effects of the suspension. The community's eligibility shall only be reinstated by the Federal Insurance Administrator upon his receipt of a local legislative or executive measure reaffirming the community's formal intent to adequately enforce the flood plain management requirements of this subpart, together with evidence of action taken by the community to correct Program deficiencies and remedy to the maximum extent possible those violations which caused the suspension. In certain cases, the Federal Insurance Administrator, in order to evaluate the community's performance under the terms of its submission, may withhold reinstatement for a period not to exceed one year from the date of his receipt of the satisfactory submission or place the community on probation as provided for in paragraph (b) of this section.

(d) A community eligible for the sale of flood insurance which repeals its flood plain management regulations, allows its regulations to lapse, or amends its regulations so that they no longer meet the minimum requirements set forth in §§60.3, 60.4 and/or 60.5 shall be suspended from the Program. If a community is to be suspended, the Federal Insurance Administrator shall inform it upon 30 days prior written notice and upon publication in the FEDERAL REGISTER under part 64 of this subchapter of its loss of eligibility for the sale of flood insurance. The community eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Federal Insurance Administrator.

(e) A community eligible for the sale of flood insurance may withdraw from

the Program by submitting to the Federal Insurance Administrator a copy of a legislative action that explicitly states its desire to withdraw from the National Flood Insurance Program. Upon receipt of a certified copy of a final legislative action, the Federal Insurance Administrator shall withdraw the community from the Program and publish in the FEDERAL REGISTER under part 64 of this subchapter its loss of eligibility for the sale of flood insurance. A community that has withdrawn from the Program may be reinstated if it submits the application materials specified in § 59.22(a).

(f) If during a period of ineligibility under paragraphs (a), (d), or (e) of this section, a community has permitted actions to take place that have aggravated existing flood plain, mudslide (i.e., mudflow) and/or flood related erosion hazards, the Federal Insurance Administrator may withhold reinstatement until the community submits evidence that it has taken action to remedy to the maximum extent possible the increased hazards. The Federal Insurance Administrator may also place the reinstated community on probation as provided for in paragraph (b) of this section.

(g) The Federal Insurance Administrator shall promptly notify the servicing company and any insurers issuing flood insurance pursuant to an arrangement with the Federal Insurance Administrator of those communities whose eligibility has been suspended or which have withdrawn from the program. Flood insurance shall not be sold or renewed in those communities. Policies sold or renewed within a community during a period of ineligibility are deemed to be voidable by the Federal Insurance Administrator whether or not the parties to sale or renewal had actual notice of the ineligibility.

[41 FR 46968, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, and amended at 48 FR 44543 and 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 50 FR 36023, Sept. 4, 1985; 57 FR 19540, May 7, 1992; 59 FR 53598, Oct. 25, 1994; 62 FR 55715, Oct. 27, 1997]

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

Subpart A—Requirements for Flood Plain Management Regulations

Sec.

- 60.1 Purpose of subpart.
- 60.2 Minimum compliance with flood plain management criteria.
- 60.3 Flood plain management criteria for flood-prone areas.
- 60.4 Flood plain management criteria for mudslide (i.e., mudflow)-prone areas.
- 60.5 Flood plain management criteria for flood-related erosion-prone areas.
- 60.6 Variances and exceptions.
- 60.7 Revisions of criteria for flood plain management regulations.
- 60.8 Definitions.

Subpart B—Requirements for State Flood Plain Management Regulations

- 60.11 Purpose of this subpart.
- 60.12 Flood plain management criteria for State-owned properties in special hazard areas.
- 60.13 Noncompliance.

Subpart C—Additional Considerations in Managing Flood-Prone, Mudslide (i.e., Mudflow)-Prone, and Flood-Related Erosion-Prone Areas

- 60.21 Purpose of this subpart.
- 60.22 Planning considerations for flood-prone areas.
- 60.23 Planning considerations for mudslide (i.e., mudflow)-prone areas.
- 60.24 Planning considerations for flood-related erosion-prone areas.
- 60.25 Designation, duties, and responsibilities of State Coordinating Agencies.
- 60.26 Local coordination.

AUTHORITY: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

SOURCE: 41 FR 46975, Oct. 26, 1976, unless otherwise noted. Redesignated at 44 FR 31177, May 31, 1979.

Subpart A—Requirements for Flood Plain Management Regulations

§ 60.1 Purpose of subpart.

(a) The Act provides that flood insurance shall not be sold or renewed under

the program within a community, unless the community has adopted adequate flood plain management regulations consistent with Federal criteria. Responsibility for establishing such criteria is delegated to the Federal Insurance Administrator.

(b) This subpart sets forth the criteria developed in accordance with the Act by which the Federal Insurance Administrator will determine the adequacy of a community's flood plain management regulations. These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. Except as otherwise provided in §60.6, the adequacy of such regulations shall be determined on the basis of the standards set forth in §60.3 for flood-prone areas, §60.4 for mudslide areas and §60.5 for flood-related erosion areas.

(c) Nothing in this subpart shall be construed as modifying or replacing the general requirement that all eligible communities must take into account flood, mudslide (i.e., mudflow) and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use.

(d) The criteria set forth in this subpart are minimum standards for the adoption of flood plain management regulations by flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone communities. Any community may exceed the minimum criteria under this part by adopting more comprehensive flood plain management regulations utilizing the standards such as contained in subpart C of this part. In some instances, community officials may have access to information or knowledge of conditions that require, particularly for human safety, higher standards than the minimum criteria set forth in subpart A of this part. Therefore, any flood plain management regulations adopted by a State or a community which are more restrictive than the criteria set forth

in this part are encouraged and shall take precedence.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

§ 60.2 Minimum compliance with flood plain management criteria.

(a) A flood-prone community applying for flood insurance eligibility shall meet the standards of §60.3(a) in order to become eligible if a FHBM has not been issued for the community at the time of application. Thereafter, the community will be given a period of six months from the date the Federal Insurance Administrator provides the data set forth in §60.3 (b), (c), (d), (e) or (f), in which to meet the requirements of the applicable paragraph. If a community has received a FHBM, but has not yet applied for Program eligibility, the community shall apply for eligibility directly under the standards set forth in §60.3(b). Thereafter, the community will be given a period of six months from the date the Federal Insurance Administrator provides the data set forth in §60.3 (c), (d), (e) or (f) in which to meet the requirements of the applicable paragraph.

(b) A mudslide (i.e., mudflow)-prone community applying for flood insurance eligibility shall meet the standards of §60.4(a) to become eligible. Thereafter, the community will be given a period of six months from the date the mudslide (i.e., mudflow) areas having special mudslide hazards are delineated in which to meet the requirements of §60.4(b).

(c) A flood-related erosion-prone community applying for flood insurance eligibility shall meet the standards of §60.5(a) to become eligible. Thereafter, the community will be given a period of six months from the date the flood-related erosion areas having special erosion hazards are delineated in which to meet the requirements of §60.5(b).

(d) Communities identified in part 65 of this subchapter as containing more than one type of hazard (e.g., any combination of special flood, mudslide (i.e., mudflow), and flood-related erosion hazard areas) shall adopt flood plain management regulations for each type

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of hazard consistent with the requirements of §§ 60.3, 60.4 and 60.5.

(e) Local flood plain management regulations may be submitted to the State Coordinating Agency designated pursuant to § 60.25 for its advice and concurrence. The submission to the State shall clearly describe proposed enforcement procedures.

(f) The community official responsible for submitting annual or biennial reports to the Federal Insurance Administrator pursuant to § 59.22(b)(2) of this subchapter shall also submit copies of each annual or biennial report to any State Coordinating Agency.

(g) A community shall assure that its comprehensive plan is consistent with the flood plain management objectives of this part.

(h) The community shall adopt and enforce flood plain management regulations based on data provided by the Federal Insurance Administrator. Without prior approval of the Federal Insurance Administrator, the community shall not adopt and enforce flood plain management regulations based upon modified data reflecting natural or man-made physical changes.

[41 FR 46975, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 29318, June 24, 1983; 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 50 FR 36024, Sept. 4, 1985; 59 FR 53598, Oct. 25, 1994; 62 FR 55716, Oct. 27, 1997]

§ 60.3 Flood plain management criteria for flood-prone areas.

The Federal Insurance Administrator will provide the data upon which flood plain management regulations shall be based. If the Federal Insurance Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Federal Insurance Administrator. However, when special flood hazard area designations and water surface elevations have been furnished by the Federal Insurance Administrator, they shall apply. The symbols defining such special flood hazard designations are set forth in § 64.3 of this subchapter. In all cases the minimum requirements

governing the adequacy of the flood plain management regulations for flood-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the Federal Insurance Administrator. Minimum standards for communities are as follows:

(a) When the Federal Insurance Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:

(1) Require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas;

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards;

(5) Require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and

(6) Require within flood-prone areas (i) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and (ii) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(b) When the Federal Insurance Administrator has designated areas of special flood hazards (A zones) by the publication of a community's FHBM or FIRM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community shall:

(1) Require permits for all proposed construction and other developments including the placement of manufactured homes, within Zone A on the community's FHBM or FIRM;

(2) Require the application of the standards in paragraphs (a) (2), (3), (4), (5) and (6) of this section to development within Zone A on the community's FHBM or FIRM;

(3) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (c)(12), (c)(14), (d)(2) and (d)(3) of this section;

(5) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM:

(i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(ii) Obtain, if the structure has been floodproofed in accordance with paragraph (c)(3)(ii) of this section, the elevation (in relation to mean sea level) to which the structure was floodproofed, and

(iii) Maintain a record of all such information with the official designated by the community under § 59.22 (a)(9)(iii);

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Insurance Administrator;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(c) When the Federal Insurance Administrator has provided a notice of final flood elevations for one or more

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special flood hazard areas on the community's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:

(1) Require the standards of paragraph (b) of this section within all A1-30 zones, AE zones, A zones, AH zones, and AO zones, on the community's FIRM;

(2) Require that all new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the community's FIRM have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception by the Federal Insurance Administrator for the allowance of basements in accordance with § 60.6 (b) or (c);

(3) Require that all new construction and substantial improvements of non-residential structures within Zones A1-30, AE and AH zones on the community's firm (i) have the lowest floor (including basement) elevated to or above the base flood level or, (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(4) Provide that where a non-residential structure is intended to be made watertight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of paragraph (c)(3)(ii) or (c)(8)(ii) of this section, and (ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the official designated by the community under § 59.22(a)(9)(iii);

(5) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision, or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

(7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

(8) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of nonresidential structures (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in § 60.3(c)(3)(i);

(9) Require within any A99 zones on a community's FIRM the standards of paragraphs (a)(1) through (a)(4)(i) and (b)(5) through (b)(9) of this section;

(10) Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(11) Require within Zones AH and AO, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(12) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A-1-30, AH, and AE on the community's FIRM that are not subject to the provisions of paragraph (c)(6) of this section be elevated so that either

(i) The lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(13) Notwithstanding any other provisions of § 60.3, a community may approve certain development in Zones A1-30, AE, and AH, on the community's FIRM which increase the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions of § 65.12, and receives the approval of the Federal Insurance Administrator.

(14) Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either

(i) Be on the site for fewer than 180 consecutive days,

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

(iii) Meet the permit requirements of paragraph (b)(1) of this section and the elevation and anchoring requirements for "manufactured homes" in paragraph (c)(6) of this section.

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

(d) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway, the community shall:

(1) Meet the requirements of paragraphs (c) (1) through (14) of this section;

(2) Select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;

(3) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory

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floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge;

(4) Notwithstanding any other provisions of § 60.3, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of the Federal Insurance Administrator.

(e) When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1–30 and/or AE on the community's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified on the community's FIRM coastal high hazard areas by designating Zones V1–30, VE, and/or V, the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (14) of this section;

(2) Within Zones V1–30, VE, and V on a community's FIRM, (i) obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement, and (ii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

(3) Provide that all new construction within Zones V1–30, VE, and V on the community's FIRM is located landward of the reach of mean high tide;

(4) Provide that all new construction and substantial improvements in Zones V1–30 and VE, and also Zone V if base flood elevation data is available, on the community's FIRM, are elevated on pilings and columns so that (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding

the pilings or columns) is elevated to or above the base flood level; and (ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (e)(4) (i) and (ii) of this section.

(5) Provide that all new construction and substantial improvements within Zones V1–30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(i) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,

(ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values

used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.

(6) Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM;

(7) Prohibit man-made alteration of sand dunes and mangrove stands within Zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage.

(8) Require that manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision, or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, meet the standards of paragraphs (e)(2) through (7) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the community's FIRM meet the requirements of paragraph (c)(12) of this section.

(9) Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either

(i) Be on the site for fewer than 180 consecutive days,

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

(iii) Meet the requirements in paragraphs (b)(1) and (e) (2) through (7) of this section.

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

(f) When the Federal Insurance Administrator has provided a notice of

final base flood elevations within Zones A1-30 or AE on the community's FIRM, and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified flood protection restoration areas by designating Zones AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A, the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (14) and (d)(1) through (4) of this section.

(2) Adopt the official map or legal description of those areas within Zones AR, AR/A1-30, AR/AE, AR/AH, AR/A, or AR/AO that are designated developed areas as defined in §59.1 in accordance with the eligibility procedures under §65.14.

(3) For all new construction of structures in areas within Zone AR that are designated as developed areas and in other areas within Zone AR where the AR flood depth is 5 feet or less:

(i) Determine the lower of either the AR base flood elevation or the elevation that is 3 feet above highest adjacent grade; and

(ii) Using this elevation, require the standards of paragraphs (c)(1) through (14) of this section.

(4) For all new construction of structures in those areas within Zone AR that are not designated as developed areas where the AR flood depth is greater than 5 feet:

(i) Determine the AR base flood elevation; and

(ii) Using that elevation require the standards of paragraphs (c)(1) through (14) of this section.

(5) For all new construction of structures in areas within Zone AR/A1-30, AR/AE, AR/AH, AR/AO, and AR/A:

(i) Determine the applicable elevation for Zone AR from paragraphs (a)(3) and (4) of this section;

(ii) Determine the base flood elevation or flood depth for the underlying A1-30, AE, AH, AO and A Zone; and

(iii) Using the higher elevation from paragraphs (a)(5)(i) and (ii) of this section require the standards of paragraphs (c)(1) through (14) of this section.

(6) For all substantial improvements to existing construction within Zones

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AR/A1-30, AR/AE, AR/AH, AR/AO, and AR/A:

(i) Determine the A1-30 or AE, AH, AO, or A Zone base flood elevation; and

(ii) Using this elevation apply the requirements of paragraphs (c)(1) through (14) of this section.

(7) Notify the permit applicant that the area has been designated as an AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A Zone and whether the structure will be elevated or protected to or above the AR base flood elevation.

[41 FR 46975, Oct. 26, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 60.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 60.4 Flood plain management criteria for mudslide (i.e., mudflow)-prone areas.

The Federal Insurance Administrator will provide the data upon which flood plain management regulations shall be based. If the Federal Insurance Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Federal Insurance Administrator. However, when special mudslide (i.e., mudflow) hazard area designations have been furnished by the Federal Insurance Administrator, they shall apply. The symbols defining such special mudslide (i.e., mudflow) hazard designations are set forth in § 64.3 of this subchapter. In all cases, the minimum requirements for mudslide (i.e., mudflow)-prone areas adopted by a particular community depend on the amount of technical data provided to the community by the Federal Insurance Administrator. Minimum standards for communities are as follows:

(a) When the Federal Insurance Administrator has not yet identified any area within the community as an area having special mudslide (i.e., mudflow) hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall

(1) Require permits for all proposed construction or other development in the community so that it may determine whether development is proposed within mudslide (i.e., mudflow)-prone areas;

(2) Require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslides (i.e., mudflows). Factors to be considered in making such a determination should include but not be limited to (i) the type and quality of soils, (ii) any evidence of ground water or surface water problems, (iii) the depth and quality of any fill, (iv) the overall slope of the site, and (v) the weight that any proposed structure will impose on the slope;

(3) Require, if a proposed site and improvements are in a location that may have mudslide (i.e., mudflow) hazards, that (i) a site investigation and further review be made by persons qualified in geology and soils engineering, (ii) the proposed grading, excavations, new construction, and substantial improvements are adequately designed and protected against mudslide (i.e., mudflow) damages, (iii) the proposed grading, excavations, new construction and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances, and (iv) drainage, planting, watering, and maintenance be such as not to endanger slope stability.

(b) When the Federal Insurance Administrator has delineated Zone M on the community's FIRM, the community shall:

(1) Meet the requirements of paragraph (a) of this section; and

(2) Adopt and enforce a grading ordinance or regulation in accordance with data supplied by the Federal Insurance Administrator which (i) regulates the location of foundation systems and utility systems of new construction and substantial improvements, (ii) regulates the location, drainage and maintenance of all excavations, cuts and fills and planted slopes, (iii) provides special requirements for protective measures including but not necessarily limited to retaining walls, buttress fills, sub-drains, diverter terraces,

Resolution #10102022

HAYES TOWNSHIP, CHARLEVOIX COUNTY

FEMA RESOLUTION

During the Hayes Township Board of Trustees meeting on October 10, 2022, Matt Cunningham made a motion, supported by Doug Kuebler, to adopt the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office approved floodplain management measures that satisfy 44 Code of Federal Regulations, section 60.3 of the National Flood Insurance Program regulations to be known as the Hayes Township Floodplain Ordinance;

WHEREAS, under the flood Disaster Protection Act of 1973, as amended, flood insurance must be purchased by property owners seeking any Federal financial assistance for construction or acquisition of buildings in Special Flood Hazard Areas (SFHAs);

WHEREAS, all loans individuals obtain from Federally regulated, supervised, or insured lending institution that are secured by improved by real estate located in SFHAs are also contingent upon the borrower obtaining flood insurance coverage on their building; purchasing and maintaining flood insurance coverage is on a voluntary basis.

THEREFORE IT SHALL BE RESOLVED, the Hayes Township Board recognizes the FEMA floodplain management measures as described above.

RESOLUTION DECLARED ADOPTED

TOWNSHIP OF HAYES

Ron VanZee, Supervisor

Date

Election Inspectors November 8th, 2022 General Election

Kristin Baranski	Republican
April Hilton	Republican
Janice Vedder-Whipple	Democrat
Karen Wooster	Democrat
Pam Hooper-Griffitts	Republican
Doug Kuebler	Republican
Steve Ritter	Democrat
Nancy Simon	Democrat
Letha Parsons	Republican
Terry Hilton	Republican
Doris Hosmer	Republican
Mark Hosmer	Republican
Eugene Brannigan	Democrat

FEE SCHEDULE

Current Fee Schedule for ZBA is \$700.00 per request.

Actual Costs are as follows:

Chair per diem	110.00
Member per diem	85.00 (x4)
Recording Secretary	200.00
Zoning Administrator	200.00
<u>Publication and mailing</u>	<u>85.00</u>

Total set expenses	934.00
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Additional hours billed at \$20.00/hour

October 10, 2022

Board of Trustees:

This August, the Hayes Township Zoning Board of Appeals made some momentous decisions:

It ruled in a 4 to 1 vote that the Waterfront Regulations of our ordinance, Section 3.14 subsections 1 through 4 and 8, **do indeed prohibit any excavation of the Shoreland Protection Strip for boat basins and channels**. This vindicates our contention for the past year that our Township's Zoning Ordinance is strong and well-worded when it comes to shoreland protection.

But the Planning Commission rewrote the ordinance last year, to gut all of those protections. Specifically it was Roy Griffiths who was illegally on PC all of last year while rewriting the waterfront regulations and Ron Van Zee, who delegated zoning to the commissioners, who wrote that language, along with Bob Drost who is the Laws' developer, and two other Commissioners.

We won't stand for this.

If this Township throws away nearly 50 years of success with shoreland protection with this new Zoning Ordinance rewrite, we the People will rescind it.

The ZBA made another decision, an erroneous one, about the Ordinary High Water Mark. That decision cannot stand. I will be filing a suit shortly to reverse that decision, because it's of utmost importance to every lake in the state.

And last week, ZBA member Doug Kuebler took part in a ZBA hearing in which he should have recused himself, because he already had made a previous decision "on the same matter" when he approved the Laws' plans including a boathouse while he was on the PC. This is malfeasance and he should be removed from the ZBA. This is written charges, and I ask for a public hearing on the matter.

Mr. Kuebler then voted with two other ZBA members to not hear the written interpretation requests, as mandated by state law, on the erroneous theory that a ZBA will usurp the position and authority of the zoning administrator.

However: that's exactly what a ZBA is supposed to do.

This was malfeasance on the part of the 3 who voted to throw out an interpretation request and worse, it was "willful neglect of duty."

LuAnne Kozma
9330 Woods Road

HAYES TOWNSHIP BOARD OF TRUSTEES

Meeting Date: October 10th 2022

Location: Hayes Township Hall

Name	Would you like to be called on to speak during public comment?	
Leslie Cunningham	<u>YES</u>	NO
Debbie Lulis	YES 2	NO
Debbie Lulis	<u>YES</u>	<u>NO</u>
Andrius Pasionis	YES	<u>NO</u>
Jim McMahon	<u>YES</u>	NO
DIANE McMAHON	<u>YES</u>	NO
Bruce Deckinga	<u>YES</u>	NO
Doug Lick	YES	<u>NO</u>
EDDON COMPTON	YES	NO
Ellis Boal	<u>YES</u>	NO
LuAnne Kozma	<u>YES</u>	NO
Winnie Boal	YES	<u>NO</u>
Kim Fard	<u>YES</u>	NO
Janet Simon	<u>YES</u>	NO
DEBBIE WARREN	<u>YES</u>	NO
Davele Hutcherson	<u>YES</u>	NO
Mike Hutcherson	YES	<u>NO</u>
Ed Baji	<u>YES</u>	NO
Susan Pyke	YES	<u>NO</u>

Lindsay Brey
Charlie Witthoft

yes
yes