

CITY-COUNTY GENERAL ORDINANCE NO. 11, 2016

Proposal No. 154, 2016

MDC DOCKET NO. 2016-AO-001

PROPOSAL FOR A GENERAL ORDINANCE to amend portions of the "Revised Code of the Consolidated City and County" regarding the Flood Control Secondary Zoning District to adopt new flood control district maps as provided by FEMA and amend the regulations regarding development within the flood control districts, to take effect immediately.

WHEREAS, the Federal Emergency Management Agency notified the mayor's office on October 19, 2015 that the Flood Insurance Study establishing the flood hazard determination is complete and issued their Letter of Final Map Determination.

WHEREAS, the city is required to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the National Flood Insurance Program regulations (44 CFR 59, etc.) by April 19, 2016, the effective date of the Flood Insurance Rate Maps, in accordance with Section 1361 of the National Flood Insurance Act of 1968, as amended.

WHEREAS, failure to enact the necessary floodplain regulations would result in suspension from the National Flood Insurance Program, and thereby jeopardizing the over 6,000 households who depend on the city's participation in the program for flood insurance.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission of Marion County, Indiana, as the single planning and zoning authority for Marion County, Indiana, and empowers the MDC to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana ordinances for the zoning or districting of all lands within the county for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Zoning Ordinance of Marion County, Indiana, Section 742-203 of the "Revised Code of the Consolidated City and County", pertaining to the Flood Control Secondary Zoning District, hereby is amended pursuant to IC 36-7-4, by the addition of the language that is underscored and be further amended by the deletion of the language that is stricken-through, to read as indicated in Exhibit Flood A (and subsections following the underscored subsections shall be re-numbered accordingly).

SECTION 2. The Zoning Ordinance of Marion County, Indiana, Section 740-202, of the "Revised Code of the Consolidated City and County", regarding definitions, hereby is amended pursuant to IC 36-7-4, by the addition of the language that is underscored and be further amended by the deletion of the language that is stricken-through, to read as follows (and to be alphabetically reordered as needed):

Section 02. Definitions.

Attached nonhabitable accessory enclosure: For purposes of flood control regulation, an enclosed area of a structure below the elevated first floor used solely for parking vehicles, building access or storage that satisfies all requirements for such a structure as set forth in this article.

Base Flood: ~~That flood having a peak discharge that can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure that is acceptable to and approved by the IDNR. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year. Also known as the regulatory flood. That flood having a one percent chance of being equaled or exceeded in any given year.~~

Base Flood Elevation: ~~The site specific elevation of the water surface of the base flood measured in feet above mean sea level (1929 NGVD or NAVD 1988). In either case, a conversion number shall be included. The elevation of the one percent chance flood.~~

Best Available Data: For purposes of flood control regulation, information including but not limited to available topographic mapping, survey data, historic flood records, engineering studies, channel ratings, and engineering judgment, used by the Bureau of License and Permit Services to make flood control zoning district determinations pursuant to Section 742-203 (Flood Control Secondary Zoning Districts) when detailed floodplain data are not available for a particular site.

Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having an enclosed space and a permanent roof supported by columns or walls.

Bureau of License and Permit Services or Bureau: The Bureau of License and Permit Services of the Department of Code Enforcement.

Critical Facilities: For purposes of flood control regulation, those facilities that: are critical to the community's public health and safety; are essential to the orderly functioning of a community; store or produce highly volatile, toxic or water reactive materials that must be protected to prevent further harm or house occupants that may be insufficiently mobile to avoid loss of life or injury. For the purposes of the Zoning Ordinance, wastewater treatment plants and water treatment plants are not considered to be critical facilities regulated by these provisions.

CRS: Community Rating System. A program developed by the Federal Insurance Administration to provide incentives for those communities in the NFIP that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Development: For purposes of flood control regulation, any man-made change to improved or unimproved real estate including, but not limited to ~~buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials:~~

1. construction, reconstruction, or placement of a structure or any addition to a structure;
2. installing a manufactured home on a site, preparing a site for a manufactured home or placing a recreational vehicle on a site for more than 180 days;
3. installing utilities, erection of walls and fences, construction of roads, or similar appurtenances;
4. construction of flood control structures such as levees, dikes, dams, channel improvements;
5. mining, dredging, filling, grading, excavation, or drilling operations;
6. construction or reconstruction of bridges or culverts;
7. storage of materials; or
8. any other activity that changes the direction, height, or velocity of flood or surface waters.

This definition does not include maintenance of existing structures and facilities such as painting, re-roofing, resurfacing roads; or agricultural practices such as gardening, plowing; or activities that do not involve filling, grading, or excavation. This definition does not include Department of Public Works maintenance programs.

Elevation certificate: For purposes of flood control regulations, developed by FEMA to collect surveyed elevations and other information about a building that is necessary to verify compliance with the flood control ordinance and regulations and to obtain flood insurance, it is the most recently published official elevation certificate document issued by FEMA.

Existing Mobile Dwelling Project or Subdivision: A mobile dwelling project for which the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including, at a minimum, the installation of utilities, construction of streets and either final site grading or pouring of concrete pads) is completed before December 20, 1989.

Expansion to an Existing Mobile Dwelling Project or Subdivision: The preparation of additional sites for an existing mobile dwelling project by the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA: The Federal Emergency Management Agency.

~~**Fifty percent (50%) limit:** For purposes of flood control regulations, the maximum amount of work allowed in or on a legally established nonconforming use before the work is not eligible for the special allowances provided for restoration of nonsubstantial damage, nonsubstantial improvements and nonsubstantial additions as provided herein. The proposed work shown on an application for a floodplain development permit in or on a legally established nonconforming use must be evaluated to determine whether the 50% limit has been exceeded by dividing the projected cost of the work by the pre-construction market value of the legally established nonconforming use (excluding the value of the land or detached structures), expressed as a percentage.~~

~~**Fill:** For purposes of flood control regulations, soil material placed upon the ground, compacted and graded for the purpose of elevating the surface of the ground.~~

~~**FIRM:** Flood Insurance Rate Map. The official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to a community.~~

~~**Flood or Flooding:** 4. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.:~~

~~a. The overflow of rivers, streams, ditches or enclosed drainage systems;
b. The unusual and rapid accumulation or runoff of surface waters from any source; or c. Mudslides (i.e., mudflows) that are proximately caused by flooding as defined in paragraph (1)b. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.~~

~~2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event that results in flooding as defined in paragraph (1)a. of this definition~~

~~**Flood Insurance Study (FIS) Base Flood Profile:** The base flood elevation profile included in the January 5, 2001 flood insurance study published by FEMA official hydraulic and hydrologic report (flood insurance study) provided by FEMA. The report contains flood profiles, as well as the FIRM, and the water surface elevation of the base flood.~~

~~**Flood Protection Grade (FPG):** The elevation above the base flood plus two feet at any given location in the SFHA. The elevation of the lowest point in a building at which floodwaters may enter the interior of the building. Such lowest point is defined by the following:~~

- ~~1. The lowest floor of the building (if a basement is included, the basement floor is the lowest floor);~~
- ~~2. The garage floor, if the garage is the lowest level of the building (except garages that qualify as an allowed nonhabitable attached accessory enclosure);~~
- ~~3. The first floor of buildings elevated on pilings or constructed on an above-ground crawl space;~~
- ~~4. The floor level of any enclosure below the elevated first floor, including a crawl space that is below the adjoining ground level at all sides unless the enclosure satisfies the requirements for a nonhabitable attached accessory enclosure;~~
- ~~5. The level of protection provided to a nonresidential building below which the building is designed to be flood-proofed. The design and construction must be certified on a flood-proofing certificate by a professional engineer or a professional architect as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.~~

~~**Floodplain:** Any land area susceptible to being inundated by floodwaters from any source. The channel proper and the areas adjoining any wetland, lake, or watercourse that has been or may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe.~~

~~**Floodplain Administrator:** Employee authorized and directed to enforce the provisions of the Flood Control Secondary Zoning District Ordinance.~~

Floodproofed Building: A nonresidential building designed to exclude floodwaters from the interior of that building. All such flood-proofing must be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

Floodproofing: A method of protecting a nonresidential structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing Certificate: The most recently published official document for flood-proofing certificate for nonresidential structures issued by FEMA. This form developed by FEMA to certify compliance for nonresidential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

Floodwater: The water of any lake or watercourse that is above the banks or outside the channel and banks of such watercourse.

Floodway: The channel of a water source and the adjacent land areas that must be reserved in order to discharge the base flood without causing any cumulative increase in the water surface elevation river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Floodway Fringe: The portion of the regulatory floodplain that is not required to convey the 100-year frequency flood peak discharge and therefore lies lying outside of the floodway.

Habitable space: For purposes of flood control regulation, the enclosed area of any building used for living area including but not limited to bedrooms, bathrooms, kitchens, living rooms, family rooms, dining rooms, recreation rooms, utility rooms and workshops.

ICC: Increased Cost of Compliance. For purposes of flood control regulations, a program offered through FEMA to offset the additional cost to bring a repetitively and/or substantially damaged structure into current compliance with the Flood Control Zoning Ordinance.

IDNR: The Indiana Department of Natural Resources.

Land Alteration: For purposes of flood control regulations, any change in the topography of land caused by activities including but not limited to excavation, filling, deposit or stockpiling of materials and construction of ponds, dams, or levees outside of a watercourse. For purposes of flood control regulations, land alterations do not include the construction, placement of, or other activities involving buildings or nonbuilding structures or those activities that are defined as open land use in this article, or ordinary maintenance and repair of an IDNR approved land alteration.

Letter of Final Determination (LFD): A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest Adjacent Grade: For purposes of flood control regulation, the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor: The lowest elevation described among the following:

1. The top of the lowest level of the structure.
2. The top of the basement floor.
3. The top of the garage floor, if the garage is the lowest level of the structure.
4. The top of the first floor of a structure elevated on pilings or pillars.
5. The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - b) the total net area of all openings shall be at least one square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
 - c) such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured Home: A unit that is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process. Every module must bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. The unit must have been built after January 1, 1981, and must exceed 23 feet in width. This definition does not include recreational vehicles or mobile dwellings.

Market Value: For purposes of flood control regulation, the market value of the structure itself, not including the associated land, landscaping or detached accessory structures. The market value must be determined by a method approved by FEMA and the Bureau of License and Permit Services. If an appraisal is used, the appraiser must have at least one of the following designations:

1. Member of the American Institute of Real Estate Appraisers (MAI);
2. Residential member of the American Institute of Real Estate Appraisers (RM);
3. Senior real estate analyst of the Society of Real Estate Appraisers (SREA);
4. Senior residential appraiser of the Society of Real Estate Appraisers (SREA);
5. Senior real property appraiser of the Society of Real Estate Appraisers (SRPA);
6. Senior member of the American Society of Appraisers (ASA);
7. Accredited rural appraiser of the American Society of Farm Managers and Rural Appraisers (ARA); or
8. Accredited appraiser of the Manufactured Housing Appraiser Society.

New Mobile Dwelling Project or Subdivision: A mobile dwelling project or subdivision for which the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 12, 1989.

NFIP: National Flood Insurance Program. A voluntary agreement between the federal government and participating communities in which the federal government offers subsidized flood insurance to communities that agree to adopt and enforce a flood ordinance that, at a minimum, meets the federal standards to reduce future flood risk to new construction in floodplains.

Nonbuilding Structure: For purposes of flood control regulations, structures other than buildings including but not limited to public utilities, on-site wastewater disposal systems, water supply systems,

sanitary sewers, on-site stormwater treatment systems, lift stations, transmission towers, well pumps, electrical units, bridges, culverts, and any other structures determined by the Bureau of License and Permit Services to constitute a potential hazard to life, health, safety or property caused by exposure to floodwaters during the base flood.

Nonsubstantial Addition: For purposes of flood control regulation, a structural enlargement of a structure, the cost of which is less than 50% of the market value of the structure before the start of construction.

Nonsubstantial Damage: For purposes of flood control regulation, damage of any origin sustained by a structure and not intentionally caused or inflicted by the owner or occupant whereby the cost of restoring the structure to its predamaged condition would be less than 50% of the market value of the structure before the damage occurred.

Nonsubstantial Improvement: For purposes of flood control regulation, any structural improvement of a structure that does not consist of a structural enlargement or repair of damage, the cost of which is less than 50% of the market value of the structure before the start of construction of the improvement. This term does not include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions;
2. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure;" or
3. Ordinary maintenance and repair as defined in the Zoning Ordinance.

One percent annual chance flood: The flood that has a one percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

Open Land Use: For purposes of flood control regulations, the production of crops, pasture, forests, parks, and recreational uses that do not involve any structure, obstruction, construction, excavation or deposit in a floodway as defined by IDNR, or any land alteration or watercourse alteration as otherwise defined in the Zoning Ordinance. The following specific activities are classified as open land use:

1. Excavation of cemetery grave;
2. Exploratory excavations or soil testing under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, that are backfilled;
3. Ordinary cultivation of agricultural land including tilling, construction of minor open ditches, and crop irrigation; and
4. The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences.

Ordinary Maintenance and Repair: For purposes of flood control regulations, construction activity commonly accomplished in or on an existing structure or existing building equipment for the purposes of preventing deterioration or performance deficiencies, maintaining appearance, or securing the original level of performance. Preventing deterioration or deficient performance include such activities as caulking windows, painting, pointing brick, oiling machinery and replacing filters. Maintaining appearance does include such activities as sandblasting masonry and cleaning equipment. Securing the original level of performance does include such activities as replacing broken glass, patching a roof, disassembling and reassembling a piece of building equipment, welding a broken part and replacing a component of a heating system (but not a furnace) with an identical component. Ordinary maintenance and repair does not include any construction activity that alters the prior or initial capacity, performance, specifications, type or required energy of functional features of an existing structure or building equipment.

Primary Residential Structure: For purposes of flood control regulation, the residential building in which the permitted primary use of the lot is conducted.

Recreational Vehicle: A vehicle including any associated transport trailer, which may be motorized, non-motorized, self-propelled or towed, designed and intended specifically for non-commercial use, such

as temporary living, travel, and leisure activities. Examples include but not limited to boats, jet skis, race cars, all-terrain bikes, motor homes, travel trailers, and camping trailers. For the purpose of flood control regulation, a vehicle which is:

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

Regulatory Flood: see "Base Flood"

Repetitive Loss: A structure that has sustained flood-related damages on two or more separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

Residential Building: For purposes of flood control regulation, any building that possesses the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.

SFHA: Special Flood Hazard Area. The land area defined on the flood insurance rate map subject to inundation by the one percent annual chance or regulatory flood. These areas are shown on the FIRM as Zone AE, AH, AO, A

Standard Flood Insurance Policy: The flood insurance policy issued by the federal insurance administrator, or an insurer pursuant to an arrangement with the federal insurance administrator pursuant to federal statutes and regulations.

Standard Proctor: For purposes of flood control regulation, the maximum dry density of a backfill material as determined by the methods set forth within ASTM D 698. The percent standard proctor density is a ratio of the in-place dry density of a backfill material, determined by those methods set forth within ASTM D 1556, to the maximum dry density (determined by Test Method 698). The resulting quotient must be multiplied by 100, and the value obtained must meet or exceed the minimum values specified in the Zoning Ordinance.

Start of Construction: For purposes of flood control regulation, the date that a floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit issuance date.

Structure: A combination or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water, and whether permanently affixed to the ground, temporary, or mobile, including but not limited to signs, fences, and underground storage tanks. For purposes of flood control regulations, anything that can be constructed, altered, repaired or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, gas or liquid storage tanks, cabins, manufactured homes, recreational vehicles to be placed on a site for more than 180 consecutive days, and other similar items.

Substantial Addition: For purposes of flood control regulations, a structural enlargement of the enclosed space of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction. See related "Nonsubstantial Addition."

Substantial Damage: For purposes of flood control regulations, damage of any origin sustained by a structure and not intentionally caused or inflicted by the owner or occupant, whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See related "Nonsubstantial Damage."

Substantial Improvement: For purposes of flood control regulations, any structural improvement of a structure that does not consist of a structural enlargement or repair of damage, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement.

The term does not include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions;
2. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure;" or
3. Ordinary maintenance and repair as defined in the Zoning Ordinance.

Violation: The failure of a structure or development or use to be fully compliant with the Zoning Ordinance. For purposes of flood control regulation, this includes a structure or use or development without the elevation certificate, other certifications, or other evidence of required compliance with the flood control regulations in the Zoning Ordinance.

Watercourse: Natural streams, man-made ditches, lakes, reservoirs, ponds, retention or detention basins, and drainage swales. A watercourse is distinguished from overland flow, sheet flow, shallow swale flow, and storm sewer flow by the following characteristics that must be present to constitute a watercourse:

1. Defined and distinguishable stream banks under natural conditions; and
2. Regularity of flow in the channel evidenced by a distinguishable waterline vegetation limit or hydrologic characteristics.

Zone A: Areas within the floodplain established by the flood insurance rate maps where no base flood elevation is provided.

Zone AE: Areas within the floodplain established by the flood insurance rate maps where base flood elevations are provided.

Zone AO: Areas within the floodplain established by the flood insurance rate maps that are subject to sheet flow, ponding, or shallow flooding and where base flood depths (feet above grade level) are provided.

Zone AH: Areas within the floodplain established by the flood insurance rate maps that are subject to shallow flooding and where base flood elevations are provided.

Zone X, Shaded: Areas between limits of the one percent annual chance flood, also known as, 100-year flood and 0.2% percent annual chance flood, also known as 500-year flood; certain areas subject to one percent annual chance 400-year flooding with average depths less than one foot or with drainage areas generally less than one square mile; and areas protected by levees from the base flood.

Zone X, Unshaded: Areas where the annual exceedance probability of flooding is less than 0.2 percent, also known as, 500-year flood.

SECTION 3. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this 11th day of April, 2016, at 8:17 p.m.

ATTEST:



NaTrina DeBow
Clerk, City-County Council



Maggie A. Lewis
President, City-County Council

EXHIBIT FLOOD A

Section 03. Flood Control Secondary Zoning Districts

A. Purpose and objectives

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

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
6. Make federal flood insurance available for structures and their contents in the city by fulfilling the requirements of the National Flood Insurance Program.

The objectives of this ordinance are:

1. To protect human life and health.
2. To minimize expenditure of public money for costly flood control projects.
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
4. To minimize prolonged business interruptions.
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

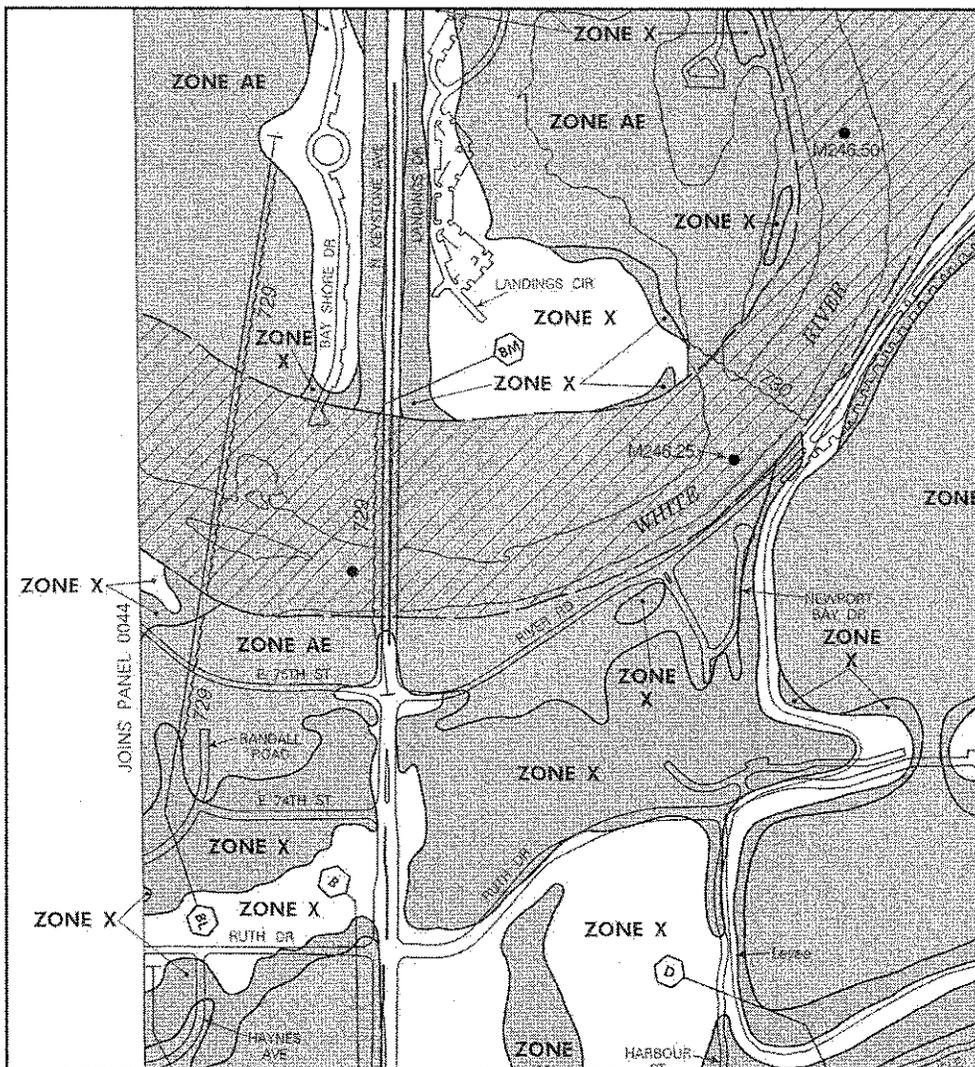
B. District and zone boundaries

The district boundaries have been established from hydrological data delineated on flood insurance rate maps provided by the Federal Insurance & Mitigation Administration Emergency Management Agency (FEMA) in a scientific and engineering report entitled "The Flood Insurance Study for Marion County, Indiana, and Incorporated Areas (All Jurisdictions)," dated ~~January 5, 2004~~ April 19, 2016. Topographic-based floodplain maps that may be developed by the city and approved for use by FEMA may be used as best available data to supplement FEMA's flood insurance rate maps, in accordance with FEMA and IDNR procedures and regulations. These maps contain Zone AE floodplain areas for which floodway district boundaries and base flood elevations are provided, Zone AH floodplain areas for which base flood elevations are provided, Zone AO floodplain areas for which base flood elevations are not provided, and Zone A floodplain areas for which floodway district boundaries and base flood elevations are not provided. Each of those maps also contain shaded Zone X floodplain areas that depict areas subject to flooding in the headwaters of a stream, the 500-year frequency floodplain collar outside of the 100-year frequency Zone AE area, and land subject to shallow flood depths of less than one foot. The district boundaries and base flood elevations for mapped areas shall be determined as follows:

1. Zone AE: The floodway fringe (FF) zoning district boundary is determined by applying the base flood elevations from the flood insurance study base flood profiles to the specific topography of a site/parcel/property. The floodway (FW) district boundary is determined from the flood insurance rate map. The base flood elevation shall be determined from the flood insurance study base flood ~~profile~~, and is rounded up to the nearest ½ foot elevation.

2. Zone AH and Zone AO: In Zone AH floodplain areas, the base flood elevation shown on the flood insurance rate map shall be used. In Zone AO areas, the base flood elevation shall be determined by adding the depth number specified in feet on the flood insurance rate map (2 feet, if no depth number is specified) to the highest ground elevation at the site.
3. Zone A: Because this mapped area depicts only the approximate base flood boundary, the floodway (FW) district boundary, floodway fringe (FF) district boundary, and base flood elevation must be established through a site-specific engineering analysis using a method acceptable to the Bureau of License and Permit Services of the department of code enforcement or a floodplain recommendation letter issued by IDNR containing specific reference to the site in question. It is the responsibility of the applicant applying for a floodplain development permit to provide the requisite engineering analysis to the Bureau of License and Permit Services or to obtain a floodplain recommendation letter from IDNR.
4. Zone X: Zone X areas (shaded or unshaded) are not designated by FEMA as special flood hazard areas and are not regulated by this article.

Diagram NN Example of a FIRM map illustrating zones



5. Detailed hydrological data may not be available on the aforementioned maps for certain portions of the floodway and floodway fringe districts. In such cases, an owner of land or applicant for a floodplain development permit shall be required to request a determination of district boundaries and appropriate flood protection grade from the IDNR and the appropriate district regulations shall apply. In the event IDNR lacks sufficient data, the Bureau of License and Permit Services of the Department of Code Enforcement shall determine which type of flood control zoning district the site is located in and the appropriate flood protection grade and limitations applicable to that district. If the Bureau of License and Permit Services lack sufficient data to make this determination, the applicant for the floodplain development permit shall be required to submit a zoning district boundary determination completed by a registered professional engineer. The procedures by which specific determinations of district boundaries are to be made and incorporated into revisions of the flood insurance rate maps are set forth in Section 742-203. B C below.
6. Upon issuance of a Letter of Final Determination (LFD), the Floodplain Administrator may use more restrictive data in the new mapping and study for permitting and construction purposes, replacing less restrictive flood hazard data provided by FEMA.
7. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation shown on the Flood Insurance Study (FIS) base flood profiles shall govern. If the elevation of the site in question is below the base flood elevation, that site shall be considered inside the SFHA and regulated accordingly. If the elevation of the site's natural grade is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations shall not be applied.

C. Changes to district boundaries

1. Procedures to change the floodway and floodway fringe district boundaries, with or without an accompanying base flood elevation change, may be initiated in certain circumstances, including but not limited to: Determination of original mapping error; physical change to the landscape such as filling, excavating or grading; modification of a channel or bridge that changes the hydraulic or hydrologic characteristics of the watercourse; availability of better topographic base mapping that more accurately depicts the floodplain limits; and development of detailed hydrological data for previously unstudied Zone A areas. In addition, an owner or lessee of property who believes his or her property has been wrongly designated in a particular flood control zoning district may apply for a district boundary change in accordance with this Section 742-203.
2. Changes to the Floodway (FW) district boundary, Floodway Fringe (FF) district boundary, and the accompanying base flood elevations must be approved by FEMA through a letter of map revision (LOMR) or letter of map amendment (LOMA) in accordance with procedures established by FEMA, before the revised maps and data shall be used under this article. Detailed study data, developed for sites located in Zone A areas pursuant to Section 742-203.A as best available data, will generally not be acknowledged by FEMA for flood insurance determinations or result in district boundary revisions unless an official LOMR or LOMA is issued by FEMA that specifies such changes.
3. The Bureau of License and Permit Services of the Department of Code Enforcement shall review all LOMR and LOMA applications for completeness pursuant to FEMA regulations and procedures and verify that the subject project has satisfied the regulatory requirements of this article. Upon verification, the Bureau of License and Permit Services shall issue a signed community acknowledgement to the applicant as required by FEMA. If the LOMR or LOMA application is based on a channel improvement or other physical change to the floodplain that requires continual operation and maintenance as a condition of the issuance of the LOMR or LOMA by FEMA, the Bureau of License and Permit Services may require the applicant to enter into an agreement with the Bureau of License and Permit Services to provide such operation and maintenance.
4. All changes in the Floodway district boundary must be reported to FEMA by the applicant within 6 months of construction with a copy forwarded to the Bureau of License and Permit Services. The Bureau of License and Permit Services shall be responsible for maintaining up-to-date floodplain

maps including any amending LOMRs and LOMAs and shall coordinate efforts with IDNR, FEMA and applicants to solve mapping conflicts using the best available hydrologic, hydraulic and topographic data.

- ~~5. By reference the Commission and the City-County Council must acknowledge all Floodway (FW) and Floodway Fringe (FF) district boundary relocations and base flood elevation revisions approved by FEMA through the issuance of LOMR and LOMAs as changes to the Official Zoning Map.~~
5. 6. All letters of map amendment (LOMA) and letters of map revisions (LOMR) approved and issued by the Federal Emergency Management Agency (FEMA) from September 2, 1992 until January 5, 2004 shall be incorporated as map amendments to the applicable flood control zoning district boundaries and are incorporated by reference and made a part of the Zoning Ordinance.

D. General regulations applicable to all flood control zoning districts

The following regulations shall apply to all land within any flood control zoning district:

1. From and after October 4, 1971:
 - a. No land, watercourse, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this article.
 - b. No land, watercourse, building, structure, premises, use or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed, relocated, altered, improved, or repaired except in conformity with these regulations and for uses permitted by this Section 742-203.
2. No land alteration, watercourse alteration, open land use, legally established nonconforming use, or structure as defined in this article shall be constructed, erected, placed, converted, enlarged, extended, reconstructed, improved, repaired, restored, or relocated until a floodplain development permit is issued for the proposed activity as required by this Section 742-203.

E. Floodplain Development Permits

1. A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard. The Department of Public Works' maintenance of flood works is excluded from this requirement.
2. The Commission hereby delegates authority to the Bureau of License and Permit Services to perform all functions relating to the review of applications for issuance of floodplain development permits, in accordance with this article.
3. A floodplain development permit shall not be issued for proposed activity in Zone A or Zone AH or Zone AO until the floodway and floodway fringe district boundaries and base flood elevation are established in accordance with this Article.
4. Application for a floodplain development permit shall be made on a form provided by the Bureau of License and Permit Services. The application shall be accompanied by drawings of the site drawn to scale that depict the proposed activity in a manner adequate for the Bureau of License and Permit Services to determine compliance with this article. At a minimum, the site plan shall show: All existing and proposed structures; existing and proposed contours (if the proposed activity includes land alteration or watercourse alteration), the governing base flood elevation for the site (including the source of the base flood elevation value); and the proposed flood protection grade (if the proposed activity requires a specified flood protection grade under this article).
 - a. Site plans for all platted subdivisions shall also include a delineation of the existing and proposed floodway and floodway fringe boundaries; a flood protection grade denoted for each

building pad; volumetric calculations demonstrating compensatory storage; and, for each lot located in a flood control zoning district, a plan note identifying the flood control zoning district in which it is located and the requirements and limitations imposed under this Section 742-203 for construction on the floodplain lot.

- b. Plans for proposed activities requiring a specified flood protection grade under this Section 742-203, which involve land or watercourse alterations, or involve flood-proofing of a structure, shall be certified by a professional engineer, professional surveyor, or professional architect as defined by this Section 742-203.
5. An application fee shall be charged for the processing of a floodplain development permit application. A fee schedule shall be developed by the Bureau of License and Permit Services for categories of proposed activities sufficient to recover the cost of processing applications.
6. A floodplain development permit shall not be issued for any proposed activity until all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
7. The Bureau of License and Permit Services shall require an two NFIP elevation certificates be completed accurately and without errors by a professional engineer, professional architect or professional surveyor for each new structure, substantial addition, substantial improvement, or restoration of substantial damage located in a flood control zoning district, as required by FEMA. Performance surety shall be provided by applicant in accordance with Section 742-203.H below. The Bureau of License and Permit Services shall supply each applicant for a floodplain development permit with a blank NFIP elevation certificate during the Bureau of License and Permit Services' floodplain development permit review process. The applicant shall have a professional engineer, professional architect or professional surveyor completes the NFIP elevation certificate, showing the as-built flood protection grade and lowest adjacent grade to the structure, and other information required in the form. The applicant shall deliver a signed and completed NFIP elevation certificate to the Bureau of License and Permit Services within 10 calendar days after completion of construction of the lowest floor grade, and ~~before the division of inspections completes the final site inspection~~ and a second elevation certificate of the finished construction. Inaccurate elevation certificates may be subject to an administrative fee as defined in accordance with Section 536-609.
8. The Bureau of License and Permit Services shall require that a flood-proofing certificate, if required by Section 742-203.C.D.2, be completed by a professional engineer or professional architect for each new structure, substantial addition, substantial improvement or restoration of substantial damage located in a flood control zoning district, as required by FEMA. Performance surety shall be provided by applicant in accordance with Section 742-203.H below. The bureau shall supply each applicant for a floodplain development permit with a blank flood-proofing certificate during the bureau's floodplain development permit review process. The applicant shall have a professional engineer or architect complete the flood-proofing certificate showing the as-built flood protection grade as provided by the flood-proofing measures constructed, and other required information on the form. The applicant shall deliver a signed and completed flood-proofing certificate to the bureau within 10 calendar days after completion of construction of the structural flood-proofing and before the bureau completes the final site inspection.
9. The division of inspections shall not perform the final inspection of construction involving a new building or addition to a building requiring an elevation certificate or flood-proofing certificate until it has received notification that a properly completed elevation certificate or flood-proofing certificate has been submitted to the Bureau of License and Permit Services. Failure to submit a properly completed elevation certificate, or flood-proofing certificate if applicable, shall result in the issuance of a stop work order on the project by the bureau, revocation of the floodplain development permit by the bureau, or both.
10. The Bureau of License and Permit Services shall make all determinations and obtain all data in accordance with FEMA standards at 44 CFR 60.3. The permit applicant is responsible for supplying data to the bureau that is required by FEMA.

F. Floodplain Development Permit validity, transfer, expiration

1. The approval of a floodplain development plan by the Bureau of License and Permit Services shall be valid for a period of one year from the date such approval was granted, or until the floodplain development permit for which the plan was submitted was issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved floodplain development plan or circumstances that cause the floodplain development plan to be inaccurate or incomplete, then a new or corrected floodplain development plan shall be submitted to the department as a precondition for obtaining a floodplain development permit.
2. Transferring a permit.
 - a. A floodplain development permit may be transferred with the approval of the Bureau of License and Permit Services to a person, partnership or corporation that would be eligible to obtain such floodplain development permit in the first instance ("transferee"), after both the payment of a fee specified in the rules and procedures of the Commission and the execution and filing of a form furnished by the bureau. Such transfer form shall contain, in substance, the following certifications, release and agreement:
 1. The person who obtained the original floodplain development permit or a person who is employed by and authorized to act for the obtainer ("transferor") shall:
 - i. Certify under penalties for perjury that such person is familiar with construction activity accomplished pursuant to the floodplain development permit; such person is familiar with the floodplain development standards and procedures applicable to the construction activity; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all floodplain development standards and procedures; and,
 - ii. Sign a statement releasing all rights and privileges secured under the floodplain development permit to the transferee.
 2. The transferee shall:
 - i. Certify that the transferee is familiar with the information contained in the original floodplain development permit application, the detailed plans and specifications, the plot plan and any other documents filed in support of the application for the original floodplain development permit;
 - ii. Certify that the transferee is familiar with the present condition of the premises on which construction activity is to be accomplished pursuant to the floodplain development permit; and,
 - iii. Agree to adopt and be bound by the information contained in the original application for the floodplain development permit, the detailed plans and specifications, the plot plan and other documents supporting the original floodplain development permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the Bureau of License and Permit Services for approval.
 - b. The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor and shall be subject to any written orders issued by the Bureau of License and Permit Services.
 - c. A permit or design approval may not be transferred from the specified location to another location.
3. Expiration of floodplain development permits by operation of law
 - a. If construction activity, other than activity involving the removal of all or part of a structure, has not been commenced within 180 days from the date of issuance of the floodplain development permit, the permit shall expire by operation of law and shall no longer be of any

force or effect; provided, however, the Bureau of License and Permit Services may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances, but in no event shall the continuance exceed a period of 60 days. Such extension shall be confirmed in writing.

- b. If the construction activity has been commenced but only partially completed, and thereafter substantially no construction activity occurs on the construction site over a period of 180 days, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the Bureau of License and Permit Services may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances to allow construction activity to resume.

G. Construction in the Flood Control zoning districts

All new construction and substantial improvements shall:

1. 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;
2. Be constructed with materials resistant to flood damage;
3. Be constructed by methods and practices that minimize flood damages; and
4. Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

H. Floodplain Performance Surety

The following standards shall apply to all Floodplain Performance Surety.

1. The surety must be either a performance bond or letter of credit on the approved Department of Code Enforcement forms.
2. The amount of the surety must equal 1% of the total cost of all proposed improvements but in no case be less than \$2,000.00 per building on the site.
3. The surety must continue to run until released by the Floodplain Administrator.
4. To obtain the release of the Floodplain performance surety, the Floodplain Administrator shall determine if the required certificates are completed accurately and without errors.

I. Floodway (FW) district regulations

1. Purpose

The purpose of the floodway district is to guide development in areas identified as a floodway. IDNR, under the authority of the INRC, exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1; however, the city may impose terms and conditions on any floodplain development permit it issues in a floodway district that are more restrictive than those imposed by IDNR regulations.

2. Applicability

The following regulations, in addition to those in Section 742-203.C through F H, shall apply to all land within the floodway district. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

3. Permitted uses

The following uses shall be permitted in the Floodway district subject to the development standards of this Section 742-203.

- a. Open land uses;

- b. Land alterations and watercourse alterations;
- c. Nonbuilding structures;
- d. Minor residential structures; and
- e. Improvements, additions, and restoration of damage to legally established nonconforming uses.

4. Development standards

- a. Open land use. An open land use shall be allowed without a Floodplain Development Permit provided that the open land use does not constitute or involve any structure, obstruction, deposit, construction, excavation, or filling in a floodway in accordance with IDNR regulations. Otherwise, proposed open land uses shall require a Floodplain Development Permit in accordance with this Section 742-203.
- b. Land and watercourse alterations. Land alterations and watercourse alterations as defined in this article shall not result in any new or additional public or private expense for flood protection; shall assure that the flood carrying capacity is maintained and shall not increase flood elevations, velocities, or erosion upstream, downstream or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment. In addition, no Floodplain Development Permit shall be issued for land alterations or watercourse alterations in a floodway unless a certificate of approval for construction in a floodway is first issued by IDNR for the proposed activity, if required pursuant to IC 14-28-1.
- c. Prohibition of garbage, trash, and junk. No use shall involve the storage, accumulation, spreading, dismantling or processing of garbage, trash, junk, or any other similar discarded or waste material.
- d. Nonbuilding structures. Nonbuilding structures shall be permitted in a Floodway only under the following conditions:
 - 1. The nonbuilding structure is designed, located, and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood protection grade;
 - 2. The nonbuilding structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood protection grade;
 - 3. The nonbuilding structure is designed to minimize potential contamination or infiltration of floodwaters or other potential environmental health or safety hazards associated with flooding up to and including the base flood protection grade;
 - 4. The nonbuilding structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section area perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities;
 - 5. The IDNR has first issued a certificate of approval of construction in a floodway, if applicable pursuant of IC 14-28-1; and
 - 6. The nonbuilding structure must meet the applicable flood protection grade required by IDNR and FEMA rules.
- e. Minor residential detached structure, the total square footage being equal to or less than 400 square feet, may be erected in a Floodway with or without a flood protection grade ~~two (2) feet above the base flood elevation~~ only if the following conditions are met.
 - 1. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;

2. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
 3. The detached structure is no larger than 75% of the size of the existing primary residential structure;
 4. The detached structure shall never be used in total, or in part, for habitable space;
 5. All electrical wiring and any heating, cooling or other major appliances in the detached structure ~~are located above base flood elevation~~ shall be floodproofed or elevated to or above the flood protection grade;
 6. The detached structure is not used for the storage of any substance or chemical that is dangerous or would become dangerous if mixed with water;
 7. The detached structure shall be firmly anchored to prevent flotation;
 8. The exterior walls of the attached nonhabitable accessory enclosure shall be constructed with a material that will maintain its structural integrity during and after exposure to floodwaters and be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must meet the following minimum criteria:
 - i. A minimum of one square inch of net open area for each one square foot of enclosed area for non-engineered openings or a minimum of one engineered inch for each one square foot of enclosed area for an engineered opening;
 - ii. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher, and
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without reliance on human or electrical activation.
 9. The IDNR has first issued a certificate of approval of construction in a floodway; and
 10. As a condition to allowing construction of a detached residential accessory structure, the Bureau of License and Permit Services may first require the owner to record a statement, in a form approved by the bureau, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
5. Legally established nonconforming uses

Nothing stated in this Section 742-203.G | shall prevent ordinary maintenance and repair of legally established nonconforming uses. The cost of ordinary maintenance and repair of building or structures is not counted toward the 50% limit for determining substantial improvement, restoration of substantial damage or substantial addition.

a. *Restoration of damage*

1. Nonsubstantial damage: A legally established nonconforming use that has been damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimension and condition provided that the damage is nonsubstantial damage ~~and a certificate of approval of construction in a floodway, if required in accordance with IDNR rules, is first obtained from IDNR.~~

2. Substantial damage: A legally established nonconforming use that is substantially damaged may only be restored if the following conditions are satisfied:
 - i. The legally established nonconforming use is not a primary residential structure;
 - ii. If required, the applicant for the proposed restored use must first obtain a certificate of approval for construction in a floodway from IDNR;
 - iii. A restored structure must be provided with a flood protection grade ~~at or above the~~ base flood elevation;
 - iv. The design of the foundation of a restored structure must be certified by a professional engineer or professional architect registered in the state of Indiana as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and constructed with a material that will maintain its structural integrity during and after exposure to floodwaters;
 - v. If the damage to a structure is such that the structure including the foundation is destroyed, the structure must be rebuilt upon the same area of the original foundation and have substantially the same configuration as the destroyed structure, unless the rebuilt structure is proposed to be placed on a site less vulnerable to flood hazards as determined by the Bureau of License and Permit Services;
 - vi. The restored or rebuilt structure does not restrict or obstruct the floodway more than the damaged structure;
 - vii. The damage was not intentionally caused by the owner or occupant; and
 - viii. The restoration of the structure is begun within one year and completed within two 2 years following the date that the damage occurred.

b. *Improvements*

1. Nonsubstantial improvements: A legally established nonconforming use in a floodway (FW) district may undergo a one-time only nonsubstantial improvement. Subsequent improvements shall be subject to the requirements and limitations of this article applicable to substantial improvements.
2. Substantial improvements: A substantial improvement to a legally established nonconforming use in a floodway (FW) district is prohibited.

c. *Additions*

1. Nonsubstantial additions: A legally established nonconforming use may undergo a one-time only nonsubstantial addition provided that:
 - i. The applicant has provided development plans and any other supporting data, as required by the Bureau of License and Permit Services, certifying that the proposed addition will not cause any increase in the base flood elevation; and
 - ii. A covenant indicating that "a one-time non-substantial addition to the structure has taken place and that no further additions will be allowed" shall be recorded in the office of the recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.

Subsequent additions shall be subject to the requirements and limitations of this article applicable to substantial additions.

2. Substantial addition: A substantial addition to a legally established nonconforming use is prohibited.

J. Floodway Fringe (FF) district regulations

1. Purpose

The purpose of the Floodway Fringe district is to guide development in areas subject to potential flood damage, but outside a floodway district.

2. Applicability

The following regulations, in addition to those in Section 742-203 C through F-H, shall apply to all land within the Floodway Fringe district. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

3. Permitted uses

All uses permitted in the applicable primary zoning district shall be those uses permitted in the Floodway Fringe zoning district, unless otherwise prohibited by Section 742-203.H J.4 (Prohibited uses), and provided no other secondary zoning district prohibits the use

4. Prohibited uses

The following critical facilities are prohibited from locating in the Floodway Fringe zoning district.

- a. Jails;
- b. Hospitals;
- c. Assisted living facilities;
- d. Nursing homes;
- e. Laboratories;
- f. Elementary, Middle or High Schools;
- g. Daycare facilities;
- h. Fire stations;
- i. Emergency operation centers;
- j. Police facilities;
- k. Truck, train, or bus terminal, storage or maintenance facility;
- l. Wrecking or salvage facility;
- m. Gas, oil or propane storage facility;
- n. Industrial laundry;
- o. Hazardous waste handling or storage facility; and
- p. Other public equipment storage facilities.

5. Development standards

- a. Flood Protection Grade required. Except as specifically provided in this Section 742-203, no building shall be erected, reconstructed, expanded, structurally altered, converted, used, relocated, restored, or improved unless it is provided with a flood protection grade of at least two (2) feet above the base flood elevation.
- b. Flood-proofing. This flood protection grade may be achieved for nonresidential structures by structural flood-proofing. The design and construction shall be certified on a flood-proofing certificate by a professional engineer or professional architect registered in the state of Indiana as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.
- c. Open land use. All open land uses as defined in this article shall be allowed in a Floodway Fringe district without a floodplain development permit.
- d. Land and watercourse alterations. Land alterations and watercourse alterations in a Floodway Fringe district shall not result in any new or additional public or private

expense for flood protection; shall not increase flood elevations or reduce flood carrying capacity; shall not increase velocities or erosion upstream, downstream, or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.

e. Compensatory Storage Required

- ~~1. Development within a Floodway Fringe district shall result in no net rise of natural floodplain storage. The volume of the loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site. Other compensatory measures include but are not limited to the following: protections of riparian corridors, restoration of riparian corridors, and use of green infrastructure in stormwater management (refer to City of Indianapolis Green Supplemental Stormwater Document), and use of multifunctional parks and open space.~~
1. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by an equivalent volume of excavation taken below the base flood elevation. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
 - i. The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.
 - ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the base flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the base flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.
 - iii. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.
 - iv. The fill or structure shall not obstruct a drainage way leading to the floodplain.
 - v. The grading around the excavation shall be such that the excavated area is accessible to the base flood water.
 - vi. The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.
 - vii. The compensatory storage area shall be outside the stream protection corridor (Section 744-205)
 - viii. The compensatory storage requirement excludes interior drainage behind accredited floodplain protection structures.
 - ix. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

2. For floodplain development at sites that are elevated with fill, lowest floor levels, including basement floors, shall be at flood protection grade. Non-living spaces, such as crawl spaces that are below grade on all sides, shall be provided with a lowest floor level at least equal to the base flood elevation. The flood protection grade as well as all other requirements of this Section 742-203 shall not be applicable to property that has been removed from a flood control zoning district through the issuance of a final LOMR or LOMA by FEMA. Floodway Fringe fill on which a building is to be placed shall be compacted to 95% of maximum density using the Standard Proctor Test method. The surface of the fill shall extend at least 10 feet horizontally from the perimeter of the building before sloping below the base flood elevation. This is a minimum distance that may need to be increased by the designer based on-site conditions. Fill slopes shall be adequately protected from erosion using a method approved by the Bureau of License and Permit Services of the Department of Code Enforcement.
- f. Nonbuilding structures. Nonbuilding structures shall be allowed in a floodway fringe district only if constructed in a manner that will not impede the flow of floodwater and debris carried by floodwater, and the following conditions are met:
1. The nonbuilding structure is designed, located and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood protection grade;
 2. The nonbuilding structure is designed and constructed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood protection grade;
 3. The nonbuilding structure is designed and constructed to minimize potential contamination or infiltration of floodwaters or other potential environmental or safety hazards associated with flooding up to and including the base flood protection grade;
 4. The nonbuilding structure is designed and constructed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities; and
 5. The nonbuilding structure shall meet the applicable flood protection grade required by IDNR and FEMA rules.
- g. Detached residential accessory structures. Detached residential accessory structures larger than 400 square feet in a floodway fringe district must be provided with a flood protection grade of at least two (2) feet above the base flood elevation. Detached residential accessory structures, the total square footage being equal to or smaller than 400 square feet may be erected in a floodway fringe district above or below the flood protection grade only if the following conditions are met:
1. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
 2. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
 3. The detached structure is no larger than 75% of the size of the existing primary residential structure;
 4. The detached structure shall never be used in total, or in part, for habitable space;
 5. All electrical wiring and any heating, cooling or other major appliances in the detached structure are located above the base flood elevation flood protection grade

and the detached structure is not used for the storage of any substance or chemical that is dangerous or would become dangerous if mixed with water;

6. The detached structure shall be firmly anchored to prevent flotation;
7. The exterior walls of the attached nonhabitable accessory enclosure shall be constructed with a material that will maintain its structural integrity during and after exposure to floodwaters and be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must meet the following minimum criteria:
 - i. A minimum of one square inch of net open area for each one square foot of enclosed area for non-engineered openings or a minimum of one engineered inch for each one square foot of enclosed area for an engineered opening;
 - ii. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without reliance on human or electrical activation.
8. As a condition to allowing a detached residential accessory structure, the Bureau of License and Permit Services may require the owner to record a statement, in a form approved by the bureau, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
- h. Attached nonhabitable accessory enclosures. Attached nonhabitable accessory enclosures may be constructed in a Floodway Fringe district as a part of one-family, two-family, or multifamily dwelling structures only under the following conditions:
 1. All parts of the building or structure other than the attached nonhabitable accessory enclosure shall be erected, constructed, reconstructed, expanded, structurally altered, converted, used or relocated in compliance with this Section 742-203.H J.5;
 2. The attached nonhabitable accessory enclosure is attached to or part of the primary residential structure and is operated and maintained under the same ownership;
 3. The attached nonhabitable accessory enclosure is customarily incidental, accessory and subordinate to, and commonly associated with the use of the primary residential structure;
 4. The attached nonhabitable accessory enclosure is not used in total or in part as habitable space, but is solely for parking vehicles, building access or storage of materials not covered under standard flood insurance policy;
 5. As a condition to allowing an attached nonhabitable accessory enclosure, the Bureau of License and Permit Services shall require the owner to record a statement, in a form approved by the bureau, indicating that the attached nonhabitable accessory enclosure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the deed and shall be binding on all subsequent owners;
 6. All electrical wiring and any heating, cooling or other major appliances or equipment in the attached nonhabitable accessory enclosure are located above the base flood elevation flood protection grade and the attached nonhabitable accessory enclosure

is not used for the storage of any substance or chemical that is dangerous or would become dangerous if mixed with water; and

7. The exterior walls of the attached nonhabitable accessory enclosure shall be constructed with a material that will maintain its structural integrity during and after exposure to floodwaters and be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must meet the following minimum criteria:
 - i. A minimum of one square inch of net open area for each one square foot of enclosed area for non-engineered openings or a minimum of one engineered inch for each one square foot of enclosed area for an engineered opening;
 - ii. The bottoms of all openings shall be no ~~higher~~ more than one foot above the ~~flood elevation of the enclosure or no greater than one foot above grade level, whichever is less; exterior grade or the interior grade immediately beneath each opening, whichever is higher;~~ and
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without reliance on human or electrical activation.
8. Attached nonhabitable accessory enclosures that are also legally established nonconforming uses pursuant to Section 742-203.H J.6 shall not be subject to the requirements of Section 742-203.H J.5.h.
 - i. **Manufactured homes, mobile dwellings and recreational vehicles**
 1. Manufactured homes and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites outside of a mobile dwelling project, in a new mobile dwelling project or subdivision, in an expansion to an existing mobile dwelling project or subdivision, or in an existing mobile dwelling project or subdivision on which a manufactured home or mobile dwelling has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home or mobile dwelling is elevated with a flood protection grade at least two (2) feet above the base flood and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 2. Manufactured homes and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites in an existing mobile dwelling project or subdivision on which a manufactured home or mobile dwelling has not incurred substantial damage as the result of a flood, shall be elevated so that either the lowest floor of the manufactured home or mobile dwelling is elevated to flood protection grade at least 2 feet above the base flood or the manufactured home or mobile dwelling 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 level and be securely anchored to a foundation system to resist flotation, collapse and lateral movement.
 3. Recreational vehicles placed on sites in the Floodway Fringe for 180 consecutive days or more shall be subject to the requirements for manufactured homes and mobile dwellings contained in this Section 742-203. Recreational vehicles placed on sites in the Floodway Fringe shall not be subject to requirements for manufactured homes and mobile dwellings contained in this Section 742-203 and shall not require a Floodplain Development Permit if the recreational vehicle is either placed on the site for fewer than 180 consecutive days or is fully licensed and ready for highway use. 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.

- j. Draining of land; altering of watercourses; construction of ponds, lakes, levee, dams. No draining or reclamation of land; altering, widening, deepening or filling of watercourses or drainage channels or ways; construction of ponds, lakes, levees, or dams; or any other changes or improvements of watercourses or drainage channels or ways shall be undertaken in the Floodway Fringe district unless first approved by the IDNR, if applicable, and any other local, state or federal agencies having jurisdiction over such activity.
- k. Construction of new access roads. If the proposed activity includes the construction of a new access road between proposed buildings to be located in the Floodway Fringe district and a public road, and the public road at the intersection with the proposed access road is at or above the base flood elevation, then the proposed access road must also be at or above the base flood elevation along the entire length between any proposed building and the public road. If there is more than one access road between the public road and any proposed building, only one must provide access at or above the base flood elevation.

6. Legally established nonconforming uses

Nothing stated in this Section 742-203.H J shall prevent ordinary maintenance and repair of legally established nonconforming uses. The cost of ordinary maintenance and repair of buildings or structures is not counted toward the 50% limit for determining a substantial improvement, restoration of substantial damage or substantial addition. Improvements, additions and restoration of damage to legally established nonconforming uses authorized under this subsection shall not be subject to Section 742-203.H J.5.h

a. *Repetitive loss damage*

Repetitive loss damage: A legally established nonconforming use that has sustained flood-related damages on two or more separate occasions during a 10-year period for which the cost of repairs at the time of each such flood even, on average, equaled or exceeded 25% of the market value of the structure before the damage occurred, may only be restored if the restored structure is at flood protection grade.

b. *Restoration of damage*

- 1. Nonsubstantial damage: A legally established nonconforming use in a Floodway Fringe district damaged by flood, fire, explosion, act of God or the public enemy may be restored to its original dimensions and condition provided that the damage is a nonsubstantial damage as defined by this article.
- 2. Substantial damage: A legally established nonconforming use that is substantially damaged may only be restored if the restored structure is ~~provided with a~~ at flood protection grade ~~of at least 2 feet above the base flood elevation.~~

c. *Improvements*

- 1. Nonsubstantial improvements: A legally established nonconforming use in a Floodway Fringe district may undergo a one-time only nonsubstantial improvement. Subsequent improvements shall be subject to the requirements and limitations of this Section 742-203 applicable to substantial improvements.
- 2. Substantial improvements: A legally established nonconforming use may undergo a substantial addition if the addition is ~~provided with a~~ at flood protection grade ~~of at least 2 feet above the base flood.~~

d. *Additions*

1. Nonsubstantial addition: A legally established nonconforming use in a Floodway Fringe district may undergo a one-time only nonsubstantial addition provided that a covenant indicating that "a one-time non-substantial addition to the structure has taken place and that any subsequent improvements or additions shall be subject to the requirements and limitations of this article applicable to substantial additions" shall be recorded in the Office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.
2. Substantial addition: A legally established nonconforming use may only undergo a substantial addition if the addition is ~~provided with a~~ at flood protection grade ~~of at least 2 feet above the base flood elevation.~~

K. Variances

1. The Board of Zoning Appeals may only issue a variance to the permitted uses or development standards of the Floodway (FW) or Floodway Fringe (FF) districts, provided no other zoning district prohibits the land use, and if the applicant submits evidence that:
 - a. There exists a good and sufficient cause for the requested variance;
 - b. The strict application of the terms of this article will constitute an exceptional hardship to the applicant; and
 - c. The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with other applicable law or ordinances.
2. The Board of Zoning Appeals may only issue a variance to the permitted uses or development standards of the Floodway (FW) or Floodway Fringe (FF) districts, provided no other secondary zoning district imposes stricter development standards, and if the following conditions are met:
 - a. No variance for the construction of a new residential structure in a Floodway (FW) district may be granted;
 - b. All variances granted for an associated use in a Floodway (FW) district shall first require a permit from IDNR, if such permit is required by IDNR rules and procedures;
 - c. ~~Variances to the flood protection grade requirements may be granted only when a new structure is to be located on a lot of 1/2 acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;~~
 - c. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Survey Register of Historic Sites and Structures, Architectural, Archaeological and Cultural Sites, Districts and Objects, subject to the condition that such variance will not preclude the structure's continued designation as an historic structure and that the variance is the minimum necessary to preserve the historic character;
 - d. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
 - e. The Department of Metropolitan Development shall issue a written notice to the recipient of a variance that the proposed construction will be subject to increased risks of life and property and could require payment of increased flood insurance premiums.

L. National Flood Insurance Program regulation

The Bureau of License and Permit Services, during the review of floodplain development permit applications located in identified flood control zoning districts, shall ensure that:

- a. All national flood insurance program regulations (codified at 44 CFR, Part 60.3) pertaining to state and federal permits, subdivision review, building permit review, floodproofing nonresidential structures, mobile home tie-down standards, utility construction, recordkeeping (including lowest floor elevations), and watercourse alteration and maintenance have been met.
- b. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- c. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- e. Verify and record the actual elevation of the lowest floor (including the basement) of all new or substantially improved structures, in accordance with Section E.

EXHIBIT B - CERTIFICATION

METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA

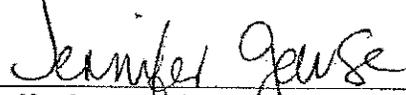
STATE OF INDIANA)
) SS:
COUNTY OF MARION)

CERTIFICATION

I, Jennifer Gause, Acting Secretary of the Metropolitan Development Commission of Marion County, Indiana, do hereby certify that the attached ordinance No. 2016-AO-001, amending portions of the Revised Code of the Consolidated City of Indianapolis and Marion County regarding the Flood Control Secondary Zoning District for Indianapolis-Marion County, Indiana, including Exhibit Flood A thereto, is a true copy of the Originals adopted by the Metropolitan Development Commission of Marion County, Indiana, following a public hearing at a meeting of said commission of March 16, 2016, and that the original of said ordinance and exhibit is on file of record in the office of the Department of Metropolitan Development of Marion County, Indiana.

Witness my hand and official seal of the Metropolitan Development Commission of Marion County, Indiana this 16th day of March, 2016.

ATTEST:


Jennifer Gause, Acting Secretary
Metropolitan Development Commission
of Marion County, Indiana

