

UNIFIED DEVELOPMENT CODE
(FLOODPLAIN MANAGEMENT OVERLAY DISTRICT AND REGULATIONS)

AN ORDINANCE TO AMEND SECTIONS 5.14.2, 5.18.4, 5.18.6.D.1.a, 5.23.4, 5.27, 5.29.1, 5.29.3.F.4, 5.29.12.D, and 5.37.2 OF CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 5.14.2 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be added as follows:

5.14.2 Floodplain Management Overlay Zoning Districts

A. Purpose and Intent

The purpose of this overlay zoning district is to regulate development in the Flood Hazard Areas of the City of Ann Arbor. These flood hazard areas are subject to periodic inundation, which may result in: loss of life and property; health and safety hazards; disruption of commerce and governmental services; extraordinary public expenditures for flood protection, relief and emergency response; and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

This overlay zoning district is intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

This overlay zoning district is intended to be consistent with the 2007 Flood Mitigation Plan, and the current version of the City of Ann Arbor Hazard Mitigation Plan.

B. National Flood Insurance Program Compliance

These regulations are adopted to comply with the rules and regulations of the National Flood Insurance Program, codified as 44 Code of Federal Regulations Parts 59—78, so as to maintain the community's eligibility in the National Flood Insurance Program.

C. Applicability

The Floodplain Management Overlay Zoning District shall apply to all Development within and extending 50 feet from Flood Hazard Areas in the City of Ann Arbor. The Floodplain Management Overlay Zoning District is divided into a Floodway Zone and Flood Fringe Zone.

1. Floodway Zone.

The Floodway Zone includes those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 5.14.2.D.

2. Flood Fringe Zone.

The Flood Fringe Zone includes those areas designated as flood hazard area on the Flood Insurance Rate Map adopted in Section 5.14.2.D, including Zones A and AE but being located outside of the floodway.

D. Incorporation of Maps by Reference.

The following maps together with all attached material are hereby adopted by reference and declared to be a part of the City of Ann Arbor zoning map and this ordinance. The attached material includes the Flood Insurance Study for Washtenaw County, Michigan, and Incorporated Areas, and the Flood Insurance Rate Map panels enumerated below, dated April 3, 2012, all prepared by the Federal Emergency Management Agency. These materials are on file with the Systems Planning Unit. The most updated Flood Insurance Rate Maps adopted by the City of Ann Arbor will be incorporated for the administration of this ordinance.

Flood Insurance Rate Maps panel number(s) of 26161C0234E, 26161C0235E, 26161C0241E, 26161C0242E, 26161C0244E, 26161C0253E, 26161C0261E, 26161C0262E, 26161C0263E, 26161C0264E, 26161C0266E, 26161C0268E, 26161C0382E, 26161C0401E, 26161C0402E, 26161C0406E.

E. Interpretation of Boundaries.

The boundaries of the Floodway Zone are determined by the scaling distances on the Flood Insurance Rate Map. The boundaries of the Flood Fringe Zone are determined by the flood elevations shown on the Flood Insurance Study.

1. Where a conflict exists between the floodplain limits illustrated on the Flood Insurance Rate Map and actual field conditions, the flood elevations shown on the Flood Insurance Study shall be the governing factor. The Floodplain Administrator shall interpret the boundary location based on the ground elevations that existed before construction and the flood elevations shown on the Flood Insurance Study for Washtenaw County, Michigan.
2. Persons contesting the location of the district or zone boundaries will be given a reasonable opportunity to present their case to the Zoning Board of Appeals and to submit technical evidence.

F. Warning and Disclaimer of Liability

These regulations do not imply that areas outside the Floodplain Overlay District or land uses permitted within the district will be free from flooding or flood damages. These regulations do not create liability on the part of the City of Ann Arbor or its officers or employees for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

G. Using This Overlay District

1. Existing Regulation in Underlying Zones.

Uses otherwise permitted in underlying zones shall not be allowed unless also permitted in, and developed in accordance with, the provisions of the Floodplain Management Overlay District.

2. When this Overlay District Applies.

If the applicant is seeking site plan approval or a building or grading permit, and any part of the development is within the Floodplain Overlay District, as defined in Section 5.14.2.C, then the ordinance applies and the applicant must furnish the required materials listed in Section 5.29.D and adhere to the relevant provisions.

3. Compliance with State Law for Watercourse Alteration.

For any activities involving filling or otherwise occupying a riverine floodplain or altering the channel of any watercourse, the applicant must ensure compliance with Michigan Statute § 324.3101-134.

4. Determination of Zone and Applicable Standards.

Using the process described in Section 5.14.2.E, the applicant determines whether the proposed development will occur in the Floodway Zone or Flood Fringe Zone. Where field surveyed topography indicates that ground elevations are below the Base Flood Elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as Flood Fringe Zone and subject to the requirements of these regulations. If the proposed development will occur in the Floodway Zone, the requirements of Section 5.14.2.H apply; if the development will occur in the Flood Fringe Zone, then the requirements of Section 5.14.2.I apply.

5. Exemption to Applicability.

An applicant may be exempt from this ordinance and subject only to the normal site plan approval or building or grading permitting process where:

- a. The project is not a new development or an expansion of existing construction, does not change the grades, and the cost of the proposed activity is less than 50% of the market value of the existing structure; or
- b. The Floodplain Administrator can determine, without any additional information provided by the applicant, that the development is not within the floodplain based on the Flood Insurance Rate Map and the actual elevations of the property; or
- c. The applicant is able to demonstrate that the development is not in the floodplain based on the Flood Insurance Rate Map and actual survey elevations, after undertaking the process described in [Section 5.14.2.E](#).

6. Letter of Map Amendment.

An applicant may apply to FEMA for a Letter of Map Amendment if, using the process outlined in [Section 5.14.2.E](#), the actual survey elevations demonstrate that the development is outside the floodplain, but Flood Insurance Rate Map shows the development to be within the floodplain. The applicant may be exempt from this ordinance if a Letter of Map Amendment, that removes the development area from the floodplain, is obtained and submitted to the City, prior to the issuance of permits.

7. General Requirements for New Construction and Substantial Improvement.

In conformity with the Michigan Building Code and Michigan Residential Code, if the proposed development is within the Flood Fringe Zone or Floodway Zone, all new construction and substantial improvements shall be:

- a. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. Constructed with materials and utility equipment resistant to flood damage;
- c. Constructed by methods and practices that minimize flood damage; and
- d. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

H. Floodway Zone

1. Prohibited Uses.

The following uses and Artificial Obstructions are prohibited in the floodway:

- a. Critical Facilities.
- b. New or expanded residential uses.
- c. New buildings, except in the case of redevelopment that meets the criteria in Section 5.14.2.H.4.
- d. Additions that expand the building footprint of any existing structure if any portion of the structure is to remain in the floodway.
- e. Modifications to an existing building that would increase the enclosed floor area of the building.
- f. Creating habitable space below the Flood Protection Elevation in existing structures, such as basement conversions.
- g. Egress windows and doors below the Flood Protection Elevation.
- h. New accessory buildings, garages, sheds, dumpsters, and fences.
- i. Structures without a foundation such as: House Trailers, construction trailers, cell on wheels, and temporary facilities.
- j. Toilets connected to the sanitary sewer system, with an elevation below the flood protection elevation.

- k. Fill within the floodway, unless it can be demonstrate that the change will improve the flood conveyance and floodplain function.
- l. Principal use parking lots built at grade where the depth of flooding at the base flood event will exceed 2.0 feet.
- m. Parking lots accessory to residential uses built at grade where the depth of flooding at the base flood event will exceed 2.0 feet.
- n. Construction or permanent storage of an object subject to floatation or movement during flooding.
- o. Storage of toxic, flammable, hazardous, or explosive materials.
- p. New solid or hazardous waste disposal facilities.

2. Floodway Zone Permitted Uses.

Subject to the standards set forth in Section 5.14.2.H.3 and 4, all uses not prohibited in Section 5.14.2.H.1 are permitted uses if otherwise allowed in the underlying zoning district and any applicable overlay district.

3. Standards for Floodway Permitted Uses.

A permitted use is one that complies with the following criteria. The Floodplain Administrator determines whether a particular use is a permitted use.

- a. The use shall not obstruct flood flows or increase flood elevations.
- b. 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 a hydraulically equivalent excavation taken from below the base flood elevation.
- c. Lost floodway storage must be compensated in the floodway and the applicant shall demonstrate that the change will improve the flood conveyance.
- d. There shall be no reduction in floodway surface area as a result of a floodway modification, unless such modification is necessary to reduce overall flooding.
- e. If the compensatory storage will not be placed at the location of the proposed construction, the applicant's engineer shall demonstrate through a determination of flood discharges and water surface elevations that the compensatory storage is hydraulically equivalent.

4. Standards for Floodway Zone Redevelopment.

Existing structures in the floodway may be replaced or substantially improved if the following criteria are met in addition to the other requirements of Section 5.14.2.H.

- a. The new or substantially improved structure contains no residential use.

- b. The new or substantially improved structure is not a Critical Facility.
- c. The footprint of the new or substantially improved structure, within the floodway may not be larger than the footprint of the existing structure within the floodway.
- d. Buildings and structures must have the lowest floor of the entire structure elevated to, or above, the Flood Protection Elevation.
- e. The new structure is placed on the lot in a manner that minimizes the floodway and floodplain encroachment.
- f. A hydrologic study shows that the overall development will result in no increase in the base flood elevation, and will not reduce the conveyance of the floodway.

I. Flood Fringe Overlay Zone

1. Prohibited Uses.

The following uses and Artificial Obstructions are prohibited in the flood fringe:

- a. Critical Facilities.
- b. New solid and hazardous waste disposal facilities.
- c. Non-residential storage of highly toxic, flammable, hazardous, or explosive materials.
- d. New Structures without a foundation such as House Trailers, construction trailers, cell on wheels, and temporary facilities.
- e. Egress windows and doors below the flood protection elevation.
- f. Toilets connected to the sanitary sewer system, with an elevation below the Flood Protection Elevation.
- g. Construction or permanent storage of an object subject to floatation or movement during flooding.
- h. Structures or fill prohibited by any other statute, regulation, or underlying zone.

2. Permitted Uses.

Subject to the standards set forth in Section 5.14.2.I.3, all uses not prohibited in Section 5.14.2.I.1 are permitted uses if otherwise allowed in the underlying zoning district and any applicable overlay district.

3. Standards for Flood Fringe Permitted Uses.

- a. Residential structures shall be elevated so that the Lowest Floor is at or above the Flood Protection Elevation.
- b. All non-residential Structures, including Accessory Buildings, shall be elevated so that the Lowest Floor is at or above the Flood Protection Elevation, or floodproofed to the Flood Protection Elevation.

- c. Accessory Buildings such as sheds, barns, shelters, gazebos and garages shall be adequately anchored to prevent floatation, include the required flood openings, and all electrical facilities shall be placed above the flood protection elevation.
- d. If a Structure is elevated on fill, the finished fill elevation for Structures shall be no lower than the Flood Protection Elevation and the fill shall extend at the same elevation at least 15 feet beyond the outside limits of the Structure.
- e. The use shall not obstruct flood flows or increase flood elevations.
 - i) 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 a hydraulically equivalent excavation taken from below the base flood elevation.
 - ii) If the compensatory storage will not be placed at the location of the proposed construction, the applicant's engineer shall demonstrate through a determination of flood discharges and water surface elevations that the compensatory storage is hydraulically equivalent.
- f. Fill material placed in the floodplain shall be stable, compacted, well graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps or other organic material, and appropriate for the purpose of supporting the intended use and/or permanent structure

Section 2. That Section 5.18.4 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

5.18.4 Exceptions to Height Limits

A. Certain Architectural and Mechanical Features

The height limits of this chapter shall apply to spires, belfries, cupolas, penthouses, domes, water Towers, observation Towers, power transmission lines and Towers, Roof-mounted Dish Antennas, masts and aerials, flagpoles, chimneys, smokestacks, ventilators, skylights, derricks, conveyors, cooling Towers, and other similar mechanical appurtenances. However, if such facilities are proposed specifically to house and disguise Wireless Communications Facilities, their height limits shall be those in Section 5.16.5.D. The applicable height limit of the zoning district in which such a facility is proposed may be modified by the Zoning Board of Appeals.

B. Wireless Communications Antennas

Wireless Communications Antennas are not subject to the height limits of this chapter, except when attached to Wireless Communications Towers. Wireless Communications Towers and their associated facilities are subject to the height limits found in Section 5.16.5.D.

C. Elevating Structures in the Floodplain

Structures in the floodplain may be elevated to bring the lowest floor above the floodplain and may exceed the height limit by the depth of the Flood Protection Elevation.

Section 3. That Section 5.18.6.D.1.a of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows¹:

Premium options may be applied only to Lots that are located entirely outside of an historic district, as designated by Chapter 103 and that contain no part of a ~~100-Year~~ Floodplain, according to City's adopted floodplain map as designated by Chapter 100.

Section 4. That Section 5.23.4 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

5.23.4 Floodplains (~~100-Year~~)

Floodplains serve to minimize damage to land and water resources because of their capacity to store water. In so doing they control Erosion, silting, and contamination of water features and aquatic wildlife. Healthy, stable plant life is important in determining a Floodplain's capacity and function in slowing, filtering, and cooling water moving through them. Floodplains also may qualify as Wetland or Watercourse Natural Features.

A. Identification

~~Floodplains, Floodways and Watercourses that have watersheds two square miles or larger are officially mapped and regulated under provisions of federal and state statutes.~~ Floodplain and Floodway boundaries are available on Flood Insurance Rate Maps (FIRM), produced by the Federal Emergency Management Agency (FEMA). The City may request, and if requested an Applicant shall provide, investigation and mapping of flooding zones along Watercourses on Sites not officially mapped. If ~~substantial~~ flooding potential exists, and Buildings and Structures are proposed in the Floodplain, the City may request, and if requested an Applicant shall provide, formal hydrological studies to determine the long-term safety and the hydrological and environmental soundness of a proposed project.

B. Protection Priorities

1. Highest Concern

Floodplains with natural plant life and natural landform conditions are very important to protect from Development. They involve native Floodplain forest fragments (extremely rare), or native sedge or fen meadows (rare and important natural areas, potentially habitats for rare species in the City). These areas not only are rich biologically, but provide exceptional floodplain function.

¹ Section 5.18.6 Premiums in its entirety will be included in final draft of Ordinance. Abbreviated in this rough draft Ordinance only to minimize document length and allow for more efficient review and discussion.

These Floodplains of highest concern should be preserved as part of any Development proposal (which means not only is there no disturbance to soils, but there is no disturbance to surface and subsurface hydrological regimes). In cases where these habitats exist and are being invaded by exotics, every reasonable effort should be taken to restore the habitat as part of a Development proposal. Where enhancement of capacity and function can be done, it should be.

2. Midlevel Concern

Forested Floodplains dominated by exotics, including black alder, several willows, and Floodplain meadows dominated by cattails or purple loosestrife are of midlevel concern. Even with the presence of exotics, forested Floodplains are vital to the continued function/capacity of the floodplain. Whenever possible, these areas should be left undisturbed. Restoration of these areas with native plants is usually useful in enhancing its function, appearance, and wildlife value.

Floodplains of midlevel concern should not be built upon. In any case, the Floodplain's function and capacity should not be diminished. Where enhancement of capacity and function can be done, it should be.

3. Lowlevel Concern

Floodplains characterized by paving or turf or otherwise cleared land are of low level concern. ~~They can further be developed or redeveloped as necessary. A key concern to guide such decisions should be whether there are flooding and water quality problems in the watershed, and what opportunity exists for mitigation to address these problems through the proposed Development or redevelopment.~~ The key concern to guide development decisions should be whether there are opportunities for mitigation of flooding and water quality problems.

C. Protection Measures

1. Soil Erosion on any construction Site in any Floodplain should be minimized to the maximum extent practicable. Special, effective soil Erosion and flood protection techniques should be devised and required in each instance, during construction and for as long afterward as it takes for vegetation to become very well established and for soils to be stable during storm/flooding events. These techniques and devices need careful design and maintenance to protect against washout in storm events and damage to water resources. Soil stockpiles and construction trailers may not be placed within Floodplain areas.
2. Barrier fencing shall be installed at the Limits of Soil Disturbance including any Floodplain. Barrier fencing shall be a minimum of four feet in height and shall remain in place in good condition until authorized to be removed. No filling, excavating or storage of materials, Debris or equipment shall take place within the fenced area.

D. Mitigation

In addition to meeting the requirements of Section 5.14.2 of this chapter, Floodplain areas shall be mitigated to provide no net loss of flood storage capacity and shall comply with any conditions of a valid permit from the Michigan Department of Environment, Great Lakes, and Energy Quality in accordance with the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended to date. If mitigation is proposed off-site, it shall be hydrologically equivalent and located in the same watershed as the development Site. Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be such that it will approximate the density and coverage before disturbance within three years of planting.

E. Guidelines for Best Mitigation Practices

1. Where the actual volume/land area of a Floodplain is affected by a proposed Development, the volume/land area of the Floodplain lost should be restored elsewhere on the Site or in the watershed.
2. Where paved surfaces are proposed in a Floodplain, they should be minimized to the fullest extent possible. The area of paved surface on a Site in a Floodplain should be mitigated by new Floodplain with native Floodplain species installed elsewhere on the Site or elsewhere in the watershed, or it should be mitigated by a landscape design for the Site that enhances Floodplain function.
3. Where forest fragments, fen and sedge meadows are removed or disturbed, they should be mitigated to replicate equally valuable Natural Features on the Site or in some other location in the watershed.
4. Lesser quality plant communities should also be replaced, but the level of diversity of the mitigation may be less (using native associations is more desirable).
5. To the fullest extent possible, regardless of existing conditions, landscape design for a project proposed in a Floodplain should avoid turf and use (preferably native) associations of plant materials that can become effective on the Site as healthy Floodplain plant communities.
6. Alternate mitigation (when these procedures are not possible) could include management of other Natural Features on the Site or restoration work on Floodplain elsewhere on the Site or within the watershed. They might include addition of storm water control facilities beyond other code requirements.

Section 5. That Section 5.27 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be added as follows:

5.27.7 Floodplain Administrator

- A. The City of Ann Arbor, Public Services Area, Systems Planning Unit shall assume responsibility for designating a Certified Floodplain Manager as the Floodplain Administrator to oversee the implementation of all floodplain regulations. All proposed development within the Floodplain Overlay District as defined in Section 5.14.2 or identified on the Flood Insurance Rate Map shall be approved by the Floodplain Administrator prior to site plan approval or issuance of building, or grading permits by the Building Official.
- B. Record of First Floor Elevation. The Floodplain Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures, substantial Improvements, and additions to existing structures in the floodplain. The Floodplain Administrator shall also maintain a record of the elevation to which new structures, substantial improvements, and additions to structures are floodproofed.
- C. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Floodplain Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

Section 6. That Section 5.29.1 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

5.29.1 Zoning Permit

A zoning permit shall be required in the following circumstances. When a building permit is also required, the building permit may serve in place of the zoning permit without separate zoning permit approval. When Special Exception Use approval is also required, separate zoning permit approval is not required unless specifically required by the Special Exception Use approval.

A. Buildings or Structures

A zoning permit is required for the construction, moving, Alteration, or repair (except ordinary repairs as defined in Chapter 100 of this Code) of any Building or other Structure, including an Accessory Structure, costing more than \$100.00 or is between 100 and 200 square feet in area. A building permit is required when the Building or Structure exceeds 200 square feet in area or is an addition of any size to an existing Building. Site plan approval may be required prior to issuance of a Zoning Permit or Building Permit.

B. Land Uses

A zoning permit is required to change a land use, change the use or type of occupancy of any Building, to establish or expand outdoor sales, or to extend any use on any Lot on

which there is a non-conforming use, subject to the standards and regulations in this chapter for that use.

C. Fences and Dumpsters

A zoning permit is required for the construction of Fences consistent with Section 5.26 and for the placement of locations for dumpsters used for commercial recyclables and related screening consistent with Section 5.20.6 and Chapter 26, Section 2:5(4).

D. Floodplain Management

A zoning permit is required for any Development in the Floodplain Overlay Zoning District as provided in Section 5.14.2. The following information shall be included as part of the zoning permit application:

1. A topographic survey, as well as determine the base flood, 0.2 percent annual chance, and flood protection elevations from the Flood Insurance Study, plot actual boundaries of the floodplain on a topographic survey based on base flood elevations from Flood Insurance Study, and plot the floodway boundary based on Flood Insurance Rate Map floodway boundaries.
2. An elevation certificate for each existing building.
3. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and natural features.
4. Location of fill or storage of materials in relation to the floodplain.
5. Cut and fill calculations for all floodplain alterations.
6. Floodproofing Certificate, if applicable. Floodproofing Certificate requirements are found in FEMA's Technical Bulletin 3, Non-Residential Floodproofing - Requirements and Certification (1993).
7. Copies of any required county, state or federal permits or approvals.
8. If a proposed project involves fill, a new structure, or an addition to an existing structure that displaces any part of the existing floodplain, the applicant shall obtain a permit from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) prior to approval by the City.
9. If floodplain elevations, floodplain boundaries, or floodway boundaries will be altered by the proposed project, the applicant shall obtain a Conditional Letter of Map Revision from FEMA prior to the issuance of permits by the City. For projects that receive a Conditional Letter of Map Revision, a final Letter of Map Revision is required to be obtained from FEMA and a copy provided to the City prior to the issuance of a certificate of occupancy or final permit approval.
10. If the proposal is located in a floodway where the EGLE does not have jurisdiction, a hydrologic study must be submitted to demonstrate that structures and fill will not (1) increase the flood level during occurrence of the base flood discharge, and (2) reduce the conveyance of the floodway.

11. Other relevant information requested by the Floodplain Administrator as necessary to properly evaluate the permit application.
12. Prior to the issuance of a C of O or final permit approval, a certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. This is usually handled with an Elevation Certificate.

D.E. Certification

Each zoning permit shall include a Certification of the Planning Manager's determination that plans, specifications, and the intended use for such Structure conform to the provisions of this chapter.

E.F. Advisory Opinions

If application for zoning permit is made prior to the application for a Building permit, a zoning permit may be considered to be only an unofficial advisory opinion of the Planning Manager that does not carry any guarantee or obligation on the part of the City. A record of all such applications shall be kept on file in the PDSU.

F.G. No Waiver

Issuance of a zoning permit shall not be construed as waiving any provision of this chapter.

G.H. Period of Validity

Any zoning permit issued under the provisions of this chapter shall be valid only for a period of six months following the date of the issuance.

H.I. Applications Requiring ZBA Action

When the Planning Manager receives an application for a zoning permit as part of an application that requires Zoning Board of Appeals approval, the application and all supporting information shall be conveyed by the Planning Manager to the Zoning Board of Appeals.

I.J. Criteria for Approval

The Planning Manager shall issue a zoning permit if it determines that the application complies with this chapter and with all other applicable laws and regulations of the City.

Section 7. That Section 5.29.3.F.4 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows²:

The land area for which the Clearing and/or Grading is proposed does not lie within a designated ~~100-Year~~ Floodplain or unmapped flood prone area of any lake, pond, or Watercourse, unless the proposed Clearing and/or Grading is consistent with the ~~current City~~ Floodplain Management ~~Resolution sections of this ordinance or any~~

² Section 5.29.3 Grading Permit in its entirety will be included in final draft of Ordinance. Abbreviated in this rough draft Ordinance only to minimize document length and allow for more efficient review and discussion.

~~subsequently adopted Floodplain Management Ordinance~~ and is determined to have no detrimental influence upon the overall function of the watershed.

Section 8. That Section 5.29.12.D of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows:

D. Alternative Criteria for Specific Types of Variances

Variances to the following types of standards shall require that the ZBA make an affirmative finding that the application meets the specific criteria listed below that are applicable to that type of variance application.

1. Dish Antennas

In the case of an application for a variance from the Dish Antenna standards of Section 5.16.6.A.3, the topographic features or special characteristics of the Site create special conditions such that the strict application of those standards will prevent the reception of usable satellite Signals.

2. Floodplain

a. In a case of an application for a variance from the floodplain overlay zoning district regulations in Section 5.14.2, the evidence considers the following factors:

- iii) The potential danger to life and property due to increased flood heights or velocities caused by encroachments.
- iv) The danger that materials may be swept onto other lands or downstream to the injury of others.
- v) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions.
- vi) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner.
- vii) The importance of the services to be provided by the proposed use to the community.
- viii) The requirements of the facility for a waterfront location.
- ix) The availability of viable alternative locations for the proposed use that are not subject to flooding.
- x) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- xi) The relationship of the proposed use to the Comprehensive Land Use Plan and floodplain management program for the area.
- xii) The safety of access to the property in times of flood for ordinary and emergency vehicles.

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xiii) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

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b. Adherence to State Floodplain Management Standards. A variance shall not allow a use that is not allowed in that zone, permit a lower degree of flood protection than the Flood Protection Elevation for the particular area, or permit standards lower than those required by state law.

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c. **Flood Insurance Notice.** The Zoning Board of Appeals shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

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2.3. Storm Water Management

In the case of an application for variance from the storm water management standards in Section 5.22, that Storm Water Management Systems have been provided to the maximum extent feasible with the goals of meeting the Rules of the WCWRC related to storm water management.

3.4. Wireless Communications Antennas

A variance may be granted from the height limits found in Section 5.16.5.D only to the minimum extent demonstrated as necessary to comply with operational needs and applicable federal regulations.

4.5. Wetlands

In the case of an application for a variance from the Wetlands protection standards of Section 5.23.9, evidence supports at least one of the following affirmative findings:

- a. The general variance criteria in Section 5.29.12.C have been met.
- b. The public benefit intended to be served by the standards in Section 5.23.9 will be retained, despite more disruption of the Wetland than permitted by those standards.
- c. The topographical features or special characteristics of the Site create conditions such that strict application of the standards in Section 5.23.9 will result in less protection of the Wetland.
- d. The application of the standards in Section 5.23.9 would deny all reasonable use of the property.

5.6. Signs

For a Building or property that is designated as historic by Federal, State, or local government, the Zoning Board of Appeals may consider it to be a hardship or practical difficulty and may grant a variance if the Historic District Commission has made a determination that a proposed Sign is necessary and integral to the historic character of a property.

6.7. Parking Standards

In the case of an application for a variance from the parking requirements of Section 5.19, a variance may be granted if the variance is in harmony with the general purpose and intent of the requirements.

7.8. Landscaping, Screening and Buffering

In the case of an application for a variance from the landscaping, screening and buffering requirements of Section 5.20, a variance may be granted from the strict application of that section when the evidence supports that the public benefit intended to be secured will exist with less than the required landscaping or screening.

Section 9. That Section 5.37.2 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended to add the following³:

Base Flood

The flood having a 1% chance of being equaled or exceeded in any given year. The Base Flood is also known as the 100-year frequency flood event.

Base Flood Elevation

The elevation shown on the Flood Insurance Study that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement

Any area of a Structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Critical Facilities

As referenced in the Michigan Building Code, Critical Facilities are typically any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. This category of buildings corresponds to Type III and Type IV buildings as defined in the ASCE 24-14. Critical Facilities include, but are not limited to, schools, hospitals, nursing homes, and housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; police stations, fire stations, emergency vehicle and emergency equipment storage facilities, and emergency operations centers likely to be called upon before, during, and after a flood; public and private utility facilities important to maintaining or restoring normal services before, during, and after a flood; and those structures or facilities which produce, use, or store highly volatile, flammable, explosive, toxic, and/or water reactive materials.

Flood

A temporary increase in the flow or stage of a stream or in the state of a wetland or lake that results in the inundation of normally dry areas.

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³ Section 5.37.2 Specific Terms will be added in its entirety in the final draft Ordinance. Abbreviated in this rough draft Ordinance only to minimize document length and allow for more efficient review and discussion.

Floodplain, 100-Year

An area which has a 1% chance of flood occurrence in any given year.

Floodplain

The lands within the City of Ann Arbor typically adjacent to a body of water or watercourse that are subject to inundation by the Base Flood.

Floodproofing

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents that meets the requirements of the Michigan Building Code.

Flood Fringe

That portion of the Floodplain outside of the Floodway. Flood Fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Washtenaw County, Michigan.

Flood Hazard Areas

The land area covered by the floodwaters of the Base Flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, AE, and the 0.2 percent annual chance flood hazard.

Flood Insurance Rate Map

A map prepared by FEMA that depicts the Flood Hazard areas within a community. This map includes insurance rate zones, Floodplains, Floodways, and Base Flood Elevation.

Flood Insurance Study

The official report by FEMA providing an examination, evaluation, and determination of Flood Hazards and corresponding flood profiles and water surface elevations of the Base Flood. Also known as an FIS.

Flood Protection Elevation

An elevation no lower than one foot above the elevation of the 0.2% annual chance flood. The 0.2% annual chance flood elevation is the elevation shown on the Flood Insurance Study that indicates the water surface elevation resulting from the flood that has a 0.2% chance of equaling or exceeding that level in any given year. If the 0.2% annual chance elevation is not shown on the reach profile in the Flood Insurance Study, use 2 feet above the 1% annual chance flood elevation.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosed area, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's Lowest Floor, provided that such enclosed area is not built so as to render the structure in violation of other provisions of this ordinance.

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Market Value

The Market Value of a Structure is the true cash value as shown on the official City of Ann Arbor Tax Assessor’s records. The Market Value of a Structure does not include the value of the land, or other Structures on the property.

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Substantial Improvement

Within a 10-year period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, taking place during a 10 year period, in which the cumulative costs equals or exceeds 50% of the market value of the structure prior to the improvements. The designated 10-year period begins at the date of the initial improvement or repair to the Structure being used in the cumulative Substantial Improvement calculation. This term includes Structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not include either:

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- Any project for improvement of a Structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- Any alteration of a “historic structure,” provided that the alteration will not preclude the Structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is defined in 44 Code of Federal Regulations, Part 59.1.

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Section 10. That all Sections of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor be amended as follows⁴:

~~+100-year~~Floodplain

Michigan Department of ~~Environmental Quality~~Environment, Great Lakes, and Energy

Section 11. This ordinance shall take effect and be in force on and after ten days from legal publication.

⁴ Each Section to be amended and each instance of term replacement will be included in its entirety in the final draft Ordinance. Abbreviated in this rough draft Ordinance only to minimize document length and allow for more efficient review and discussion.