

**FRENCHTOWN CHARTER TOWNSHIP
FLOOD CONTROL DEVICE ORDINANCE
Ord. No. 207; Date of Adoption: July 24, 2007**

An Ordinance to establish methods, standards and requirements for the construction installation, maintenance and repair of Foresight Dikes, Advance Measures Barriers, Clay Berms, Seawalls and any other Flood Control Devices in Frenchtown Charter Township, to provide for permits and the submission of plans and specifications to accomplish the same and to provide penalties for the violations of the provisions hereof.

THE CHARTER TOWNSHIP OF FRENCHTOWN HEREBY ORDAINS:

Section 1. Title.

This Ordinance shall be known as and referred to as the Frenchtown Charter Township Flood Control Device Ordinance.

Section 2. Purpose.

Frenchtown Charter Township being cognizant of the conditions of Lake Erie and its tributaries, and that there is a potential for flooding which requires the continued existence of some form of Flood Control Devices along the lakefront and other areas in the Township, and having found the existence of potential danger to the health, safety, welfare and property of the inhabitants of Frenchtown Charter Township in such locality, establishes this Flood Control Device Ordinance for the health, safety and welfare of its residents and property owners.

Section 3. Definitions.

The following terms shall have the following meanings as used in this Ordinance:

1. "Army Corps" shall mean the United States of America Army Corps of Engineers and its agents and representatives.
2. "Building Official: shall mean the Building Official of Frenchtown Charter Township or his authorized representative.
3. "DEQ" shall mean the State of Michigan Department of Environmental Quality and its agents and representatives.
4. "DNR" shall mean the State of Michigan Department of Natural Resources and its agents and representatives.
5. "Flood Control Device" shall include any structure whose primary purpose is to prevent or control erosion or prevent or control the inundation or flooding of property affected by waters or levels of the Great Lakes or their connecting waters and tributaries as affected by levels of the Great Lakes and shall include earthen and clay

berms, Advanced Measures Barriers, Operation Foresight Dikes, seawalls, jetties and other barriers of which the primary purpose is flood control and protection.

6. "IGLD" shall mean International Great Lakes Datum.
7. "Property Owner" shall mean the owner or owners of record of the real property in the Township on which the Flood Control Device is located or required.
8. "Resort District Authority" shall mean the Resort District Authority of Frenchtown Charter Township.
9. "Township" shall mean Frenchtown Charter Township in Monroe County, Michigan.
10. "Engineering Standards" shall mean those design requirements as set forth by the Resort District Authority engineers and on file with the Frenchtown Township Clerk and Building Department.
11. "Advanced Measures Barrier" refers to the Detroit Beach Dikes which are controlled by the contract between the Corps of Engineers and Frenchtown Charter Township.

Section 4. Flood Control Devices.

1. Any Property Owner whose land abuts or adjoins Lake Erie or any of its tributaries or canals or designated flood districts, shall install, construct and/or maintain a Flood Control Device in accordance with the requirements of this Ordinance. In the event that a preexisting Flood Control Device has been constructed and is located on such real property the Property Owner shall thereafter maintain the Flood Control Device in good repair and in accordance with the requirements of this Ordinance.

1a. This Ordinance shall not apply to DTE Energy lands subject to the requirements and regulations set forth by the Federal and State Security Agencies. It is not the intent of this Ordinance to impact the natural shoreline, regulated wetlands, or the natural preserve on DTE Energy lands.

2. The Flood Control Devices required by this Ordinance and Resort District Engineering Standards shall be constructed in accordance with Army Corps standards, the DEQ, DNR standards, along with the Township Engineers in cooperation with the Resort District Authority Engineers' design standards and shall have a minimum elevation of 579.0 IGLD. It shall connect fully with any Flood Control Devices erected on all adjoining properties.

2a. There are exceptions to the minimum standards as follows:

- i. In the Detroit Beach Subdivision the minimum elevation of the Advanced Measures Barrier is established by the Army Corp of Engineers.

- ii. In Point Aux Peaux Farms and Longs Subdivision on the easterly property facing Lake Erie, a higher elevation of 581.0 IGLD is required.
 - iii. The minimum elevation in Stony Pointe Peninsula from 3558 Lakeshore to 4028 Lakeshore, inclusive is at the minimum level of 581.0 IGLD.
3. The Building Official shall be responsible for administering the provisions of this Ordinance. The Building Official shall notify in writing, Property Owners who are not in compliance, of such noncompliance and direct the Property Owner to apply for the necessary permit and to correct the violations within 30 days of the date of the written notice.

Section 5. Replacement of Flood Control Devices.

1. Any property owner or other legal entity desiring to replace an existing Flood Control Device on real property in the Township with an alternate Flood Control Device, shall apply for a permit to do so with the Building Official who shall review the same with the Resort District Authority Engineers. Such application shall be accompanied by legible drawings showing the manner in which the dikes are to be replaced showing proper anchorage and tie in into adjoining walls of Flood Control Devices. After preliminary plans have been approved by the Building Official, then application shall be made to the Township, Army Corps and the DEQ, the DNR and any other applicable State or Federal agencies with plans sealed by a professional Engineer if sealed plans are required. Upon approval of the plans by the appropriate Federal and State agencies the applicant shall obtain final plan approval from the Building Official and the Resort District Authority.
2. If the Building Official and the Resort District Authority determine that such proposed replacement complies with the requirements of this Ordinance, and that the replacement of said Flood Control Device shall not weaken the adjoining Flood Control Devices, a permit to replace shall be issued providing that such replacement shall be accomplished within 30 days of the date of said permit.
3. Further extensions of 30 days or less to complete the construction of the replacement Flood Control Device may be granted by the Building Official if, in his opinion, weather conditions or inability to obtain permits and/or materials have unreasonably delayed the completion of the construction of the replacement Flood Control Device. Each day that such work is not finished in the time provided for the permit, or any extension thereof, shall be deemed a violation of this Ordinance.
4. When such replacement is accomplished, the permit holder shall notify the Building Official who shall check such replacement of the Flood Control Devices along with the Township Engineer in cooperation with the Resort District Authority Engineer to be sure that the applicant has complied with the provisions of this Ordinance, and the plans and specifications upon which the permit was based as well as the requirements

of said permit. An elevation certificate certified by a Professional Land Surveyor (PS) or Professional Engineer (PE) shall also be required to be provided to the Building Official. The Building Official shall issue a Compliance Certificate if such work has been done pursuant to the permit, the plans and specifications, as well as any requirements of State and Federal agencies.

5. If the replacement of the Flood Control Device has not been accomplished as provided by the plans, specifications, and the permit, the Building Official shall notify the permit holder in writing of the defects in replacement, and give the permit holder 30 days time to comply with such requirements. If such compliance is not accomplished within the time specified by the Building Official, each day of non-compliance shall be a violation of this Ordinance.

Section 6. Flood Control Device Standards.

1. The minimum requirements for the building and/or construction standards for Flood Control Devices shall be as recommended by the Resort District Authority Engineers and adopted by the Township.

2. In the event that the Property Owner fails or refuses to apply for a permit as required and the Building Official and Resort District Engineer determine that such repairs are necessary and that without such repairs, there is potential danger of property damage and harm to the health safety and welfare of the residents and Property Owners, which could result because of the failure to repair, the Township may take the necessary emergency action to protect adjoining properties from flooding and to make said necessary repairs to the Flood Control Device on the Property.

3. The Township shall make demand for reimbursement from the Property Owner of all costs and charges incurred by the Township.

In the event that the Property Owner fails to reimburse the Township within thirty (30) days, the Resort District Authority shall pay that amount to the Township.

The Township may pursue collection and take such action against the Property Owner as may be necessary and as permitted by law, in order to collect the amount owing including but not limited to a civil action, claim of lien against the Property, special assessment proceedings, through general taxation in the same manner as ad valorem property taxes under the General Property Tax Act, or any other remedies provided by law for the collection of such charges. Upon collection of that sum by the Township it shall be reimbursed to the Resort District Authority.

4. Nothing in this Section or this Ordinance shall require the Township to undertake the construction, maintenance, repair or replacement of Flood Control Devices.

Section 7. Annual Inspection.

The Resort District Authority Engineers in cooperation with the Township Engineers shall conduct an annual inspection of all Flood Protection Devices and file its report with the Building Official and Resort District Board for consideration of the appropriate action after review of the Engineers recommendation.

Section 8. Violations.

1. It shall be unlawful for any person or persons to cause damage to any established Flood Control Device constructed to prevent the flooding of property located within the Township.
2. It shall further be unlawful for any person or persons, firm or corporation to cause the removal of any dikes, seawall, protective barriers or other Flood Control Devices established within the Township to prevent flooding.
3. It shall be unlawful for any Property Owner to fail to maintain and keep any Flood Control Devices in good repair.
4. It shall be unlawful for any person to trespass upon any seawall, dike, protected barrier, or other Flood Control Device established within Frenchtown Charter Township to prevent flooding of property, other than public park access areas.

Section 9. Exceptions.

Section 8 shall not apply to authorized inspection by Army Corps, DEQ, DNR, Authorized Township Representatives, or Resort District Engineering personnel or Director.

Section 10. Penalties.

Any Property Owner, person or other legal entity who shall violate, neglect, or refuse to comply with the provisions of this Ordinance, on conviction thereof shall be punished by a fine not to exceed \$500.00 and costs of prosecution, and restitution or by being imprisoned in the Monroe County Jail for not more than 90 days, or both such fine and imprisonment at the discretion of the Court. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of sentence shall not exempt the violation from compliance with this Ordinance. Further, and in addition, the Township may take any action necessary to abate or enjoin the violation of this Ordinance under Court of competent jurisdiction.

Section 11. Repeal.

The former “Dike Protection Ordinance” and “Dike Ordinance” being Frenchtown Charter Township Ordinance Nos. 102 and 123 respectively are hereby repealed.

Section 12. Effective Date.

This Ordinance shall become effective thirty (30) days after final passage and publication in the Monroe Evening News, a newspaper having general circulation in Frenchtown Charter Township, Monroe County, Michigan.

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