

ORDINANCE OF THE
LA PORTE COUNTY
BOARD OF COMMISSIONERS
NO. 85-13

AN ORDINANCE ESTABLISHING FLOOD PLAIN MANAGEMENT REGULATIONS TO QUALIFY LA PORTE COUNTY FOR ELIGIBILITY IN THE NATIONAL FLOOD INSURANCE PROGRAM.

WHEREAS, La Porte County became ineligible for the National Flood Insurance Program (NFIP) on September 30, 1983 for failure to adopt flood plain management regulations that were in compliance with NFIP minimums, and

WHEREAS, this Board of Commissioners deems it desirable that the citizens of La Porte County be afforded the protection of the NFIP, and

WHEREAS, in order that there be reinstatement back into the program, this Board will need to adopt flood plain management regulations that meet both federal and state minimums.

NOW, THEREFORE, BE IT ORDAINED by this Board as follows:

Section 1. Statutory Authorization

The Indiana Legislature has by State Legislature dealing with planning and zoning granted the power to local units of government to control land use within their jurisdiction.

Section 2. Statement of Purpose

The development of the flood hazard areas of La Porte County could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community and since these lands are suitable for open spaces uses that do not require structures or fill, the Board of Commissioners of La Porte County have chosen to adopt the following:

Section 3. Definitions

Flood or Floodwater - means the water of any lake or watercourse which is above the banks and/or outside the channel and banks of such watercourse;

Flood Plain - the area adjoining the river or stream which has been or may hereafter be covered by floodwaters.

Flood Hazard Area - means any flood plain district, floodway district, floodway fringe district, or any combination thereof which is subject to inundation by the

regulatory flood

or

- any flood plain district as delineated by Zone A on a Flood Hazard Boundary Map.

Flood Districts - refer to definitions of districts beginning in Section 5.

Flood Protection Grade - means the elevation of the lowest floor of a building or structure. If a basement is included, the basement floor is considered the lowest floor. Exception: If a commercial or industrial building is flood proofed as hereinafter defined, the term "flood protection grade" applies to the water surface elevation for which the building is protected.

Flood Proofed Building - means a commercial or industrial building designed to exclude floodwaters from the interior of that building. All such flood-proofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

Natural Resources - means the Indiana Natural Resources Commission.

Regulatory Flood - means that flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a one hundred year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.

Regulatory Flood Profile - means a longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

Substantial Modification - means any alteration, repair, enlargement, or extension of an existing building. Such substantial modification is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not, however, include either (1) any project for improvement of a structure to comply with existing health, sanitary, or safety code specifications or (2) any alteration of a structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archeological, and Cultural Sites, Structures, Districts, and Objects.

Mobile Home Tie Downs; Schedule A - means sufficient anchorage to resist flotation, collapse, or lateral movement of any mobile home. At a minimum, such anchorage shall consist of (1) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only one additional tie per side; (2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (4) any additions to the

mobile home be similarly anchored.

Section 4. Basis for Establishing Flood Plain Districts

The flood plain district (areas subject to inundation by the regulatory flood) as identified by the Federal Insurance Administration on the Flood Hazard Boundary Map of La Porte County, dated June 23, 1978, is a part of this Article. The Flood Hazard Boundary Map is on file at the Office of the County Surveyor.

Section 5. Districts

This ordinance provides language for two additional flood districts entitled Floodway and Floodway Fringe. These two districts together form the Flood Plain District. Currently, the Flood Plain District is not subdivided into the components floodway and floodway fringe. Once the flood plain has been delineated into floodway and floodway fringe by either the Federal Emergency Management Agency and/or the Department of Natural Resources, the respective language pertaining to these districts shall apply. This further delineation of the flood plain may occur via a map revision or by a case analysis by the Department of Natural Resources as provided for in Section 7 Flood Plain (FP) District.

Flood Plain (FP) District - The purpose of the Flood Plain District is to guide development in those areas for which detailed flood data has not been provided. These areas are identified as approximate 100 year flood boundaries on the Flood Boundary and Floodway Maps and as Zone A on the Flood Insurance Rate Map and Flood Hazard Boundary Map. The Flood Plain (FP) District may stand by itself or be combined with any other district.

At such time as La Porte County converts to the Regular Phase of the National Flood Insurance Program, the Federal Insurance Administration will provide a Flood Insurance Rate Map which will supercede the Flood Hazard Boundary Map currently used by the County.

Floodway (FW) District - The purpose of the Floodway (FW) District is to guide development in areas identified as a floodway. Natural Resources exercises primary jurisdiction in the Floodway (FW) District under the provisions of IC 1971, 13-1-11; however, the Plan Commission may impose terms and conditions on any permit it issues in this district which are more restrictive than those imposed by Natural Resources. The Floodway (FW) District may stand by itself or be combined with any other district.

Floodway Fringe (FF) District - The purpose of the Floodway Fringe (FF) District is to guide development in areas subject to potential flood damage, but outside an identified Floodway (FW) District. The Floodway Fringe (FF) District may stand by itself or be combined with any other district. The principal requirement of this district is that the flood protection grade of all buildings shall be at least two feet above the regulatory flood profile.

In the "FP", "FW", and "FF" Districts established herein, the degree of flood protection established in this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes

such as ice or debris jams. This ordinance does not imply that areas outside flood hazard districts as defined herein, will be free of flooding or flood damage. This ordinance does not create any liability on the part of the County of La Porte, Indiana, the Plan Commission, Natural Resources, the State of Indiana, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 6. Permitted Uses-By-Right

1) Floodway (FW) District and Flood Plain (FP) District

The following uses shall be permitted by right, provided they do not involve the erection of any structure or obstruction, the opening of any excavation or the deposition of any material or substance.

- a. Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.
- b. Forestry, wildlife areas, and nature preserves.
- c. Parks and recreational uses, such as golf courses, driving ranges, and play areas.

2) Floodway Fringe (FF) District

The following uses shall be permitted by right:

All facilities, structures, uses, and buildings consistent with other provisions of this ordinance such as businesses, medical facilities, community and government buildings, industrial facilities, restaurants, commercial facilities, storage facilities, mobile homes, utility buildings, amusements facilities, residential buildings, and civic or fraternal facilities, may be constructed in this district provided that the flood protection grade for all buildings shall be at least two feet above the regulatory flood profile. Further, mobile homes must have pads (concrete or stands of compacted fill) at or above the elevation of the regulatory flood and must be provided with ground anchors meeting Mobile Home Tie Downs; Schedule A. In addition, adequate drainage and access for a hauler shall be provided. Flood proofed non-residential buildings may also be constructed in this district provided that the plans and specifications are certified by a Professional Engineer or Registered Architect licensed to practice in Indiana. Also, onsite waste disposal systems must be so located as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

Section 7. Permitted Uses-By Special Exception

1) Flood Plain (FP) District

The following special exception uses may be permitted in the Flood Plain (FP) District only after a proper permit or letter of recommendations for the same has been granted by Natural Resources. All terms and conditions imposed by Natural Resources will be incorporated in any permit issued by the (Plan) Commission. The (Plan) Commission may impose greater

restrictions. All buildings or additions to existing buildings shall have flood protection grades at least two feet above the regulatory flood profile.

- a. Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs, and irrigation facilities.
- b. Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroad, and utility transmission facilities.
- c. Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transient amusement facility sites.
- d. Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities, and water treatment facilities.
- e. Other flood tolerant or open space urban uses, such as flood-proofed buildings, race tracks, tennis courts, park buildings, outdoor theaters, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.
- f. Mobile homes (temporary or permanent) having pads (concrete or stands of compacted fill) at or above the regulatory flood elevation and ground anchors meeting Mobile Home Tie Downs; Schedule A. In addition, adequate drainage and access for a hauler shall be provided.
- g. Residential structures.

The structure or structures, if permitted in a Flood Plain (FP) District, shall be constructed on the building site so as to minimize obstruction to the flow of floodwaters.

Flood proofing of non-residential structures, if proposed, must be in accordance with the definition of a flood proofed building as set forth in this ordinance and must be so certified by a Professional Engineer or a Registered Architect licensed to practice in Indiana.

Onsite waste disposal systems must be so located as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

2) Floodway (FW) District

The following special exception uses may be permitted in the Floodway (FW) District only after a permit for construction in a floodway has been granted by Natural Resources. All terms and conditions imposed by Natural Resources will be incorporated in any permit issued by the (Plan) Commission. The (Plan) Commission may impose greater restrictions. All buildings or additions to existing buildings shall have flood protection

grades at least two feet above the regulatory flood profile.

- a. Water management use facilities, such as dams, dock, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs, and irrigation facilities.
- b. Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroad, and utility transmission facilities.
- c. Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transient amusement facility sites.
- d. Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities, and water treatment facilities.
- e. Other flood tolerant or open space urban uses, such as flood-proofed buildings, race tracks, tennis courts, park buildings, outdoor theaters, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.

Flood proofing of non-residential structures, if proposed, must be in accordance with the definition of a flood proofed building as set forth in this ordinance and must be so certified by a Professional Engineer or a Registered Architect licensed to practice in Indiana.

The structure or structures, if permitted in the floodway, shall be constructed on the building site so as to minimize obstruction to the flow of floodwaters.

Section 8. Non-Conforming Uses

Any building, structure or other use in a Flood Plain (FP), Floodway (FW), or Floodway Fringe (FF) District which is not in conformance with this ordinance constitutes a non-conforming use.

- a. In a Floodway (FW) District, no non-conforming use may be expanded or enlarged nor can a building undergo substantial modification without a permit for construction in a floodway from Natural Resources.
- b. In a Floodway Fringe (FF) District a building which constitutes a non-conforming use may undergo substantial modification provided such modification is on a one-time-only basis and further provided that such modification does not increase the value of the building by more than forty (40) percent of its pre-improvement market value (excluding the value of land) unless such building is permanently changed to a conforming use.
- c. A non-conforming use in a Flood Plain (FP) District may be altered, enlarged, or extended, on a one-

time-only basis, provided the procedures set forth in this ordinance with respect to new construction in a Flood Plain (FP) District are followed and further provided such alterations, enlargements, or extensions do not increase the value of the building structure, or other use (excluding the value of land) by more than forty (40) percent of its pre-improvement market value, unless such building, structure, or use is permanently changed to a conforming use.

- d. Any non-conforming use in the FP, FW, and FF Districts which is damaged by flood, fire, explosion, Act of God, or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land, by more than forty (40) percent of its predamage value.

Section 9. Subdivision Control

- a. The (Plan Commission, Building Commissioner, or other review agency or official) shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the (review agency or official) finds the subdivision to be so located, the (review agency or individual) shall forward pertinent plans and materials to the Indiana Department of Natural Resources for review and comment. The (review agency or individual) may require appropriate changes and modifications in order to assure that it is consistent with the need to minimize flood damages; all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; adequate drainage is provided so as to reduce exposure to flood hazards; and that onsite waste disposal systems, if provided, will be so located as to avoid the occurrence of the regulatory flood.
- b. All subdivision plats containing lands identified elsewhere by ordinance as flood hazard areas shall have the elevation of the 100 year flood listed thereon.

Section 10. Ordinance Regarding Standards For Certain Utility Construction or Reconstruction in Flood Hazard Areas

All new or replacement water mains, valves, and other appurtenances; and all new or replacement sewers, manholes, and other appurtenances constructed or reconstructed in a Flood Hazard Area as defined elsewhere by ordinance shall be designed and constructed as to minimize or eliminate infiltration of floodwaters into these systems and discharges from these systems into floodwaters.

Section 11. Plan Commission Rules of Procedure

- a. The Plan Commission shall keep and maintain all records, including all lowest floor elevations, certificates, plans, and other materials associated with any permit or variance issued in a Floodway (FW), Floodway Fringe (FF), or Flood

Plain (FP) District.

- b. The Plan Commission shall not issue any permit, license, or variance for the location or occupancy of any mobile home in a Floodway (FW), Floodway Fringe (FF), or Flood Plain (FP) until such time as proper notice written on lease, deed, or purchase contract is given to the mobile home owner that such mobile home is in a flood hazard area.
- c. The Plan Commission shall notify the Federal Insurance Administration of all permits issued in the floodway district concerning watercourse alteration. In addition to forwarding a copy of all such permits to FIA; they shall require that maintenance is provided within the altered or relocated portion of said watercourse, so that the flood carrying capacity is not diminished.

Section 12. Administration

- a. The (zoning administrator or other appropriate official) shall review all applications for improvement location permits for new construction, additions to existing construction, or other development to ascertain as to whether the proposed construction, addition, or development lies in a flood hazard area as defined elsewhere by ordinance.

If the permit application lies in an identified floodway, then the zoning administrator shall forward the application, along with all pertinent plans and specifications, to Natural Resources and apply for a permit for construction in a floodway from Natural Resources.

If the permit application lies in a floodway fringe district, then the zoning administrator may issue a local building permit with the condition that the lowest floor, including the basement of the structure(s), is at least two feet above the 100 year frequency flood elevation.

If the permit application lies in a flood plain district, then the zoning administrator shall forward the application, along with all pertinent plans and specifications, to Natural Resources for appropriate review and comment. A local building permit may only be issued after receiving the proper permit or letter or recommendations from Natural Resources.

In a floodway, floodway fringe, and flood plain district, the zoning administrator may require such modifications to the design and materials as the zoning administrator may deem appropriate to prevent flotation, collapse, or lateral movement of the structure and minimize potential future flood damages.

- b. In reviewing the applications for improvement location permits for compliance with the requirements of this ordinance, the (zoning administrator or other appropriate official) shall assure that all necessary permits from other

state, federal, and local agencies have been obtained.

Section 13. Variances And Exceptions

- A. The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of the Floodway (FW), Floodway Fringe (FF), or Flood Plain (FP) Districts provided the applicant offers that:
- 1) There exists a good and sufficient cause for the requested variance;
 - 2) The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant, and
 - 3) The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- B. The Board of Zoning Appeals may issue a variance to the terms and provisions of the Floodway (FW), Floodway Fringe (FF), or Flood Plain (FP) Districts subject to the following standards and conditions:
- 1) No variance or exception for a residential use in a Floodway (FW) District may be granted;
 - 2) Any variance or exception granted in a Floodway (FW) District will require a permit from Natural Resources.
 - 3) Variances or exceptions to the flood protection grade requirements in a Floodway Fringe (FF) District may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;
 - 4) Any variance or exception granted in a Flood Plain (FP) District will require a permit or letter recommendation from Natural Resources. If a letter of recommendation is received from Natural Resources, the board of Zoning Appeals may apply the standards pertaining to a Floodway Fringe (FF) District contained in B) 3) of this section;
 - 5) Variance or exception may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
 - 6) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to

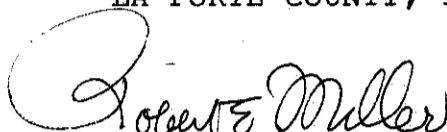
the proposed construction; and

- 7) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

Section 14. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

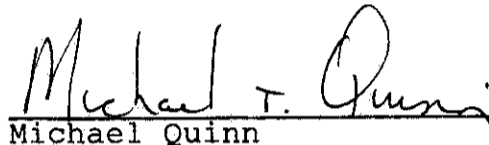
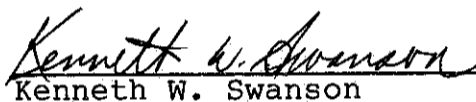
Passed this 9th day of December, 1985.

BOARD OF COMMISSIONERS OF
LA PORTE COUNTY, INDIANA



Robert E. Miller

ATTEST:


Alyce Byrd Auditor
Michael Quinn
Kenneth W. Swanson

Please publish two (2) times in the Michigan City News-Dispatch and the LaPorte Herald-Argus on Monday, December 16, 1985 and December 23, 1985.

AMENDMENT TO ORDINANCE NO. 85-13

THE LAPORTE COUNTY BOARD OF COMMISSIONERS

AN AMENDMENT ADDING A DEFINITION AND NAMING A RESPONSIBLE OFFICIAL FOR THE CONDUCT OF THE LAPORTE COUNTY FLOOD PLAIN MANAGEMENT PROGRAM.

BE IT ORDAINED THAT:

1. Under Section 3, entitled "Definitions", of Ordinance No. 85-13 the following paragraph is hereby added:

Development - any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operation.

2. Delete paragraph "a" under Section 9, entitled "Sub-division Control", and insert the following paragraph in its place:

- a. The Building Commissioner and the Plan Commission Plat Committee shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Building Commissioner and the Plan Commission Plat Committee finds the subdivision to be so located, they may require appropriate changes and modifications in order to assure that it is consistent with the need to minimize flood damages; all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; adequate drainage is provided so as to reduce exposure to flood hazards; and that on-site waste disposal systems, if provided, will be so located as to avoid the impairment of them or contamination from them during the occurrence of the regulatory flood.

3. Delete Section 12, "Administration", in its entirety and insert the following six paragraphs in its place:

Section 12. Administration

- a. The Building Commissioner shall review all applications for improvement location permits for new construction, additions to existing construction, or other development to ascertain as to whether the proposed construction, addition, or development lies in a flood hazard area as defined elsewhere by ordinance.

If the permit application covers property lying in an identified floodway, then the Building Commissioner shall forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway from the Department of Natural Resources.

If the permit application covers property lying in a floodway fringe district, then the Building Commissioner may issue a local building permit with the condition that the lowest floor, including the basement of the structure, is at least two feet (2') above the 100-year frequency flood elevation.

If the permit application covers property lying in a flood plain district, then the Building Commissioner shall forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for appropriate review and comment. A local building permit may only be issued after receiving the proper permit or letter of recommendations from the Department of Natural Resources.

In a floodway, floodway fringe, and flood plain district, the Building Commissioner may require such modifications to the design and materials as the Building Commissioner may deem appropriate to prevent flotation, collapse, or lateral movement of the structure and minimize potential future flood damages.

- b. In reviewing the applications for improvement permits for compliance with the requirements of this ordinance, the Building Commissioner shall assure that all necessary permits from other state, federal, and local agencies have been attained.

Passed this 3rd Day of February, 1986.

BOARD OF COMMISSIONERS OF
LAPORTE COUNTY, INDIANA

Michael T. Quinn, President

Robert E. Miller

Kenneth W. Swanson

Attest:

Alyce J. Byrd, County Auditor