



STAFF ANALYSIS: FLOODPLAIN ORDINANCE TEXT AMENDMENTS

Date: August 28, 2018
To: Davidson Board of Commissioners
From: Jason Burdette, Planning Director
Re: Davidson Planning Ordinance Section 18 (Floodplain Ordinance) - Text Amendments

Note: The following summary reviews the purpose and history of the proposed changes; highlights substantive changes; and, includes discussion topics related to Davidson Planning Ordinance (DPO) Section 18. Proposed changes are annotated in the draft DPO accompanying these materials.

1. OVERVIEW

As part of its routine work, the Federal Emergency Management Agency (FEMA) updated Flood Insurance Rate Maps (FIRMs) for Mecklenburg County with an effective date of November 16, 2018. The Town of Davidson must adopt an updated floodplain ordinance to include the new map date by the November 16, 2018 deadline or risk being suspended from the National Flood Insurance Program (NFIP).

Additionally, the North Carolina Department of Public Safety (NCDPS) made changes to their Model Floodplain Ordinance in 2017, which included both mandatory and suggested changes. Charlotte-Mecklenburg Stormwater Services (CMSS) staff formed a stakeholder group to review this updated model ordinance and provided a draft Floodplain Ordinance for the Town of Davidson on July 24, 2018. This updated ordinance has been endorsed by the Storm Water Advisory Committee (SWAC) and stakeholder group. The NCDPS also reviewed the updated floodplain ordinance and deemed it compliant with NFIP requirements.

2. PROPOSED CHANGES

A number of revisions were made to the ordinance for consistency and clarity, including renumbering of ordinance section references, correction of typographic errors, and revisions to include new terms that are now used throughout the ordinance. Most of the proposed changes are a result of NCDPS Model Ordinance recommendations. The remaining changes are Mecklenburg County floodplain staff recommendations. Substantive changes are highlighted below.

SECTION 18.2: DEFINITIONS

The following definitions were added/removed/revised per Mecklenburg County recommendation for consistency, clarity, and in some cases to meet state minimum requirements.

- **Terms Not Previously Defined:** Alteration of a Watercourse, Existing Building and Existing Structure, Flood-resistant Material, Floodway Engineering Analysis, Light Duty Truck, No-Rise

Certification, Preliminary Flood Insurance Rate Map (PFIRM), Preliminary Flood Insurance Study (PFIS), and Temperature Controlled

- **Revised Definitions:** Conditional Letter of Map Revision (CLOMR), Floodway, Letter of Map Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), North American Vertical Datum, Recreational Vehicle, Repetitive Loss, Substantial Damage, Substantial Improvement, and Technically Measurable
- **Definitions Removed:** Mean Sea Level

SECTION 18.3 GENERAL PROVISIONS

- **Applicability:** Language was added to clarify that the floodplain regulations apply within town limits and the extra-territorial jurisdiction (ETJ).
- **Updated Flood Insurance Rate Maps:** The effective date of updated Flood Insurance Rate Maps (FIRMS) was added to the ordinance, as required by FEMA.
- **Preliminary FIRM Language Added:** Per county floodplain staff recommendation, language was added to provide additional floodplain protection. In areas where a Preliminary FIRM and Preliminary FIS exist, the higher of the preliminary and effective elevations shall be used for regulatory purposes.

SECTION 18.4 ADMINISTRATION AND ENFORCEMENT

- **FEMA Required Revision:** As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit. This requirement was added to Section 18.4.2.4.E.

SECTION 18.6 PROVISIONS FOR FLOOD HAZARD REDUCTION

- **Clarification for Replacement of Equipment:** Per NCDPS Model Ordinance, language was added under Section 18.6.1.A.5 to clarify that equipment may be replaced without being elevated, unless part of a substantial improvement. Language was also added to encourage property owners to locate replacement equipment at compliant elevations. Equipment located at compliant elevations are not required to be included as part substantial improvement costs.
- **Notice of Floodplain Improvements for Residential Construction:** Under Section 18.6.2.1.B, the current threshold for notice of non-substantial improvements are those costing between 25% and 50% of the market value of the existing building. Mecklenburg County staff recommend reducing the threshold for notice of non-substantial improvements to those costing between 10% and 50% of the market value of the existing building. Because improvement costs are cumulative over a 10-year period, lowering the notice threshold to 10% will enable the county to ensure earlier on that property owners are aware of the 50% threshold at which the floodplain standards come into effect.
- **Insert Section on Temporary Encroachments:** Section 18.6.2.6.D was added per county floodplain staff recommendation. This language allows for temporary encroachments into the floodplain without requiring a flood study. Examples of temporary encroachments include but are not limited to: sediment control devices, temporary stream crossings, storage of equipment, etc. Temporary encroachments require an Individual Floodplain Development Permit from the county.
- **Insert Section on Gas and Liquid Storage Tanks:** Section 18.6.2.14 was added per NCDPS Model Ordinance Recommendation to meet the state minimum requirements and to prevent tank failure during flooding conditions.

- **Insert Section on Fill:** Section 18.6.2.15 was added as required by FEMA. As of October 1, 2010, FEMA requires documentation of compliance with the Endangered Species Act prior to issuing a floodplain permit for the placement of fill within Special Flood Hazard Areas.