

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 20.02.1 100-YEAR FLOOD. A flood which is representative of large floods known or calculated 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 20.02.2 100-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 Article, as indicated on the current FEMA Flood Insurance Rate Map and as indicated in the current Flood Insurance Study. The floodplain encompasses both floodway areas and floodway fringe areas.
- Section 20.02.3 BASE FLOOD ELEVATION (BFE). The elevation of surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year.
- Section 20.02.4 BASEMENT. Any area of a building, including any sunken room or portion of a room, having its floor below ground level (grade) on all sides.
- Section 20.02.5 BULKHEADING. The protection of fill material from erosion through the use of a retaining wall constructed of a material approved by the Township.
- Section 20.02.6 COUNTY DRAIN. An open or enclosed watercourse, man-made or natural, which is subject to or encumbered by a maintenance easement granted to the Monroe County Drain Commissioner or a drain as that term is defined in the Drain Code of 1956.

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- Section 20.02.7 **CRAWLSPACE.** A type of foundation used to elevate the lowest floor of a building by providing access to underfloor utilities serving the building. Access is provided on at least one side and is generally located at the exterior grade. Crawlspace may be constructed up to two feet below exterior grade under certain conditions without being considered a basement. As used in this Article, a crawlspace is an enclosed area below the BFE, and as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters.
- Section 20.02.8 **CUT.** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface.
- Section 20.02.9 **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 operations or storage of equipment and materials.
- Section 20.02.10 **ELEVATION CERTIFICATE.** An administrative document of the National Flood Insurance Program which is used to provide elevation information for buildings and substantial improvements necessary to ensure compliance with the NFIP elevation requirements and Floodplain District ordinances, to determine proper flood insurance premium rates, or to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F). The certificate requires elevation information for the lowest floor of a structure, mechanical equipment, and adjacent ground elevations as well as the net area of openings within one foot of the adjacent ground elevation.
- Section 20.02.11 **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).** The federal agency under which the National Flood Insurance Program (NFIP) is administered. In March 2003, FEMA became part of the newly-created U.S. Department of Homeland Security.
- Section 20.02.12 **FILL PERMIT.** A permit issued to authorize filling of an area under the authority of the Building Official with a non-organic earthen material approved by the Township.
- Section 20.02.13 **FLOOD INSURANCE RATE MAP (FIRM).** The map or maps prepared by the Federal Emergency Management Agency and all incorporated documents and panels which indicate(s) the location of the floodway and classifies the floodplain into various zones for the purpose 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 Charter Township of Frenchtown or online at the FEMA Map Service Center.

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- Section 20.02.14 FLOOD INSURANCE STUDY (FIS). 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 Charter Township of Frenchtown.
- Section 20.02.15 FLOODPLAIN. See 100-YEAR FLOODPLAIN.
- Section 20.02.16 FLOODPROOFING. Any combination of structural and non-structural additions, changes, or adjustments to non-residential structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents, constructed in accordance with NFIP requirements. For the purposes of regulating new construction, floodproofing is defined measures incorporated in the design of a building so that below the BFE:
- Walls are watertight (substantially impermeable to the passage of water,
 - Structural components can resist hydrostatic and hydrodynamic loads and the effects of buoyancy, and
 - Utilities are protected from flood intrusion and damage.
- Section 20.02.17 FLOODWAY. The central channel of a 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. Water flowing in the designated floodway generally moves with greater velocity than in the floodway fringe, and therefore must be reserved in order to pass the base flood discharge without increasing flood depths upstream.
- Section 20.02.18 FLOODWAY FRINGE. The portion of the 100-year floodplain located outside of the Floodway which may generally be considered as the area susceptible to being inundated by flood waters from the 100-year flood, commonly referred to as the 'Floodplain.' Flood waters in the floodway fringe generally move with a lesser velocity than in the designated floodway, as the floodway fringe becomes a temporary storage area for excess water which the floodway cannot transmit.
- Section 20.02.19 GRADING. Any stripping, cutting, filling, stockpiling, or any combination thereof, and shall include the land in its cut or filled condition.
- Section 20.02.20 GRADING PERMIT. A permit issued to authorize grading under the authority of the Building Official, site plan approval, and/or plat and condominium processes.

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- Section 20.02.21 LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FIRM which establishes that a property is not located in a Floodway or Floodway Fringe area. A LOMA is issued only by FEMA.
- Section 20.02.22 LETTER OF MAP REVISION (LOMR). An official amendment to the currently effective FIRM. It is issued by FEMA and changes flood zones, delineations, and elevations.
- Section 20.02.23 LOWEST ADJACENT GRADE. The lowest point of the ground level immediately next to a building.
- Section 20.02.24 LOWEST FLOOR. The lowest floor of the lowest enclosed area (including a basement). An unfinished or flood-resistant enclosure, usable 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 enclosure is not built so as to render the structure in violation of requirements.
- Section 20.02.25 MARKET VALUE. As used in this Article, two times the State Equalized Value of a structure.
- Section 20.02.26 MOBILE HOME. As used in this Article, a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation. "Mobile Home" does not include recreational vehicles.
- Section 20.02.27 MULCHING. The application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place, and aid in establishing plant cover.
- Section 20.02.28 NATIONAL FLOOD INSURANCE PROGRAM (NFIP). A program created by the Congress of the United States in 1968 to enable property owners in participating communities to purchase insurance protection from the government against losses sustained from flooding, and to regulate floodplain management through the use of administrative tools such as FIRM maps and Elevation Certificates.
- Section 20.02.29 OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, 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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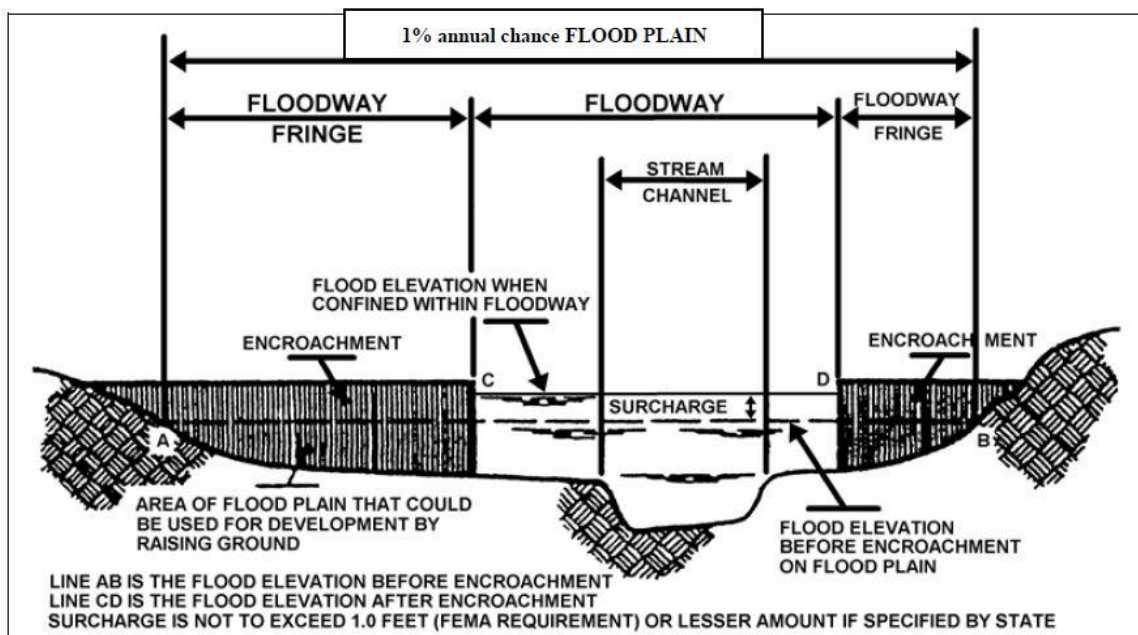
- Section 20.02.30 POST-FIRM BUILDING. A building for which construction or substantial improvement occurred after January 19, 1978.
- Section 20.02.31 PRE-FIRM BUILDING. A building for which construction or substantial improvement occurred on or before January 19, 1978.
- Section 20.02.32 PERSON. A firm, association, organization, partnership, trust, estate, company, corporation, joint venture, political subdivision, or body of individuals, as well as an individual.
- Section 20.02.33 RECREATIONAL VEHICLE. As used in this Article, a vehicle which is:
- Built on a single chassis;
 - Four-hundred (400) square feet or less when measured at the largest horizontal projection;
 - Designed to be self-propelled or permanently towable by a nominal capacity one-ton truck or smaller; and
 - Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- Section 20.02.34 SUBDIVISION. A subdivision of land into individual lots created through the requirements of the State of Michigan Land Division Act.
- Section 20.02.35 SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure (for the purpose of this Article, 50 percent of market value shall be equal to the amount of the State Equalized Value of the structure) before the damage occurred.
- Section 20.02.36 SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition, 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 the purposes of this definition “substantial improvement” is considered to occur when the first alterations of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not include: (1) any project for improvement of a structure to comply with

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existing State or Township health, sanitary, or safety code specifications which are solely necessary to ensure 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.

Section 20.02.37 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 20.02.38 DIAGRAM DEPICTING AREAS OF THE FLOODPLAIN, FLOODWAY, AND FLOODWAY FRINGE (courtesy of the State of Michigan Department of Environmental Quality publication, "Floodplain Management Guidebook for Local Officials and Others, Revised 2013 Edition.")



Section 20.03 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Article 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 depths may be increased by man-made or natural causes, such as ice jams and bridge openings

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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 Article does not imply that areas outside the Floodplain District or land uses permitted within such districts will be free from flooding or flood damages. This Article 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 Article or any administrative decision lawfully made thereunder.

Section 20.04 FLOODPLAIN DISTRICT AREAS

The Floodplain District 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 Article is hereby divided into two areas: Floodway Areas and Floodway Fringe Areas. The locations and boundaries for Floodway Areas and Floodway Fringe Areas shall coincide with those locations and boundaries for Floodway Areas and Floodway Fringe Areas as referenced in maps and studies listed in Frenchtown Charter Township Ordinance No. 218, as amended.

Section 20.05 RELATED ORDINANCES

The following Frenchtown Charter Township Ordinances also pertain to the regulation of Floodway and Floodway Fringe Areas of the Floodplain District. These Ordinances should also be referenced for any activity or work proposed within the limits of the Floodplain District.

- Section 20.05.1 Ordinance No. 207: Flood Control Device Ordinance
- Section 20.05.2 Ordinance No. 208: Flood Control Devices Engineering Design Standards Ordinance
- Section 20.05.3 Ordinance No. 218: Floodplain Management Provisions of the State Construction Code Ordinance

Section 20.06 GENERAL PROVISIONS 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 Floodplain District.

- Section 20.06.1 All persons proposing development within the Floodplain District shall obtain approved permits from those federal government agencies having jurisdiction over floodplain development, as well as the following State and County agencies: the Michigan Department of Environmental Quality, the Monroe County Health Department, and the Monroe County

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Drain Commissioner. They shall also provide 100-year floodplain elevations with on-site reference marks and documentation set by a licensed Professional Engineer 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 the Building Official of the Charter Township of Frenchtown.

- Section 20.06.2 Developers of new, enlarged, substantially improved, or relocated structures within the Floodplain District shall submit to the Office of the Building Official a written document indicating:
- Section 20.06.2(a) The elevation of the lowest floor in the structure, including basement(s).
 - Section 20.06.2(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 20.06.2(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.
- Section 20.06.3 Base flood elevation data shall be provided by the developer for subdivision and condominium proposals, planned unit developments, residential unit developments, and other proposed developments.
- Section 20.06.4 When floodproofing measures are employed, a licensed professional 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. **Floodproofing is not allowed for new or substantially improved residential structures within the Floodplain District.**
- Section 20.06.5 All new construction, including additions and substantial improvements made to existing structures shall be firmly anchored to prevent flotation and lateral movement, and shall be constructed with flood-resistant materials and methods.
- Section 20.06.6 If new or replaced utility, water, or sanitary facilities must be located below the 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.

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- Section 20.06.7 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. If this is not feasible, at a minimum an automatic backflow valve shall be installed to prevent septage from backing up into the building during flooding, subject to the approval of the Monroe County Health Department and the Township Engineer.
- Section 20.06.8 Mechanical and electrical equipment, including duct work, shall be constructed at or above the 100-year floodplain elevation.
- Section 20.06.9 Heat pumps, air conditioning condensers, fuel oil tanks, and propane tanks must be placed on platforms with a surface elevation at or above the BFE. Fuel oil or propane tanks may alternately be constructed at grade and adequately anchored to a concrete foundation to prevent flotation.
- Section 20.06.10 Fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.
- Section 20.06.11 Should any watercourse relocation or alteration be proposed within the Floodplain District, notification of said change in the watercourse shall be sent by the developer to all adjacent communities, the State of Michigan Department of Environmental Quality, and the Federal Emergency Management Agency. Permits shall be obtained from the Monroe County Drain Commissioner's Office, the State of Michigan Department of Environmental Quality, and the United States Army Corps of Engineers, as applicable. The carrying capacity shall be maintained within the altered or relocated portion of any watercourse.
- Section 20.06.12 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. In no way shall this provision supersede any other requirement of the Floodplain District as set forth herein. In such case, the most restrictive shall apply.
- Section 20.06.13 All subdivision and condominium proposals, planned unit developments, residential unit developments, and other proposed developments shall be designed and located to be consistent with the need to minimize flood

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damage. In addition, all subdivision, condominium and planned unit development proposals shall have public utilities and facilities such as sanitary sewer, gas, electrical, and water systems located and constructed to minimize flood damage. Structures shall be located on the highest natural ground, and each building site shall have adequate drainage. Manholes shall have their rim elevations located above the 100-year flood level or be equipped with seals to prevent leakage. Pumping stations shall have electrical panels elevated above the BFE.

Section 20.06.14 For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement, which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria:

Section 20.06.14(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

Section 20.06.14(b) The bottom of all openings shall be no higher than one (1) foot above interior or exterior grade.

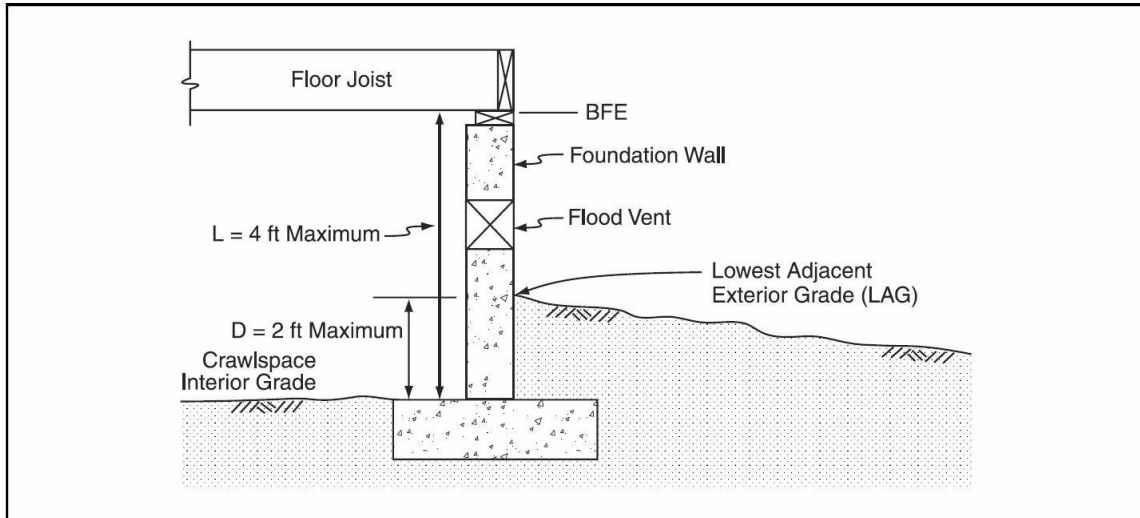
Section 20.06.14(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Section 20.06.15 For all crawlspaces constructed as part of new construction and substantial improvements, the following requirements must be met:

Section 20.06.15(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings described in Section 20.06.15(b). Because of hydrodynamic loads, crawlspace construction is not permitted in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a licensed architect or professional engineer. Other types of foundations must be utilized in these areas.

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- Section 20.06.15(b) The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- Section 20.06.15(c) Portions of the building constructed below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE.
- Section 20.06.15(d) Any building utility systems within the crawlspace, particularly ductwork, must be elevated at or above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- Section 20.06.16 For all crawlspaces constructed as part of new construction and substantial improvements with an interior grade below the BFE, the following requirements must be met:
- Section 20.06.16(a) The interior grade of a crawlspace constructed below the base flood elevation must not be more than two (2) feet below the lowest adjacent grade, as depicted as D in Section 20.06.16(d).
- Section 20.06.16(b) The height of a below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point, as depicted by L in Section 20.06.16(d).
- Section 20.06.16(c) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace within a reasonable time after the flood event.
- Section 20.06.16(d) Compliance with Diagram depicting Requirements of Below-Grade Crawlspaces (courtesy of FEMA Technical Bulletin 11, "Crawlspace Construction for Buildings Located in Special Flood Hazard Areas," November 2001 and other requirements of FEMA Technical Bulletin 11 which is incorporated herein, as well as compliance with State Building Code requirements.



Section 20.06.16(e) Crawlspace constructed in accordance with the requirements of Section 20.06.16 will not be considered basements.

Section 20.06.17 Recreational vehicles may not be placed in a Floodway Area at any time.

Section 20.06.18 Recreational vehicles placed in a Floodway Fringe Area must:

Section 20.06.18(a) Meet the elevation and anchoring requirements for mobile homes, or

Section 20.06.18(b) Be on the site for fewer than 180 consecutive days, and

Section 20.06.18(c) Be fully licensed and ready for highway use, meaning that it is on its wheels or stabilizing jack system, is attached to the site only by quick disconnect-type utilities, and has no permanently attached additions.

Section 20.07 PERMITTED USES IN THE FLOODWAY AREA OF THE FLOODPLAIN DISTRICT

The following uses have a low flood damage potential, and presenting no or minimal obstruction to flood flows, shall be permitted within the Floodway Area of the Floodplain District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, storage of materials or equipment, fill, or alteration of the pre-existing grade. 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 the Floodway Area of the Floodplain District.

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- Section 20.07.1 Recreation Uses, such as 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.
- Section 20.07.2 Golf Courses and Driving Ranges.
- Section 20.07.3 Agricultural Uses: General farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, and wild crop farming.
- Section 20.07.4 Non-Structural Uses incidental to single-family dwellings, such as lawns, gardens, play areas, sidewalks, and pedestrian/bicycle paths.
- Section 20.07.5 Unpaved Parking Areas incidental to those uses permitted in the subsections listed above.
- Section 20.07.6 Uses not permitted:
- Section 20.07.6(a) 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 20.07.6(b) New residential construction is specifically prohibited in the floodway.

Section 20.08 USES PERMITTED BY SPECIAL APPROVAL IN THE FLOODWAY AREA OF THE FLOODPLAIN DISTRICT

Provided such uses shall not, in the opinion of the Planning Commission, 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, and be subject to the approval of the State of Michigan Department of Environmental Quality, 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.

- Section 20.08.1 Railroads, streets, bridges, utility transmission lines, and pipelines.
- Section 20.08.2 Marinas, boat rentals, docks, piers, and wharves.
- Section 20.08.3 Structures for recreational uses such as open-air pavilions.
- Section 20.08.4 Parking areas.
- Section 20.08.5 Other uses, similar in nature to uses described in this Section, which are consistent with the provisions of this Article.

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**Section 20.09 REQUIREMENTS FOR SPECIAL APPROVAL FOR USES IN
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 20.09.1 A letter of approval from the State of Michigan Department of Environmental Quality.
- Section 20.09.2 A location map, including existing topographic data with contours at one (1) foot intervals, at a maximum scale of one (1) inch representing fifty (50) feet for developments which are three (3) acres or greater in size, or one (1) inch representing thirty (30) feet for developments less than three (3) acres in size.
- Section 20.09.3 A scalable drawing showing proposed grading and drainage plans, including the location of all public drainage easements, proposed and existing structures, and the limits, extent, and elevations of the proposed fill, excavation, and areas of compensating excavation.
- Section 20.09.4 Calculations depicting the volume and area of fill and compensating excavation which are being proposed.
- Section 20.09.5 A written statement from the Monroe County Drain Commissioner indicating that they have reviewed and approved the proposal.
- Section 20.09.6 A written statement from the Monroe County Health Department indicating that they have reviewed and approved the proposal.
- Section 20.09.7 A written statement from the Township Engineer concerning feasibility of the proposal and their approval.
- Section 20.09.8 If required by the Township, a hydraulic analysis prepared by a licensed 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 Amendment (LOMA) or Letter of Map Revision (LOMR) before the issuance of a Township permit.
- Section 20.09.9 Any other information requested by the Planning Commission.

**Section 20.10 STANDARDS FOR SPECIAL APPROVAL WITHIN THE
FLOODWAY AREA OF THE FLOODPLAIN DISTRICT**

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards, as well as those in Article 3.00 of this Ordinance.

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- Section 20.10.1 All new residential structures, additions, and residential structures requiring substantial improvement shall be prohibited within the Floodway area of the floodplain. This may be excepted if the following conditions are met:
- Section 20.10.1(a) An approval from the State of Michigan Department of Environmental Quality under the State's Floodplain Regulatory Authority, Part 31 of 1994 Public Act 451, as amended.
 - Section 20.10.1(b) A hydraulic analysis, along with other necessary information prepared by a licensed professional engineer, showing that the floodway boundaries as shown on the Flood Insurance Rate Map and referenced in the Flood Insurance Study are inappropriate.
 - Section 20.10.1(c) A Letter of Map Amendment (LOMA) or 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 20.10.2 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 20.10.3 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 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 20.10.4 All new non-residential structures and non-residential structures requiring substantial improvement shall have either their lowest floor including basement elevated one (1) foot above the 100-year flood elevation or the structure shall be floodproofed up to one (1) foot above the 100-year flood elevation.

Section 20.11 PERMITTED USES IN THE FLOODWAY FRINGE AREA OF THE FLOODPLAIN DISTRICT

The following uses have a low flood damage potential and, presenting no or minimal, obstruction to flood flows, shall be permitted within the Floodway Fringe Area of the Floodplain 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 Area of the Floodplain District.

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- Section 20.11.1 Recreation Uses, such as 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-family housing or of a planned residential development in the Floodway Fringe Area of the Floodplain District may be used to provide the necessary open space required under the provisions of this Ordinance, provided the open space requirements of the specific Section of the applicable Article are met.
- Section 20.11.2 Golf Courses and Driving Ranges.
- Section 20.11.3 Agricultural Uses: General farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, and wild crop farming.
- Section 20.11.4 Single-family residential structures, provided the lowest floor including basement is elevated one (1) foot above the 100-year flood elevation, and non-structural uses incidental to single-family residential structures such as lawns, gardens, play areas, sidewalks, pedestrian/bicycle paths, and parking areas.
- Section 20.11.5 New non-residential structures and non-residential structures requiring substantial improvement, provided that either the lowest floor including basement is elevated one (1) foot above the 100-year flood elevation or the structure is floodproofed up to one (1) foot above the 100-year flood elevation.
- Section 20.11.6 Accessory structures to permitted uses in the zoning districts underlying the floodplain overlay, provided that they are not utilized for human habitation, they are designed to have low flood damage potential, they are constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters, they are firmly anchored to prevent flotation, and service facilities shall be elevated or floodproofed.

Amended August 9, 2016, by Zoning Ordinance Amendment No. 200-122.

- Section 20.11.7 Parking areas and storm water detention areas appurtenant to permitted uses in underlying zoning districts.
- Section 20.11.8 Created wetlands, or wetlands specifically created to be used as compensatory mitigation for projects in other areas where wetlands are disturbed or removed, in accordance with the requirements of the State of Michigan Department of Environmental Quality.

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Section 20.12 USES PERMITTED BY SPECIAL APPROVAL IN THE FLOODWAY FRINGE AREA OF THE FLOODPLAIN DISTRICT

Provided such uses shall not, in the opinion of the Planning Commission, 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, the following uses may be permitted by issuance of a special approval in accordance with Article 3.00 of this Ordinance and any other requirements stipulated herein.

- Section 20.12.1 Railroads, streets, bridges, utility transmission lines, and pipelines.
- Section 20.12.2 Marinas, boat rentals, docks, piers, and wharves.
- Section 20.12.3 Extraction of sand, gravel, and other materials.
- Section 20.12.4 Structures for recreational uses, such as shelter houses, out buildings, pavilions, or wildlife sanctuaries.
- Section 20.12.5 Those uses which are permissible with a special approval in those zoning districts which underlie the Floodplain District.
- Section 20.12.6 In the case where Floodway Fringe Areas have no ground water recharge or impoundment potential, filling may occur through compensating excavation and shaping of the Floodway Fringe Area in such a way as to maintain or improve the flow or natural impoundment capacity of the Floodway Fringe. In no case shall the flow or impoundment capacity of the Floodway Fringe be reduced.
- Section 20.12.7 Other uses similar in nature to uses described in the previous Section which are consistent with the provision of this Article.

Section 20.13 REQUIREMENTS FOR SPECIAL APPROVAL FOR USES IN THE FLOODWAY FRINGE AREA OF THE FLOODPLAIN DISTRICT

In addition to the requirements of Article 3.00 of this Ordinance, the application for special approval in the Floodway Fringe Area of the Floodplain District shall meet the following requirements.

- Section 20.13.1 The applicant for a special approval shall be required to submit the information listed as necessary in Section 20.08.1 through 5.

Section 20.14 LAKE ERIE FLOODWAY FRINGE AREA

Construction within the floodway fringe adjacent to Lake Erie, as determined by the Building Official of the Charter Township of Frenchtown, is subject to special allowances not typically considered when located within a riverine floodway fringe area. This is due to the fact that the Lake Erie floodway fringe area has a known and constant base flood elevation throughout its reaches.

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Provided the proposed development occurs above the Ordinary High Water Mark as established by the Michigan Department of Environmental Quality (MDEQ) and the United States Army Corps of Engineers (USACE), fill is permitted to be placed in accordance with the existing fill permit requirements of Frenchtown Charter Township. Fill placed under this section does not require a compensating volume of cut equal to the volume of fill placed in the floodway fringe, as is required for riverine floodway fringe areas.

A permit is not required from the MDEQ, under Part 31, for alterations within the floodplain of Lake Erie above the Ordinary High Water Mark as established by the MDEQ. However, reviews and permits may still be required under other State statutes, such as:

- Part 301 (Inland Lakes and Streams)
- Part 303 (Wetlands Protection)
- Part 323 (Shorelands Protection and Management)
- Part 325 (Great Lakes Submerged Lands)
- Part 91 (Soil Erosion and Sedimentation Control)

Cut or fill below the Ordinary High Water Mark as established by the MDEQ requires a permit from the MDEQ prior to construction approval. Cut or fill below the Ordinary High Water Mark as established by the USACE requires a permit from the USACE prior to construction approval.

Section 20.15 MOBILE HOME PARKS

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

Section 20.16 STANDARDS FOR VARIANCE BY THE CONSTRUCTION CODE BOARD OF APPEALS FROM THE STRICT INTERPRETATION OF THE REGULATIONS SET FORTH IN THIS ARTICLE

Section 20.16.1 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 20.16.2 The following four criteria must be met before a variance can be granted.

Section 20.16.2(a) A sufficient cause for granting the variance must be shown.

Section 20.16.2(b) A determination that failure to grant the variance would result in hardship or practical difficulty to the applicant.

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- Section 20.16.2(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with this Article.
- Section 20.16.2(d) A determination that the variance is the minimum necessary to afford relief.
- Section 20.16.3 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 20.16.3(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 floor elevation and that,
- Section 20.16.3(b) Such construction below the elevation of the 100-year flood increases risk to life and property.
- Section 20.16.4 Record of such notification shall be maintained along with records of all variance action dealing with floodplain development.

Section 20.17 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 precedence.

Section 20.18 RELATIONSHIP OF THIS ARTICLE TO STATE AND FEDERAL LAW

Nothing in this Article shall be deemed to exempt a person 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 a State or Federal agency be deemed to exempt the person from the requirements of this Article.

Amended July 14, 2015 by Zoning Ordinance Amendment No. 200-118.

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