



APPENDIX E

- **FLOODPLAIN OVERLAY DISTRICT ORDINANCE NO. 78-843**
- **METROPOLITAN CODE OF LAWS §17.36.170 *et. seq.***



**Metropolitan Nashville - Davidson County
Stormwater Management Manual
Volume 1 - Regulations**

August 2009

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Appendix E
FLOODPLAIN OVERLAY DISTRICT
ORDINANCE NO. 78-843

Second Substitute Bill No. _78-843_

By Amending the Codification of the Code of the Metropolitan Government of Nashville and Davidson County, Chapter 43, "Zoning Regulations", by Amending the Text of the Zoning Regulations as it Relates to the Floodplain Overlay District, all of Which is More Particularly Described Herein.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1

That the codification of the Code of the Metropolitan Government of Nashville and Davidson County, particularly Chapter 43, "Zoning Regulations", be and the same is hereby amended by amending the text of the zoning regulations as it relates to the Floodplain Overlay District, as follows:

1. By deleting from Section 12.10 the following terms and their definitions:

Flood base elevation
Floodplain
Flood table

And by substituting in lieu thereof the following:

Flood: Water from a river, stream, watercourse, lake, or other body of standing water that temporarily overflows inundating adjacent lands and which may affect other lands and activities through stage elevation, backwater, and/or increase groundwater level.

Floodplain: The relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water which may be covered temporarily by floodwater. For administrative purposes, the floodplain is defined as the area that would be inundated by high water at the flood profile from which flood protection elevation is established.



Flood Protection Elevation: The elevation which is one foot above the 100-year flood high water profile as developed by the Corps of Engineers for the Federal Flood Insurance Study for Davidson County. Until this study is completed and adopted, in areas where such 100-year flood high water profiles are not developed, the flood protection elevation is the March 1975 flood for the Cumberland River and the Stones River, and two(2) feet above the 50-year developed flood for the tributary streams mapped by the U. S. Geological Survey prior to January 1, 1976.

Human Occupancy: Any portion of any enclosed structure wherein humans principally live or sleep such as mobile homes, permanent residential activities, semitransient residential activities, health care community facilities, nursing home community facilities, orphanages, family care facilities, group care facilities, or transient habitation.

2. By deleting Article VII, Chapter 1, in its entirety and by substituting in lieu thereof the following:

Article VII
Floodplain District
Chapter I Floodplain Use

71.00 General provisions.

The development of land subject to flooding shall be regulated by special controls set forth in this article which are established in order to prevent the creation of obstruction in floodplains along any natural watercourse, and thus protect the lives and property of persons living in such vicinity and any use of land subject to severe damage by flooding, thereby promoting public health, safety, and general welfare, and securing to the citizens of Nashville and Davidson County the eligibility for flood insurance under Public Law 1016, 84th Congress, or subsequent laws or regulations promulgated.

71.10 Permitted uses.

Only the following activities are permitted, in the districts indicated, within that portion of any zone district indicated which lies within a floodplain, notwithstanding the previous sections of permitted uses; however, the regulations not altered by this article for any zone district shall continue in full force and effect. All structures included with the following activities shall be allowed only under the applicable provisions of Section 103.60 through 103.62 of this ordinance.



Agricultural and Extractive Activities

| | |
|--------------------------------------|----------------------------------------------------------------------------------------------------|
| Crop and animal raising ¹ | AR2a, R2a, R40, R20, R15, R10, R8, RM8, R6, RM6, MRO, MO, OP, CH, CSL, CS, CG, CF, IR, IG |
| Plant nursery | AR2a, MRO, MO, OP, CH, CSL, CS, CG, CF, IR, IG |

71.20 *Conditional uses.*

Those activities located in a portion of any zone district which lies within a floodplain and is otherwise allowed as a permitted or conditional use within the district in which it is located and is not included in Section 71.10 of this ordinance may be authorized as a conditional use in accordance with the applicable provisions of Article X, Chapter 3, Sections 103.60 through 103.62.

71.30 *Official floodplain map.*

The regulations and controls set forth in this article shall be applied within the areas designated as floodplain on the zoning map or on special overlays thereto which are made a part of this ordinance and may be viewed upon request at the office of the metropolitan clerk; however, nothing contained herein shall prohibit the application of these regulations to lands which can be demonstrated by competent engineering survey to lie within any floodplain; conversely, any lands which can be demonstrated by competent engineering to lie beyond the floodplain shall not be subject to these regulations. Any alterations to the floodplain authorized by "An Ordinance for Stormwater Management" (Metropolitan Code 78-840) shall be so noted as an alteration to the floodplain on the zoning map.

71.40 *Alterations of floodplain land and drainage channels.*

Alterations of floodplain land and drainage channels shall be in accordance with the applicable provisions of "An Ordinance for Stormwater Management" (Metropolitan Code 78-840). Any duly approved alterations of the floodplain will be so noted on the official zoning map as a matter of information. This notation shall be made upon certification by the director of public works to the planning commission that such alteration has been completed in accordance with an approved plan.

3. By deleting Section 103.60 in its entirety and by substituting in lieu thereof the following:

¹ Except swine
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103.60 Specific standards for activities within the floodplain.

In addition to the requirements of the applicable zoning district, a conditional use permit shall be granted for those activities and structures within the floodplain as required by Article VII of this ordinance only when the applicable special conditions in Sections 103.61 and 103.62 are met.

103.61 Special conditions for structures for residential, community facility, commercial, manufacturing, and agricultural and extractive activities.

The Board of Zoning Appeals may grant a conditional use permit for the construction of structures and accessory structures thereto of residential, community facility, commercial, manufacturing, and agricultural and extractive activities within the floodplain only under the following conditions:

- a) The approval must be based on a plan prepared by a registered engineer or architect.
- b) The minimum floor elevation of that portion of any structure intended for human occupancy shall be either equal to or higher than three (3) feet above the flood protection elevation. Those portions of such structures not intended for human occupancy shall be either equal to or higher than the flood protection elevation. All other related facilities thereto such as electrical equipment, water service, and sanitary sewer connections shall be either equal to or higher than the flood protection elevation or shall be floodproofed to the flood protection elevation.
- c) The minimum floor elevation of any structure not intended for human occupancy, as defined, shall be either equal to or higher than the flood protection elevation. Floodproofing of these structures will only be authorized by the director of public works as specific individual exceptions to minimum floor elevation requirements where it can be shown that the proposed floodproofing is acceptable from an engineering standpoint.
- d) Structures shall be placed on the site so as to minimize obstruction to the flow of floodwaters.
- e) Structures shall be firmly anchored to prevent flotation and lateral movement.
- f) The plan shall be approved by the director of public works in accordance with the applicable provisions of "An Ordinance for Stormwater Management" (Metropolitan Code 78-840) certifying that the construction as proposed would not materially increase the degree of flooding of other areas.



- g) The plan is first approved by the metropolitan planning commission taking into account the above conditions as well as other pertinent factors.
- h) A permanent notation of flooding conditions of the site shall be made on the deed to the property.

103.62 Special conditions for non-structural uses for residential, community facility, commercial, manufacturing, and mining and quarrying activities.

The Board of Zoning Appeals may grant a conditional use permit for non-structural uses within the floodplain only under the following conditions:

- a) The approval must be based on a plan prepared by a registered engineer or architect.
- b) The proposed use will have a low damage potential.
- c) The plan shall be approved by the director of public works in accordance with the applicable provisions of "An Ordinance for Stormwater Management" (Metropolitan Code 78-840) certifying that the construction as proposed would not materially increase the degree of flooding in other areas and is consistent with the required approval of the alteration to floodplain land and drainage channels as provided by law.
- d) The plan is first approved by the metropolitan planning commission taking into account the above factors as well as any other pertinent factors.

Section 2

BE IT FURTHER ENACTED, That the effective date of this ordinance shall be January 1, 1979, and such change be published in a newspaper of general circulation, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

The original document is signed by the following:



Introduced by:

Earl C. Shacklett
Member of Council

Member of Council

APPROVED AS TO LEGALITY OF
FORM AND COMPOSITION:

Metropolitan Attorney

Assistant Metropolitan Attorney



Metropolitan Code of Laws Chapter 17 Article V. Floodplain Overlay District

17.36.170 General provisions.

In addition to the floodplain and floodway protection provisions of Chapter 17.28, the alteration or development of land subject to flooding shall be regulated by Chapter 15.64 of the Metropolitan Code of Laws (“An Ordinance for Storm Water Management”), the purposes being to prevent the obstruction of watercourses and the protection of lives and property from the hazards of flooding. Regulation of flood-prone properties further allows for the reasonable protection of this community's natural ecosystems and wetlands areas, and qualifies metropolitan Nashville and Davidson County for flood insurance under Public Law 1016, 84th Congress (as amended or superseded). (Ord. 96-555 § 9.5(A), 1997)

17.36.180 Official floodplain map.

The Federal Emergency Management Agency Flood Insurance Rate Maps, along with specific basin studies that have been approved by the director of the department of public works shall constitute the official floodplain map for the metropolitan government of Nashville and Davidson County. In addition, the floodplain regulations of this title and Chapter 15.64 of the Metropolitan Code of Laws shall apply to lands which can be demonstrated to lie within a floodplain. Conversely, any lands which can be demonstrated by competent engineering to lie beyond the floodplain shall not be subject to these regulations. In cases of discrepancy, the official floodplain map maintained by the department of public works shall take precedence over generalized floodplain boundaries referenced on the official zoning map. (Ord. 96-555 § 9.5(B), 1997)

17.36.190 Permitted land uses.

Land uses permitted within the floodplain overlay district shall be established by the underlying base zone district according to the district land use table (Section 17.08.030) or an adopted PUD master development plan (if applicable). (Ord. 96-555 § 9.5(C), 1997)

17.36.200 Development standards.

All development within the floodplain overlay district shall be in conformance with Chapter 17.28, Article I of this title, Chapter 15.64 of the Metropolitan Code of Laws, and the subdivision regulations of Nashville and Davidson County. (Ord. 96-555 § 9.5(D), 1997)

17.36.210 Floodplain alterations.

Alterations of floodplain land and drainage channels shall be in accordance with the applicable provisions of Chapter 15.64, “An Ordinance for Storm Water Management.” (Ord. 96-555 § 9.5(E), 1997)



17.36.220 Report to stormwater management appeals board.

A request for a variance to the requirements of “An Ordinance for Storm Water Management” shall be considered by the stormwater management appeals board according to the provisions of Chapter 15.64 of the Metropolitan Code of Laws. Prior to consideration of a variance, the stormwater management appeals board shall solicit a report from the zoning administrator and the planning department regarding the applicability of Chapter 17.28, Article I, or any other provision of this title. (Ord. 96-555 § 9.5(F), 1997)