



# Louisville Metro Government

## Legislation Text

File #: O-118-15, Version: 2

**ORDINANCE NO. \_\_\_\_\_, SERIES 2015  
AN ORDINANCE TEMPORARILY AMENDING SECTION 157.02 OF THE  
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF  
ORDINANCES ("CODE") RELATING TO FLOODPLAIN MANAGEMENT;  
DECLARING THE ENACTMENT OF THIS ORDINANCE AN EMERGENCY [AS  
AMENDED].**

**Sponsored By: Councilmembers Steve Magre, James Peden, Angela Leet,  
Jessica Green, Barbara Shanklin, David James, Kelly Downard, Dan Johnson and  
David Yates**

**WHEREAS**, Chapter 157 of the Code (the "Floodplain Management Ordinance") contains provisions limiting the amount of repairs of damaged structures within the floodplain to 50% of the market value of the structure during a ten-year rolling period;

**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, have left some property owners unable to repair their homes due to the 50% limitation over a ten-year period;

**WHEREAS**, there is currently no system in place to notify property owners how close their properties are to reaching the 50% limitation on repairs to substantial damage;

**WHEREAS**, as a result of the aforementioned situation, a workgroup has been created to identify 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 has also been 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**, in the interim, until the workgroup provides its recommendations, the Council wishes to temporarily amend the Floodplain Ordinance for a six-month period to provide that repairs to substantial damage shall be calculated on a per-incident basis, which is consistent with minimum National Flood Insurance Program (NFIP) requirements as relates to repairs of substantial damage;

**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. The cost of repairs or reconstruction shall reflect the value in the marketplace of the labor and materials to be used. The term does not include the cost of floodproofing or elevating a structure or any portion thereof to the freeboard elevation. Substantial damage shall be calculated on a per-incident basis, and not on a cumulative basis.

**SUBSTANTIAL [DAMAGE / ] IMPROVEMENT.** Any combination of [~~repairs,~~] reconstruction, alteration, additions or improvements to existing development, 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. (See definition for *Market Value*.) The term shall not include[s] repairs made to a structure which has incurred substantial damage [~~in which the cumulative costs equals or exceeds 50% of the pre-damage market value of the structure, as determined by the administering agency and/or the Commonwealth of Kentucky, regardless of the cumulative cost of the actual repair work performed~~]. 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 [ ~~or substantial damage~~]. The term does not include the cost of floodproofing or elevating a structure or any portion thereof to the freeboard elevation.

**SECTION II:** Due to the severity of flooding events in April of 2015, a State of Emergency having been declared by the Governor and Mayor, a major disaster declaration having been approved by President Obama, and pursuant to Council Rule 7.12, the enactment of this Ordinance is deemed an emergency.

**SECTION III:** This Ordinance shall take effect immediately upon its passage and approval, and shall continue in effect for a period of six (6) months from said effective date. At the expiration of the six-month period, the definition of Substantial Damage/Improvement shall be reinstated to the language in effect immediately prior to this Ordinance unless Metro Council adopts an ordinance with alternative provisions. This Ordinance shall apply to any application for floodplain permit received after the effective date, including applications which may have been previously denied and which are resubmitted after the effective date, and to any pending applications which have not been approved as of the effective date.

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Stephen Ott Metro Council Clerk

H. \_\_\_\_\_ David  
W. Tandy President of the Council

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Greg Fischer Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

BY: \_\_\_\_\_

Amending LMCO 157.02 Floodplain Mgmt - Emergency ROC DB Draft 2 051915.docx