

Ordinance No. 1981-2
Ely Township Flood Hazard Zoning Ordinance

Section 1. Enactment and Authority. The Township Board of Ely Township, under authority granted in the Township Rural Zoning Act, P.A. 184 of 1943 and the National Flood Insurance Act of 1968, and subsequent enactments, ordains:

Section 2. Title.

This ordinance shall be known, cited and referred to as Ely Township Flood Hazard Zoning Ordinance.

Section 3. Definitions:

1. "Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
2. "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
3. "Development" means 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.
4. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) the overflow of inland or tidal waters
 - (2) the unusual and rapid accumulation of runoff of surface waters from any source
5. "Flood Hazard Boundary Map" (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.
6. "Flood Plain" means any area susceptible to being inundated by water from any source (see definition of flood).
7. "Harmful Increase" means an unnaturally high stage on a river, stream or lake which causes, or may cause damage to property, threat to life, personal injury, or damage to land or water resources.
8. "Mobile Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.
9. "New Construction" means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.
10. "Structure" means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home.
11. "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (1) before the improvement or repair is started, or (2) 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 alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration effects the external dimensions of the structure. The term does not however include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specification, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 4. Intent:

1. It is the purpose of this Ordinance to significantly reduce hazards to persons and damage to property as a result of flood conditions in Ely Township, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the National Flood Insurance Program as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesignated at 44 FR 31177, May 31, 1979.
2. Further, the objectives of this Ordinance include:
 - a. The protection of human life, health and property for the dangerous and damaging effects of flood conditions;
 - b. the minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
 - c. the prevention of private and public economic loss and social disruption as a result of flood conditions;
 - d. the maintenance of stable development patterns not subject to the blighting influence of flood damage;
 - e. to ensure that the public has access to information indicating the location of land areas subject to periodic flooding; and
 - f. to preserve the ability of flood plains to carry and discharge a base flood.

Section 5. Delineation of the Flood Hazard Zone.

1. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas of special flood hazards (A zones) designated by the Federal Insurance Administration in the Flood Hazard Boundary Map (FHBM) No. 260449, dated May 20, 1977, and amendments thereto, which are adopted by reference, appended, and declared to be a part of this Ordinance. The term flood hazard area as used in this Ordinance shall mean the flood hazard area zone.
2. Where there are disputed as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute in accord with Section 6.

3. Compliance with the requirements of this Ordinance shall be necessary for all development occurring within the flood hazard area zone. Conflicts between the requirements of this Ordinance and any other ordinance shall be resolved in favor of this Ordinance except where the conflicting requirement is more stringent and would further the objectives of this ordinance to a greater extent than the requirement of this ordinance. In such cases the more stringent requirement shall be applied.

Section 6. Mapping Disputes.

1. Where disputes arise as to the location of the flood hazard area boundary, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current flood plain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available flood plain information shall be utilized.

2. Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration flood plain maps are being questioned, the Zoning Board of Appeals shall modify the boundary of the flood hazard area only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.

3. All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.

Section 7. Development Permits.

1. Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur except upon issuance of a zoning compliance permit, and the following standards:

- a. the requirement of this Ordinance shall be met
- b. all necessary development permits shall have been issued by appropriate local state and federal authorities including a flood plain permit, approval, or letter of no authority from the Michigan Department of Natural Resources under authority of Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

Section 8. Flood Hazard Area Application Information.

1. In addition to the information required with an application for a zoning compliance permit, or any other type of development permission required under this Ordinance following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard zone:

- a. the elevation in relation to mean sea level of the floor, including basement, of all structures;
- b. where flood proofing will be employed, the elevation in relation to mean sea level to which a structure will be flood proofed;
- c. where flood proofing will be employed, a certificate from a registered professional engineer or architect that the flood proofing criteria of this ordinance will be met;
- d. a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;
- e. proof of development permission from appropriate local, state, and federal agencies as required by Section 7.1 (b), including a flood plain permit, approval, or letter of no authority from the Michigan Department of Natural Resources under authority of Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968;
- f. base flood elevation data where the proposed development is subject, to Public Act 288 of 1967 or greater than five acres in size; and
- g. additional information which may be reasonably necessary to determine compliance with the provisions of this Ordinance.

Section 9. General Standards for Flood Hazard Reduction.

1. All new construction and substantial improvements with a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall:
 - a. be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - b. be constructed with materials and utility equipment resistant to flood damage; and
 - c. be constructed by methods and practices that minimize flood damage.
2. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
3. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
4. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
5. Adequate drainage shall be provided to reduce exposure to flood hazards.
6. The Township Supervisor or his representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his determination to the zoning administrator.

7. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance of the requirements of this Article.

8. The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood carrying capacity shall be maintained.

9. Available flood hazard data from federal, state or other sources shall be reasonable utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

Section 10. Specific Base Flood Elevation Standards.

1. On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:

a. all new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level

b. all new construction and substantial improvements of non-residential structures shall have either:

1) the lowest floor, including basement, elevated to or above the base flood level; or

2) be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted as provided in Section 8, and shall indicate the elevation to which the structure is flood proofed.

2. The most recent base flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

Section 11. Mobile Home Standards.

1. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:

a. over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, except that on mobile homes less than 50 feet in length one tie per side shall be required.

- b. frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that on mobile homes less than 50 feet in length four ties per side shall be required.
- c. all components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
- d. all additions to a mobile home shall be similarly anchored.

Section 12. Zoning Administration.

An enforcement officer shall be duly appointed by the Township of Ely to enforce this ordinance and in addition thereto shall”

1. Notify adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration.
2. 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 constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood proofed; and
3. Record all certificates of flood proofing, and notify in writing all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts in excess of \$25.00 for \$100 of insurance coverage per year. A record of all variance notification and Variance actions shall be maintained together with the justification for each variance.
4. All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the zoning administrator and shall be open for public inspection.
5. It shall be the responsibility of the zoning administrator to obtain and utilize the best available flood hazard data for purposes of administering this ordinance in the absence of data from the Federal Insurance Administration.
6. Issue a zoning permit when after inspection, it is determined that the placement of a principal structure complies with the requirements of this ordinance.
7. Issue violation notices requiring compliance within 30 days and initiate any other activities to abate violations as authorized by this ordinance.
8. Maintain permanent and current records of this ordinance, including all permits applied for, issued and denied, maintain the zoning maps and property descriptions, delineate affected

areas, maintain records of application for variances, appeals and the decisions on these appeals by the Zoning Board of Appeals.

9. In the case of denying a zoning permit, the enforcement officer shall inform the property owner of the right to appeal the conditions under which an appeal will be granted, and he shall further inform the Zoning Board of Appeals, the time an appeal is initiated.

Section 13.01. Authority and Responsibilities.

The Zoning Board of Appeals shall have those powers and duties prescribed by law and by this ordinance, including:

1. Interpretation of the boundaries of the zoning map.
2. Interpretation of the test of the zoning ordinance,
3. Granting variances or modifications from the terms of this ordinance.

Any conditions imposed by the Board of Appeals shall be to further the purposes of this ordinance, shall be consistent with the provisions of the Township Rural Zoning Act P.A. 184 of 1943 as amended.

Section 13.02. Hearings.

The Zoning Board of Appeals shall not make decisions within its authority without first holding a public hearing. Notice of this hearing and the substance of the appeal or application shall be given to all the parties affected. Each appeal or application shall be in written form and shall include the circumstances of the case, reference(s) to the specific provisions of this ordinance from which the appeal is taken, and the grounds on which it is claimed that the appeal should be granted. Every decision of the Zoning Board of Appeals shall be recorded and shall fully set forth the circumstances of the case and the finding and reasoning on which the decision is based.

Section 13.03. Flood Hazard Area Sone Variances.

1. Variances from the provisions of this Ordinance shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the following specific standards:
 - a. a variance shall be granted only upon:
 - 1) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 2) a showing of good and sufficient cause;
 - 3) a determination that the granting of a variance will not result in a harmful increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

b. the variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.

2. The Ely Township Zoning Board of Appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this ordinance.

3. Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirements of this section governing variances in flood hazard areas.

Section 14. Disclaimer of Liability.

1. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage.

This ordinance does not imply that areas outside of the flood hazard area will be free from flood damage. This ordinance does not create liability on the part of Ely Township or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 15. Separability.

If any article, section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, it shall be deemed separable and the remainder of this ordinance shall not be affected thereby.

Section 16. Violations – Penalties.

It shall be unlawful for any person to develop a flood hazard area in violation of the terms of this ordinance, and any violation shall be subject to the penalties herein prescribed. Any person violating any provisions of this ordinance shall upon conviction thereof, be punished by imprisonment for not more than ninety (90) days, or be a fine of not more than one hundred (100) dollars and the costs of prosecution, or by both in the discretion of the court. Each day that a violation exists shall constitute a separate punishable offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this ordinance. Violation of this ordinance is hereby declared a nuisance per se and conviction under the penal provisions of this ordinance shall not preclude proceedings to abate such nuisance.

Section 17. Nonconforming Uses.

The lawful use of any land or structure existing at the time this ordinance is adopted may continue in the same location and in the same manner and to the same extent without change as it existed on the day of adoption of this ordinance. However, any substantial improvements or any relocation of the land use or structure shall be in conformance with the requirements of this ordinance.

Section 18. Effective Date.

This ordinance shall become effective 30 days from date of publication.

Motion Made By: Mary Kirker Supported by: Elise Petro

Roll Call Vote: Mary Kirker, Helen Junak, Elise Petro, Robert Laakso, Kenneth Tuominen – Aye

Date of Adoption: September 16, 1981

Kenneth A. Tuominen, Ely Township Supervisor

Elise Petro, Ely Township Clerk