

ORDINANCE NO. 199, SERIES 2015

AN ORDINANCE AMENDING SECTION 157.02 OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (“CODE”) RELATING TO FLOODPLAIN MANAGEMENT (AS AMENDED).

Sponsored By: Council Member Leet

WHEREAS, Louisville Metro currently has over 12,500 structures located within flood-prone areas, of which, only slightly over 5,000 have insurance policies through the Federal Emergency Management Agency (FEMA);

WHEREAS, the mission of the Louisville-Jefferson County Metropolitan Sewer District (“MSD”) is to “build, maintain and operate quality wastewater, flood protection and storm water facilities for the people of our community”;

WHEREAS, Louisville Metro has been faced with a series of weather events that have left significant damage to both public and private properties throughout Louisville Metro;

WHEREAS, major flooding following a record rainfall event on April 2 and 3, 2015, coupled with an abnormally high frequency of heavy rain events over the past six years, left some property owners unable to repair their homes due to the 50% limitation over a ten-year period;

WHEREAS, as a result of the aforementioned situation, the Council temporarily amended Chapter 157 of the Code (the “Floodplain Management Ordinance”) for a six-month period to provide that repairs to damage to structures in the floodplain shall be calculated on a per-incident basis rather than over a ten-year rolling period as previously required;

WHEREAS, subsequent to the flooding event in April, a workgroup was created to identify potential short-term solutions for affected property owners and deliver recommendations to the Mayor, Metro Council, and MSD Board within thirty (30) days;

WHEREAS, the workgroup was also charged with evaluating long-term solutions to mitigate damage to homes in Jefferson County located in the floodplain, and delivering its recommendations to the Mayor, Metro Council, and MSD within six months;

WHEREAS, the workgroup has recommended that the Floodplain Management Ordinance be amended to provide that repairs to damage may not exceed 50% of the market value of the structure calculated over a one-year rolling period, voluntary improvements may not exceed 50% of the market value of the structure calculated over a ten-year rolling period, and to implement a system to notify property owners and potential purchasers as to the amount and percentage of permitted repairs and improvements that have been made to the property as relates to the aforesaid 50% limitation;

WHEREAS, the workgroup has also been coordinating with the Greater Louisville Association of Realtors to improve property owner disclosure requirements to ensure that potential purchasers will receive adequate notice and information regarding properties that are either located within the floodplain or otherwise subject to flooding;

WHEREAS, the requirements of and subsequent benefits of this Ordinance are predicated and entirely dependent upon the subject property owners applying for any and all necessary permits from the respective agencies as required;

WHEREAS, the provisions of this Ordinance apply to properties located within the delineated boundaries of the local regulatory floodplain as depicted on the LOJIC Geographical Information System map as a matter of public record, and not to properties subject to flooding either by event or their location in proximity to said floodplain;

WHEREAS, the LOJIC Geographical Information System map is available online at www.lojic.org;

WHEREAS, Louisville Metro has experienced four major rain/flooding events in the past six years in which an excess of six inches of rain fell, and Louisville Metro is expecting continued high levels of rain in the coming months as the result of a strong El Niño expected within our region, which will continue to increase the number of homes in need of assistance or buyout over the coming years; and

WHEREAS, the Council is committed to working with MSD and other local, state, and federal agencies to find funding for a multi-year floodplain buyout program for homeowners within Louisville Metro;

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: The following definitions of Section 157.02 of the Code are hereby amended as follows:

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% of the market value of the structure before the damage occurred, as determined by the administering agency and/or the Commonwealth of Kentucky.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, alteration, additions or improvements to existing development not related to damage taking place during a ten-year rolling period and begun on or after January 1, 2006 in which the cumulative cost equals or exceeds 50% of the market value of the structure, excluding periodic maintenance and upkeep that does not increase the value of the structure. (See definition for Market Value.) With regard to damage, Substantial Improvement shall mean any combination of repairs, reconstruction, rehabilitation or improvement to existing development taking place during a one-year rolling period in which the cumulative cost equals or exceeds 50% of the market value of the structure. The cost of repairs, reconstruction, alteration, additions or improvements shall reflect the value in the marketplace of the labor and materials to be used. The first alteration of any wall, ceiling, floor or other structural part of the structure whether or not that alteration affects the external dimensions of the structure constitutes beginning of construction of the substantial improvement. The term does not include the cost of flood proofing or elevating a structure or any portion thereof to the freeboard elevation.

SECTION II: Section 157.04(A) is hereby amended to read as follows:

§ 157.04 ADMINISTRATION.

(A) *Administering Agency.* The Louisville and Jefferson County Metropolitan Sewer District shall be the administering agency for this chapter. As administering agency it shall:

(1) Keep on file and make available to the public for its inspection up-to-date copies of the Flood Insurance Study (FIS) and accompanying Flood Insurance Rate

Maps (FIRM), which are in digital format, published by the Federal Insurance Administration (FIA) or FEMA for the geographic boundaries of the Louisville/Jefferson County Metro Government and any cities within such geographic boundaries, dated December 5, 2006 and any amendments made by FEMA to such maps from time to time. Effective December 5, 2006, the Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Maps (FIRM), dated December 5, 2006 and any subsequent amendments thereto, are hereby adopted and incorporated by reference. Prior to December 5, 2006, the Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Maps (FIRM), published by the Federal Insurance Administration (FIA) or FEMA for the geographic boundaries of the Louisville/Jefferson County Metro Government and any cities within such geographic boundaries, dated February 2, 1994 and any amendments that have been made thereto, shall be kept on file and made available to the public for inspection.

(2) Accept data from third parties or use data of which it may become aware such as construction of any flood control protective works, evaluate it and, when the administering agency deems it accurate and otherwise acceptable, submit it to the Administrator of the Federal Insurance Administration or FEMA as the basis for amending the Flood Insurance Rate Maps for Jefferson County, and work with FEMA to amend the Flood Insurance Rate Maps for Jefferson County.

(3) Engage in a program of education to promote public awareness of the location of flood prone areas, the risks of undertaking development in those areas without appropriate flood proofing and floodplain storage compensation measures, the

availability and advantages of flood insurance, and protections which may be provided by flood proofing and floodplain storage compensation.

(4) On a time schedule as staffing and budget permit in the discretion of the administering agency prepare or cause to be prepared watershed master plans for all watersheds in Jefferson County identifying thereon the local regulatory base flood elevation, the local regulatory floodplain, the local regulatory conveyance zone, and other relevant hydraulic and geologic information.

(5) Develop an application for the floodplain permit listing items and information to be submitted for review and the form of those submittals and establish fees to be paid to the administering agency to cover the cost of its review. Information to be submitted shall include but not be limited to the following: site plan, lower floor construction drawings, grading and drainage plans, base flood elevation, conveyance zone limits, elevation of lowest floor, flood proofing elevation if applicable, flood proofing certification if applicable, description of the extent to which a watercourse will be altered, description of access, state permit, deed of restriction if applicable, certificate by a licensed professional engineer in the Commonwealth of Kentucky as to flood proofing adequacies and base flood elevation data for proposed new development.

(6) Review all floodplain permit applications for development or construction of structures in the local regulatory floodplain and so long as the application as it may be revised and any conditions attached to it are consistent with the requirements of this chapter, issue floodplain permits therefore and assure that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.

(7) Inspect as necessary development permitted by the floodplain permit or local regulatory conveyance zone permit to assure its conformance with the permit issued and obtain from the permit holder certificates of elevation in accordance with the provisions of this chapter.

(8) When the development is not in conformance with this chapter or with the floodplain permit or the local regulatory conveyance zone permit issued by the administering agency, either take appropriate enforcement action or recommend enforcement action to the Floodplain Board.

(9) Notify adjacent communities and the State prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(10) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(11) Develop regulations as necessary implementing the provisions of this chapter including application forms and required submittals of technical information and maps and drawings to provide the administering agency adequate information for its review.

(12) Provide to the Floodplain Board the information and assistance required and necessary for its proceedings and actions.

(13) At its sole discretion, in an emergency, if other appropriate information designating local regulatory base flood elevation, local regulatory conveyance zone and local regulatory floodplain is not available, use maps issued by FEMA designating the FEMA base flood elevation, floodway and floodplain instead.

(14) On all flood determination letters, provide current information on the monetary amount and percentage of the market value of the structure of any MSD permitted

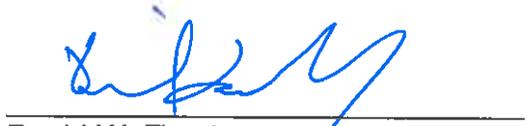
repairs, reconstruction, alteration, addition and improvements that have been made to properties located in the floodplain within the past one year for repairs to damage, and within the past ten years for any other improvements. Provide a flood determination letter. The flood determination letter shall include, at a minimum, whether any flood permits have been issued for repairs, reconstruction, alteration, additions and/or improvements within a ten-year rolling period for properties located in the floodplain.

(15) Maintain a database of all approved floodplain permits for properties located in the floodplain. This database shall include dates and amounts of the approved permits. This information shall be made available to the public upon request.

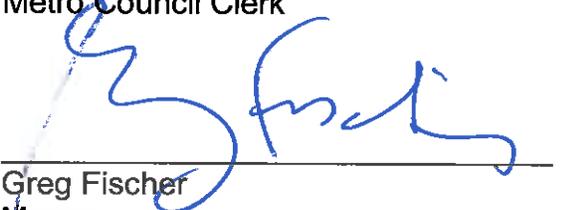
SECTION III: This Ordinance shall take effect upon its passage and approval. MSD shall have a period of thirty (30) days to begin implementing Section 157.04(A)(14) of the Code.



H. Stephen Ott
Metro Council Clerk



David W. Tandy
President of the Council



Greg Fischer
Mayor

11/24/15

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY:  _____

**LOUISVILLE METRO COUNCIL
READ AND PASSED
November 19, 2015**