

**TOWNSHIP OF PORTER  
COUNTY OF CASS, STATE OF MICHIGAN  
ORDINANCE 9-08  
SECTION NO. 153  
ADOPTED 9/9/08  
EFFECTIVE 10/16/08  
AMENDED 9/14/10  
EFFECTIVE 10/6/2010**

**FLOOD PREVENTION DISTRICT REGULATION ORDINANCE**

**AN ORDINANCE TO REGULATE LAND DEVELOPMENT IN AREAS SUBJECT TO DAMAGE FROM FLOODING; TO ADOPT PROVISIONS FOR FLOOD HAZARD REDUCTION; TO PROVIDE FOR VARIANCE PROCEDURES; TO PROVIDE FOR PENALTIES FOR VIOLATIONS; AND TO PROVIDE FOR THE REPEAL OF THE PROVISIONS OF ORDINANCES IN CONFLICT HEREWITH.**

**THE TOWNSHIP OF PORTER ORDAINS:**

**GENERAL**

**153.0 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS**

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Cass County, Michigan (all jurisdictions)" and the Flood Insurance Rate Maps(s) (FIRMS) panel number(s) of 26027CCINDOA; CO170C; CO275C; and CO300C and dated September 5, 2007 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code."

**§ 153.1 - Findings**

The flood hazard areas of the Township of Porter are subject to periodic inundation which results in loss or impairment of life, property, health and safety, disruption of commerce and governmental services, extraordinary expenditures of public funds for flood protection and relief and impairment of the tax base, all of which adversely affect public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased heights and velocities of flood waters by the occupation of the flood-hazard areas of uses vulnerable to floods or hazards to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

**§ 153.2 - Purposes**

It is the purpose of the Flood Prevention District to protect the natural, human, structural, and economic resources of the Township of Porter; and to promote the public health, safety, and general welfare by application of special regulations for the use of land which is, or may be, subject to periodic inundation by floods and flood waters at predictable intervals. Said regulations, while permitting reasonable economic use and considering the physical limitations of such land, will help to protect 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 such land. Said regulations are designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and welfare, and property due to water or erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control filling, grading, dredging, obstructions, and other developments which may increase erosion or flood damage; and
- D. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or impede or obstruct the flow thereof, or which may increase flood hazards to other lands.

## **DEFINITIONS**

### **§ 153.3 - Definitions**

The words used in this ordinance which are not expressly defined in this section shall be given their usual customary meaning, with consideration being given to the context in which they appear. The following terms are expressly defined herein and shall mean:

**AREA OF SHALLOW FLOODING** means a designated AO zone (defined below) on the flood insurance rate map for the Township of Porter with base flood depths from one (1) to three (3) feet where a clearly defined channel or watercourse does not exist, where the path of flooding is unpredictable and indeterminate, and where flood water velocity flow may be evident.

**AO ZONE.** An AO zone is a special flood hazard area with sheet flow, ponding, or shallow flooding. Base flood depths are provided on the community's Flood Insurance Rate Map (FIRM).

**BASE FLOOD** means the flood having a one percent chance of being equaled or exceeded in any given year and shall be based upon 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, channel, or watercourse.

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including, but not limited to, the erection of buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**AREAS OF SPECIAL FLOOD HAZARD.** The term “areas of special flood hazard” refers to the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. Special flood hazard area is synonymous in meaning with the phrase, “area of special flood hazard.”

**THE FLOOD PREVENTION DISTRICT** is commonly called an overlay district, which is an approach to applying special restrictions to areas with unique characteristics. Properties within these districts retain their underlying zoning classification but are subject to additional requirements specified in this ordinance.

**FLOOD OR FLOODING** means a general and temporary condition of partial or complete inundation of land which is, in its normal state, dry and unsubmerged, from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any surface.

**FLOOD BOUNDARY AND FLOOD-WAY MAP** means the map (or maps) prepared by the United States Department of Housing and Urban Development which indicates the location of the floodway and the flood-way fringe areas within the Township of Porter, a copy of which is available for examination in the office of the Clerk of the Township of Porter

**FLOOD FRINGE** means the portion of the floodplain lying on either side of the floodway.

**FLOOD INSURANCE RATE MAP** means that map (or maps) prepared by the Federal Emergency Management Agency which classifies the floodplain into various zones for purposes of determining flood insurance premium rates within the Township of Porter, a copy of which is available for examination at the office of the Clerk of the Township of Porter.

**FLOOD INSURANCE STUDY** means that study (or studies) 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 Porter, and contains flood-profile studies as well as a flood-hazard boundary and floodway map and the water-surface elevation of the base flood.

**FLOODPLAINS ASSOCIATED WITH THE BASE FLOOD** means that area which is inundated by the base flood. This is the floodplain area which shall be regulated by the standards and criteria of this ordinance and shall be determined with reference to the flood boundary and floodway and the flood insurance study.

**FLOOD PROOFING** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improves real property, water and sanitary facilities, structures, and their contents.

**FLOODWAY** means the channel of the watercourse and those portions of the adjoining floodplains which carry and discharge the flood waters of the base flood, as determined by the Federal Emergency Management Agency (FEMA) and as indicated in the flood boundary and floodway map.

**NEW CONSTRUCTION** means all structures, including the placement of mobile homes, for which construction is started or commenced on or after the effective date of this ordinance.

**OBSTRUCTION** means any dam, dike, wall, wharf, embankment, levee, pile abutment, projection, excavation, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or other matter, in, along, across, or projecting into any channel, watercourse, or flood-hazard area which may impede, retain 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 life or property.

**SUBSTANTIAL IMPROVEMENT** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (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” shall be considered to occur when the first alteration 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 any project for improvement to comply with existing state or city health, sanitary, or safety code requirements which are solely necessary to assure safe living conditions or to any alteration of a structure listed on the National Register of Historic Places or the State of Michigan Register of Historic Places.

**WATERCOURSE** means any natural or artificial watercourse, stream, channel, creek, ditch, 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 adjacent tracts subject to inundation by reason of overflow of flood water.

## **APPLICATION OF ORDINANCE**

### **§ 153.4 - Lands to Which Flood Plains District Applies**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Township of Porter. The flood district shall be considered to overlay existing zoning districts and shall constitute additional terms to those regulated by the underlying zoning district and shall

be known as the Flood Prevention District. This district is hereby divided into two (2) areas, which areas shall be known as the “floodway” area and the “flood fringe” area as defined in Section 153.3 (Definitions) of this ordinance. The location and the boundaries of floodways and floodway fringe areas shall coincide with the location and boundaries of floodways and floodway fringe areas as shown on the most recent Flood Insurance Study published by the Federal Emergency Management Agency, with accompanying flood insurance rate maps and floodway maps, and any revisions thereto all of which are hereby adopted by reference and declared to be a part of this ordinance.

### **§ 153.5 - Development Permit Required**

From and after the effective date of this ordinance, it shall be unlawful for any person to undertake any development, including the placement of mobile homes, within the Flood Protection District, without having first procured a development permit as hereinafter provided, said permit being required for all development as defined in Section 153.4 (Definitions), and irrespective of whether or not said development involves construction of a building or other structure.

### **§ 153.6 - Compliance**

No structure shall hereafter be located, extended, converted, or altered, nor shall any land be used, except in full compliance with the terms of this ordinance and other applicable federal, state, or local regulations.

### **§ 153.7 - Abrogation and Greater Restrictions**

This ordinance is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. When this ordinance, and any other ordinance, conflict or overlap, the ordinance which imposes the most stringent standard, shall be applicable.

### **§ 153.8 - Interpretation**

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the Township of Porter; and
- C. Deemed neither to limit nor repeal any other powers granted under state or federal statutes.

### **§ 153.9 - Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger

floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Township of Porter or of any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **ADMINISTRATION**

### **§ 153.10 - Administration**

A. **Designation of the administrator.** The Porter Township Zoning Administrator in conjunction with the Township Building Inspector is hereby appointed to administer and implement the provisions of this ordinance.

B. **Duties and responsibilities of the Zoning Administrator.** Duties of the Zoning Administrator shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied.

2. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

3. Review all permits for proposed new development to determine whether such proposals will be reasonably safe from flooding, to assure that:

(a) All such proposals are consistent with the need to minimize flood damage within flood-prone areas;

(b) All public utilities, and facilities, such as sewer, gas, electrical, and water systems are located and installed to minimize or eliminate flood damage; and

(c) Adequate drainage is provided to reduce flood damage.

4. Notify adjacent communities and the Michigan Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

6. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

7. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed.

8. When flood-proofing is utilized for a particular structure, the Building Inspector shall obtain certification from a registered professional engineer or architect.

9. When interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Zoning Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

10. When base flood elevation data has not been provided in accordance with Section 153.3 (Definitions) of this ordinance, then the Zoning Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer the provisions of Section 153.10 (Administration) of this ordinance.

11. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.

### **§ 153.11 - Permit Procedures**

Application for a development permit shall be made to the Zoning Administrator on forms furnished by such officer and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, storage of fill materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any nonresidential structure has been flood-proofed;
- C. Provide a certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure meets the flood-proofing criteria in Section 153.13(B) (herein); and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

In addition to the foregoing, all development proposed for a floodplain must secure a permit from the Michigan Department of Environmental Quality (MDEQ) before issuance of any local permits.

**§ 153.12 - Variances Procedures; Standards for Determination Conditions**

- A. The Zoning Board of Appeals, as established by the Township of Porter, shall hear and decide appeals and requests for variances from the requirement of this ordinance.
- B. The zoning board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
- C. Any person aggrieved by the decision of the zoning board of appeals may appeal such decision to the Cass County Circuit Court, as provided by statute.
- D. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- E. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - 1. The danger that materials may be swept onto other lands to the injury of others;
  - 2. The danger that life and property may be threatened by flooding or erosion;



3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood-plain- management program for that area;

9. The safety and availability of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and

12. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of three quarter (3/4) acre or less in size contiguous to and surrounded by lots on which, existing structures have been constructed below the base-flood level, providing items (1) through (11) have been fully considered. As the lot size increases beyond the three quarter (3/4) acre, the technical justification required for issuing the variance increases.

F. Upon consideration of the factors listed above and the purpose of this ordinance, the zoning board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

G. Variances shall not be issued within any designated floodway if any increase in flood levels during the base-flood discharge would result.

H. Conditions for variances:

1. Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(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 nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

2. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base-flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest-floor elevation.

3. The Zoning Administrator shall maintain records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

4. An applicant for a variance to permit development in any floodway shall secure a permit from the Michigan Department of Natural Resources under the authority of 1929 PA 245, as amended by 1968 PA 167, and evidence thereof shall be submitted to the Zoning Administrator.

## GENERAL STANDARDS

### § 153.13 - Provisions for Flood Hazard Reduction

A. **General standards.** In all areas of special-flood hazards, the following provisions are required:

1. All new construction and substantial improvements shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structures;

2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

4. All new and replacement water-supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

5. New and replacement sanitary-sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

6. On-site waste-disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**B. Specific standards.** In all areas of special-flood hazards the following provisions are required:

1. **Residential construction:** New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one (1) foot above base-flood elevation.

2. **Nonresidential construction:** New construction or substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to one (1) foot above the base-flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base-flood level the structure is watertight with walls substantially impermeable to the passage of water and with components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the flood-proofing methods are adequate to withstand the flood depths, pressure, velocities, impact and uplift forces and other factors associated with the base flood. Such certification shall be provided to the Township of Porter.

3. **Mobile homes:**

(a) No mobile home shall be placed in a floodway area, except in an existing mobile home park or existing mobile home subdivision.

(b) All mobile homes placed within the floodway and flood-way fringe areas shall be anchored to resist

flotation, collapse, or lateral movement by providing over-the-top ties to ground anchors. Specific requirements shall be that:

i. Over-the-top ties be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long requiring one (1) additional tie per side;

ii. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side;

iii. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and

iv. Any additions to the mobile home be similarly anchored.

(c) For new mobile home parks and subdivisions, for expansions to existing mobile home parks and subdivisions, for existing mobile home parks and subdivisions where the repair, reconstruction, or improvement has commenced, and for mobile homes not placed in a mobile home park or subdivision, it is required that:

i. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one (1) foot above the base-flood level;

ii. Adequate surface drainage and access for a hauler are provided; and

iii. In the instance of elevation on pilings;

- Lots are large enough to permit steps;
- Piling foundations are placed in stable soil no more than ten (10) feet apart; and
- Reinforcement is provided for pilings more than six (6) feet above the ground level.

4. **Floodways:** Included within the areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(a) Encroachments, including fill, new construction, substantial improvements, and other developments are prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base-flood discharge.

(b) If Section 153.13(B) (4) (a) of this ordinance is satisfied, all new construction and substantial improvements shall comply with all applicable flood-hazard reduction provisions of this ordinance.

(c) The placement of any mobile homes is prohibited except in an existing mobile home park or existing mobile subdivision.

## **PERMITTED USES AND SPECIFIC STANDARDS**

### **§ 153.14 - Permitted Uses by Right in the Floodway Area of the Flood Prevention District**

The following uses having a low flood-damage potential and which present either 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 Natural Resources is required for construction activity such as the following, to be permitted in the floodway and flood-way fringe areas of the Flood Prevention District:

A. **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.

B. **Golf courses and driving ranges:** In accordance with the requirements of the zoning ordinance of the Township of Porter.

- C. **Agricultural uses:** General farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, and wild-crop farming.
- D. **Vegetated buffers:** Existing and/or constructed vegetative buffers.
- E. **Uses incidental to single-family dwellings:** Lawns, gardens, and play areas.
- F. **Parking areas:** Provided said parking areas are unpaved and are incidental to those uses permitted in the subsections listed above.
- G. **Uses not permitted:** Permitted uses in underlying zoning districts shall not be construed as being permitted uses in the floodway area of the Flood Prevention District unless those uses are indicated as being permitted in the subsections listed above.

**§ 153.15 - Uses Permitted by Special Use Permit in the Floodway Area of the Flood Prevention District**

Provided such uses shall not, in the opinion of the Planning Commission, be adverse to the purposes 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-use permit in accordance with all other requirements of the zoning ordinance of the Township of Porter and Section 153.14 of this ordinance.

- A. Railroads, streets, bridges, utility transmission lines, and pipe lines;
- B. Marinas, boat rentals, piers, and wharves;
- C. Extraction of sand, gravel, and other minerals;
- D. Structures for recreational uses such as shelter houses, outbuildings, or wildlife sanctuaries;
- E. Paved parking areas; and
- F. Other uses similar in nature to uses described in Section 153.14 which are consistent with the provisions of this ordinance.

**§ 153.16 - Requirements for Special-Use Permit for Uses in the Floodway Area of the Flood Prevention District**

In addition to all other requirements of the zoning ordinances of the Township of Porter, the application for a special-use permit in the floodway area of the Flood-Prevention District shall submit the following:

- A. A letter of approval from the State of Michigan Department of Natural Resources;
- B. A location map, including existing topographic data at two-foot interval contours at a scale of one (1) inch representing one hundred (100) feet;
- C. A map showing proposed grading and drainage plans, including the location of all public drainage easements, the limits, extent, and elevation of the proposed fill, excavation, and occupation;
- D. A statement from the Cass County Drain Commissioner indicating that he or she has reviewed and approved the proposal;
- E. A statement from the State Director of Public Works concerning feasibility of the proposal and his approval; and
- F. Any other information requested by the Planning Commission.

**§ 153.17 - Standards for Special-Use Permits Within the Floodway**

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 Section 153.17

- A. Structures shall not be designed for human habitation and shall have a low flood-damage potential;
- B. Structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of the flood waters and whenever possible, shall be constructed with the longer of the two (2) axes parallel to the direction of flood flow to minimize flow resistance;
- C. No special-use permit shall be issued for the development of new structures, substantial improvement or relocation of old structures, or development of any kind within the floodway when such development, construction, improvement, or relocation would cause any increase in flood level associated with the base flood.

**§ 153.18 - Standards for Areas of Shallow Flooding (AO Zones)**

Located within the areas of the special flood hazard established in Section 153.4 of this ordinance are areas designated as shallow flooding. These areas have special flood hazards, associated with base-flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

A. All new construction and substantial improvements of residential structures have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the flood insurance rate map for the Township of Porter.

B. All new construction and substantial improvements of nonresidential structures shall:

1. Have the lowest floor, including basement, elevated above ground of the nearest street to or above the depth number specified on the flood insurance rate map; or

2. Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

#### **§ 153.19 - Permitted Uses by Right in the Floodway Fringe Area of the Flood Prevention District**

The following uses having a low flood-damage potential and which present either 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 and provided they do not require structures, fill or storage materials, or equipment. Approval from the State of Michigan Department of Natural Resources is needed for construction activity taking place in the floodway fringe.

A. **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.

B. **Golf courses and driving ranges:** In accordance with the requirements of the zoning ordinance of the Township of Summit.

C. **Agricultural uses:** General farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, and wild-crop farming.



D. **Uses incidental to single-family dwellings:** Lawns, gardens, and play areas.

E. **Uses not permitted:** Permitted uses in underlying zoning districts shall not be construed as being permitted uses in the floodway area of the Flood Prevention District unless those uses are indicated as being permitted in the subsections listed above.

**§ 153.20 - Uses Permitted by Special-Use Permit in the Floodway Fringe Area of the Flood Prevention 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-use permit in accordance with the zoning ordinance of the township of Summit and any other requirements contained herein:

- A. Railroads, streets, bridges, utility transmission lines, and pipe lines;
- B. Marinas, boat rentals, piers, and wharves;
- C. Extraction of sand, gravel, and other minerals;
- D. Structures for recreational uses such as shelter houses, outbuildings, or wildlife sanctuaries;
- E. Those uses indicated as being permitted uses or as being permissible with a special-use permit in those zoning districts which underlie the Flood-Prevention District;
- F. Dumping or backfilling with any material in any manner. In the case where flood-way fringe areas have no groundwater recharge or impoundment potential, filling may occur through compensating excavation and shaping of the flood-way fringe in such a way as to maintain and 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.
- G. Other uses similar in nature to uses described in Section 153.18 which are consistent with the provisions of this ordinance.

**§ 153.21 - Requirements for Special-Use Permits for Uses in the Floodway Fringe Area of the Flood Prevention District**

In addition to all other requirements of the zoning ordinance of the Township of Porter, the applicant for a special-use permit in the Flood Prevention District shall meet the following requirements:

- A. The applicant for a special-use permit shall be required to submit that information listed as necessary in Section 153.17 herein.

**§ 153.22 - Standards for Special-Use Permits Within the Floodway Fringe**

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 Section 153.17 herein:

- A. All new residential structures and residential structures requiring substantial improvement shall have the lowest floor (including basement) elevated to one (1) foot above the level of the base-flood floodplain.
- B. All new nonresidential structures and nonresidential structures requiring substantial improvement shall be the lowest floor (including basement) elevated to one (1) foot above the level of the intermediate regional flood plan or shall be flood-proofed to one (1) foot above the level of the intermediate regional floodplain.

**CONFLICTS.**

Any ordinance or parts of ordinances which are in conflict with, or inconsistent with, any of the provisions of this chapter are hereby repealed.

**SEVERABILITY.**

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**PENALTY.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction. Any person who violates this ordinance or fails to comply with any of its requirements shall upon a finding of responsibility be fined in accordance with the provisions of the Decriminalization Ordinance, ordinance #27 of Porter Township. Nothing

herein contained shall prevent the Township of Porter from taking any other lawful action as is deemed to be necessary to prevent or remedy any violation, including, but not limited to, seeking injunctive or other equitable relief.

At a regular meeting of the Porter Township Board held in the Township Hall on the \_\_\_9TH\_\_\_ day of \_\_\_Sept.\_\_\_, 2008, at \_\_\_7:00\_\_\_ p.m., the foregoing ordinance was offered by member \_\_\_Harvey\_\_\_\_\_, and supported by member \_\_\_\_\_Fields\_\_\_\_\_.

The foregoing Ordinance, or a synopsis thereof, shall be published in a newspaper of general circulation within the boundaries of the Township of Porter and qualified under state law to publish legal notices promptly within its adoption, and shall take effect thirty (30) days after the date of publication.

MEMBERS PRESENT: \_\_\_Fields, Russell, Croninger, Harvey \_\_\_\_\_

MEMBERS ABSENT: \_\_\_Konneck\_\_\_\_\_

MEMBERS VOTING IN FAVOR OF ADOPTION: \_\_\_Fields, Russell, Croninger and Harvey\_\_\_\_\_Konneck absent\_\_\_\_\_

MEMBERS VOTING AGAINST ADOPTION: \_\_\_\_\_

Adopted: \_\_\_\_\_September 9, 2008\_\_\_\_\_

Published: \_\_\_\_\_September 16, 2008\_\_\_\_\_

Effective: \_\_\_\_\_October 16, 2008\_\_\_\_\_

Amended \_\_\_\_\_September 14, 2010\_\_\_\_\_

Effective \_\_\_\_\_October 6, 2010\_\_\_\_\_

*Marty Russell, Porter Township Clerk*

Marty Russell, Clerk