

**ARTICLE 20.00
FLOODPLAIN DISTRICT**

Section 20.01 PURPOSE

It is the purpose of the Floodplain District to protect the natural, human and economic resources of the Township, and to promote the public health, safety and general welfare; by application of special regulations for the use of land which may be subject to periodic inundation, while permitting reasonable economic use and considering the physical limitations of such land, will help to protect the public health, public safety and general welfare, and will reduce the financial burdens imposed upon the community which may result from the improper use of land. All lands included in said district shall be subject to the terms imposed herein in addition to the terms imposed by any other zoning district in which said lands may be located.

Section 20.02 DEFINITIONS

Section 20.02.1 DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operation.

Section 20.02.3 FLOOD INSURANCE RATE MAP. That map or maps prepared by the Federal Emergency Management Agency which indicate the location of the floodway and classify the floodplain into various zones for the purposes of determining flood insurance rates within the Township, a copy of which is available for examination at the Office of the Building Official of the Township of Frenchtown.

Section 20.02.4 FLOOD INSURANCE STUDY. A study prepared by the Federal Emergency Management Agency which examines, evaluates and determines flood hazards, and if appropriate, corresponding water surface elevations for the Township of Frenchtown.

Section 20.02.5 FLOODPROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate of improved real property, water and sanitary facilities, structures and their contents.

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- Section 20.02.6 FLOODWAY. The channel of the watercourse and those portions of the adjoining floodplains which carry and discharge the 100-year flood, as determined by the Federal Emergency Management Agency, and as indicated on the Flood Insurance Rate Map.
- Section 20.02.7 FLOODWAY FRINGE. The portion of the 100-year floodplain located outside of the Floodway which may generally be considered as the backwater area of the 100-year flood .
- Section 20.02.8 GRADING. Any striping, cutting, filling, stockpiling, or any combination thereof, and shall include the land in its cut or filled condition.
- Section 20.02.9 GRADING PERMIT. A permit issued to authorize grading under the authority of the Building Official, site plan approval and or Plat process.
- Section 20.02.10 100-YEAR FLOOD . A flood which is representative of large floods known to have occurred generally in the area and is reasonably characteristic of what can be expected to occur in a particular stream. The 100-year flood generally has a one percent (1%) chance of being equaled or exceeded in any given year.
- Section 20.02.11 100-YEAR FLOODPLAIN. The area inundated by the 100-year flood. This is the floodplain area which shall be regulated by the standards and criteria of this Ordinance, as indicated on the Flood Insurance Rate Map and as indicated in the Flood Insurance Study.
- Section 20.02.12 OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill structure or matter in, along, across, or projecting into any channel, watercourse, or regional flood hazard area which may impede, retard or change the direction of the flow of water or that is placed where the flow of water might carry the same downstream to damage of life or property.

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Section 20.02.13 **SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (for the purpose of this Article, 50 percent of market value shall be equal to the amount of the State Equalized Valuation of the structure) (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alterations of any structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include (1) any project for improvement of a structure to comply with existing State or Township health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or the State of Michigan Register of Historic Places.

Amended February 9, 2010 by Zoning Ordinance Amendment No. 200-102.

Section 20.02.14 **WATERCOURSE.** Any natural or artificial watercourse, stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks, and shall include any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Section 20.03 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes, and for promotion of the public health, safety, and welfare, and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land or premises under this Article shall not be considered approval, guarantee, or warranty of safety or suitability. This Ordinance does not imply that areas outside the Floodplain Districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

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Section 20.04 FLOODPLAIN DISTRICT AREAS

The Floodplain Districts shall be considered to overlay existing zoning districts and shall constitute additional terms over and above those imposed by the underlying zoning district. The Floodplain District within the jurisdiction of this Ordinance is hereby divided into two areas: Floodway Areas and Floodplain Areas. The locations and boundaries for Floodways and Floodplain Areas shall coincide with those locations and boundaries for Floodways and Floodplain Areas as referenced in the Flood Insurance Study dated April 20, 2000 and on the Flood Insurance Rate Maps (Panel numbers 0094, 0095, 0113, 0114, 0230, 0232, 0234, 0235, 0237, 0241, 0242, 0251-0254, 0256-0259, 0261-0264, 0270, 0280 and 0405) dated April 20, 2000 as prepared and published by the Federal Emergency Management Agency or as amended or revised by the Federal Emergency Management Agency.

Section 20.05 GENERAL PROVISIONS OF THE FLOODWAY AND FLOODWAY FRINGE AREAS OF THE FLOODPLAIN DISTRICT

The restrictions listed in the following Section constitute those general provisions which shall govern development, construction, improvement, and relocation within the Floodway and Floodway Fringe Areas of the Floodplain District.

Section 20.05.1 All persons proposing development within the Floodway and Floodway Fringe Areas shall obtain approved permits from those federal government agencies having jurisdiction over floodplain development, plus the following State and County agencies: The Michigan Department of Environmental Quality, the Monroe County Health Department and the Monroe County Drain Commissioner, and shall provide 100-year floodplain elevations with on-site reference marks and documentation set by a Registered Civil Engineer, Architect or Land Surveyor. No building permit or Certificate of Occupancy shall be issued until all such aforementioned permits have been obtained and have been reviewed by the Office of Building Official of the Township of Frenchtown.

Section 20.05.2 Developers of new, enlarged, substantially improved, or relocated structures within the Floodway and Floodway Fringe Areas shall submit to the Office of Building Official a written document indicating:

Section 20.05.2(a) The elevation of the lowest floor in the structure, including basement.

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- Section 20.05.2(b) The elevation to which a structure has been floodproofed, if floodproofing methods have been employed. Floodproofing is not allowed for new or substantially improved residential structures within the Floodplain District.
- Section 20.05.2(c) Whether or not the structure contains a basement. [Drawings indicating as-built elevation data and floodproofing levels of all new construction and substantial improvements shall be submitted for verification to the Office of the Building Official. These drawings shall be kept on record for public inspection and for use in determining flood insurance risk premium rates.]
- Section 20.05.2(d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres whichever is less.
- Section 20.05.2(e) When floodproofing measures are employed, a licensed engineer or architect shall certify that the methods used are watertight and adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and any other factors associated with the 100-year floodplain elevation.
- Section 20.05.2(f) All new construction, including additions and substantial improvements made to existing structures, and including mobile homes, shall be firmly anchored to prevent flotation and lateral movement, and shall be constructed with flood resistant materials and methods.
- Section 20.05.2(g) If new replaced utility, water and sanitary facilities must be located below elevation of the 100-year floodplain, they shall be constructed so as to be watertight, to resist hydrostatic and hydrodynamic loads and to be resistant to the effects of buoyancy. All measures to floodproof utility and sanitary facilities are subject to the approval of the Township Engineer.
- Section 20.05.2(h) On site waste disposal systems, such as septic tanks and leach fields, shall be located to avoid impairment by flood waters associated with the 100-year flood level, subject to the approval of the Monroe County Health Department and the Township Engineer.

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Section 20.05.2(i) The application or discharge of persistent toxic compounds whose direct or indirect effects through residuals have a half-life greater than six months, onto or within those areas defined as Floodway or Floodway Fringe Areas is strictly forbidden.

Section 20.05.2(j) Service facilities, such as electrical and heating equipment, shall be constructed at or above the 100-year flood protection elevation for the particular area or floodproofed.

Section 20.05.2(k) Fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulk heading.

Section 20.05.2(l) Should any watercourse relocation or alteration be proposed, notification of said change in the watercourse shall be sent by the developer to all adjacent communities, to the State of Michigan Department of Environmental Quality and the Federal Emergency Management Agency. With the altered or relocated portion of any watercourse the carrying capacity shall be maintained.

Section 20.05.2(m) In no case shall any permanent structure be erected within the designated easement of an open county drain or 50 feet from the centerline whichever is greater or within 50 feet from the top of the bank of any other watercourse. The top of the bank shall be established by a survey performed by a professional surveyor, official maps if maintained by the Township or from legal descriptions which are of public record. If deemed necessary by the Township, a legal survey may be required by the Township. In no way shall this provision supercede the other requirements of the floodplain district as set forth herein. In such case, the most restrictive shall apply.

Amended April 8, 2003 by Zoning Ordinance No. 200-52.

Section 20.05.2(n) All subdivision proposals and proposals for new development shall be designed and located to be consistent with the need to minimize flood damage. In additions, all subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

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Section 20.06 PERMITTED USES IN THE FLOODWAY AREA OF THE FLOODPLAIN DISTRICT

The following uses having a low flood damage potential and present no, or minimal obstruction to flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. No use shall in any manner, affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system. Approval from the State of Michigan Department of Environmental Quality shall be required for construction activity taking place in both the Floodway and Floodway Fringe Areas of the Floodplain District.

Section 20.06.1 Recreation Uses: Parks, playgrounds, play fields, bridle paths, nature trails, natural wildlife preserves, outdoor tennis courts, archery ranges, boat launching ramps, target ranges, trap and skeet ranges, game farms, fish hatcheries, and similar.

Section 20.06.2 Golf Courses and Driving Ranges.

Section 20.06.3 Agricultural Uses: General farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, and wild crop farming.

Section 20.06.4 Non-Structural Uses incidental to single family dwellings, such as lawns, gardens, and play areas.

Section 20.06.5 Unpaved Parking Areas incidental to those uses permitted in the subsections listed above.

Section 20.06.6 Uses not permitted: Permitted uses in underlying zoning districts shall not be construed as being permitted uses in the Floodway Area of the Floodplain District unless those uses are indicated as being permitted in this Article and further subject to all requirements of this Article.

Section 20.07 USES PERMITTED BY SPECIAL APPROVAL IN THE FLOODWAY AREA OF THE FLOODWAY DISTRICT

Provided such uses shall not in the opinion of the Zoning Board of Appeals be adverse to the purpose of this Section or damaging to the public health, safety, or welfare, or impose a financial burden upon the community or shall in any manner affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system. The following uses may be permitted by issuance of a special approval in accordance with Article 3.00 of this Ordinance and any other relevant requirements stipulated herein.

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Section 20.07.1 Railroads, streets, bridges, utility transmission lines, and pipelines.

Section 20.07.2 Marinas, boat rentals, docks, piers, wharves.

Section 20.07.3 Extraction of sand, gravel, and other materials.

Section 20.07.4 Structures for recreational uses, such as shelter houses, out buildings or wildlife sanctuaries.

Section 20.07.5 Parking areas.

Section 20.07.6 Other uses similar in nature to uses described in this Section which are consistent with the provisions of this Article.

**Section 20.08 REQUIREMENTS FOR SPECIAL APPROVAL FOR
USES IN THE FLOODWAY AREA OF THE
FLOODPLAIN DISTRICT**

In addition to the requirements of Article 3.00 of this Ordinance, the application for a special approval in the Floodway Area of the Floodplain District shall contain the following:

Section 20.08.1 A letter of approval from the State of Michigan Department of Environmental Quality.

Section 20.08.2 A location map, including existing topographic data at two (2) foot interval contours at a scale of one (1) inch representing 100 feet.

Section 20.08.3 A map showing proposed grading and drainage plans, including the location of all public drainage easements, the limits, extent, and elevations of the proposed fill, excavation and occupation.

Section 20.08.4 A statement from the Monroe County Drain Commissioner indicating that they have reviewed and approved the proposal.

Section 20.08.5 A statement from the Monroe County Health Department indicating that they have reviewed and approved the proposal.

Section 20.08.6 A statement from the Township Engineer concerning feasibility of the proposal and his approval.

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Section 20.08.7 If required by the Township, a hydraulic analysis prepared by the registered professional engineer which will demonstrate that the proposed construction within the floodway shall not cause any harmful interference of the flood flow and discharge characteristics of the river, stream or creek. In addition to the analysis, the Township may require a (Letter of Map Revision) LOMR before issuance of a Township permit.

Section 20.08.8 Any other information requested by the Zoning Board of Appeals.

Section 20.09 STANDARDS FOR SPECIAL APPROVALS WITHIN THE FLOODWAY

The Zoning Board of Appeals shall review the particular circumstances and facts of each proposed use in terms of the following standards as well as those in Section 3.00 of this Ordinance.

Section 20.09.1 All new residential structures, additions, and residential structures requiring substantial improvement shall be prohibited within the floodway portion of the floodplain. This may be excepted if the following conditions are met:

Section 20.09.1(a) An approval from Michigan Department of Environmental Quality under the State's Floodplain Regulatory Authority, Part 31 of 1994 PA 451 as amended.

Section 20.09.1(b) A hydraulic analysis along with other necessary information prepared by a registered professional engineer that demonstrates that the floodway boundaries as shown on the floodway boundary map are inappropriate.

Section 20.09.1(c) A Letter of Map Revision (LOMR) be obtained from the Federal Emergency Management Agency and be on file prior to issuance of a building permit by the Township.

Section 20.09.2 Structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum constriction to the flow of flood waters and, whenever possible shall be constructed with the longitudinal axis parallel to the direction of flood flow.

Section 20.09.3 No special approval shall be granted for the development of new structures, the substantial improvement or relocation of old structures, or development of any kind within the Floodway Area when such development, construction, improvement or relocation would cause any hazardous interference or harmful rise in flood

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level associated with the 100-year flood. The Township may require a hydraulic analysis and other necessary information to evaluate whether the proposal will cause any harmful increase of the flood stage.

Section 20.09.4 All new non-residential and non-residential structures requiring substantial improvement shall have either its lowest floor including basement elevated one (1) foot above the 100-year flood level or the structure shall be floodproofed up to one (1) foot above the 100-year flood level.

Section 20.10 PERMITTED USES IN THE FLOODWAY FRINGE AREA OF THE FLOODPLAIN DISTRICT

The following uses having a low flood damage potential and presenting no, or minimal, obstruction to flood flows shall be permitted within the Floodway Fringe District to the extent that they are not prohibited by any other ordinance. Approval from the State of Michigan Department of Environmental Quality is required prior to construction activity taking place in the Floodway Fringe.

Section 20.10.1 Recreation Uses: Parks, playgrounds, play fields, bridle paths, nature trails, natural wildlife preserves, outdoor tennis courts, archery ranges, boat launching ramps, target ranges, trap and skeet ranges, game farms, fish hatcheries, and similar uses. Land owned by the developer of multiple housing or of a planned residential development in the Floodway Area of the Floodplain District may be used to provide the necessary open space required under the provisions of this Article, provided the open space requirements of the specific Section of this Article is met.

Section 20.10.2 Golf Courses and Driving Ranges.

Section 20.10.3 Agricultural Uses: General farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, and wild crop farming.

Section 20.10.4 Non-Structural Uses incidental to single family dwellings, such as lawns, gardens, play areas, and parking areas.

Section 20.10.5 All new non-residential and non-residential structures requiring substantial improvement shall have either its lowest floor including basement elevated one (1) foot above the 100-year flood level or the structure shall be floodproofed up to one (1) foot above the 100-year flood level.

Section 20.10.6 Accessory structures to permitted uses in underlying zoning districts, provided that they are not utilized for human habitation; they are designed to have low flood damage potential; they are

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Section 20.12.1 The applicant for a special approval shall be required to submit the information listed as necessary in Section 20.08.1 through 8.

Section 20.13 STANDARDS FOR SPECIAL APPROVAL WITHIN THE FLOODWAY FRINGE

The Board of Zoning Appeals shall review the particular circumstances and facts of each proposed use in terms of the following standards as well as those in Section 3.00.

Section 20.13.1 All new residential structures, including additions, and residential structures requiring substantial improvement shall have the lowest floor (including basement) elevated at least one (1) foot above the 100-year floodplain elevation.

Section 20.13.2 All new non-residential structures, including additions and non-residential structures requiring substantial improvements shall have the lowest floor (including basement) elevated to one (1) foot above the level of the 100-year floodplain or shall be floodproofed to a level one (1) foot above the 100-year floodplain.

Section 20.14 MOBILE HOME PARKS

No mobile home parks shall be placed in the Floodway or Floodway Fringe Areas of the Floodplain District.

Section 20.15 STANDARDS FOR VARIANCE BY THE BOARD OF ZONING APPEALS FROM THE STRICT INTERPRETATION OF THE REGULATIONS SET FORTH IN THIS ARTICLE

Section 20.15.1 No variance shall be granted for the development of new structures, the substantial improvement or relocation of old structures, or development of any kind within the Floodway Area when such development, construction, improvement, or relocation would cause any increase in flood levels associated with the 100-year flood .

Section 20.15.2 The following four criteria must be met in addition to those stipulated in Article 31.00 ZONING BOARD OF APPEALS before a variance can be granted.

Section 20.15.2(a) A sufficient cause for granting the variance must be shown.

Section 20.15.2(b) A determination that failure to grant the variance would result in an exceptional hardship to the applicant.

Section 20.15.2(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public

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safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with this Article.

Section 20.15.2(d) A determination that the variance is the minimum necessary to afford relief.

Section 20.15.3 Upon application for a variance for construction below the elevation of the 100-year flood, the Township shall notify the applicant for variance in writing that:

Section 20.15.3(a) Issuance of a variance to construct a structure below the elevation of the 100-year flood will result in increased premium rates for flood insurance commensurate with the increased risk resulting from the reduced lowest elevation and that,

Section 20.15.3(b) Such construction below the elevation of the 100-year flood increases risk to life and property.

Record of such notification shall be maintained along with records of all variance action dealing with floodplain development.

Section 20.16 CONFLICT BETWEEN THIS SECTION AND THE REMAINDER OF THIS ORDINANCE

In the event of conflict between those regulations stipulated in this Article and the remainder of this Ordinance those regulations found in this Article shall take precedent.

Section 20.17 RELATIONSHIP OF THIS ARTICLE TO STATE AND FEDERAL LAW

Nothing in this Article shall be deemed to exempt a property owner from the requirements of any State or Federal statute or regulation applicable to the proposed activity; nor shall any permit or approval issued to an owner from State or Federal agency be deemed to exempt the developer from the requirements of this Ordinance.

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