



## CITY COUNCIL ACTION REPORT

April 11, 2008

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Asst. City Manager/Economic Development Services  
Mark Stimac, Director of Building and Zoning  
Steven J. Vandette, City Engineer *SV*

SUBJECT: Amendment to Chapter 42, Floodplain Management  
Permitting Homes with Basements on Lands Legally Removed from the Floodplain

### Background:

- Prior to 1999 Federal Emergency Management Agency ( -FEMA) regulations did not allow homes with basements on lands removed from a flood hazard zone by the use of fill.
- In 1999 FEMA amended its regulations and began issuing Letters of Map Revisions based on Fill (LOMR-F). FEMA rules also permitted basements below the flood elevation in filled floodplain if certain building criteria are met.
- Following the FEMA change, Michigan law was amended as pertaining to flood hazard area ordinances, and the MDEQ adopted a much more lenient standard regarding development in flood hazard areas. The MDEQ permitted the use of artificial fill to remove a property from a flood hazard area and basements could be constructed below the flood elevation provided certain criteria building are met. The criteria protects buildings from additional hydrostatic pressures that may be exerted on the basement walls and floors as a result of a flood and possible saturation of the ground around the basement walls and floor.
- In 1999, over concern on the potential impact to future homeowners, the City of Troy adopted a more restrictive floodplain ordinance that prohibited construction of residential basements in areas removed from a flood hazard area by the placement of fill, regardless of FEMA Letter of Map Revision determinations.
- The intent of ordinance revision was to:
  - Eliminate the incentive to fill in the floodplain and then be rewarded with a permit for a house with a basement.
  - Discourage development in less desirable floodplain areas since houses without basements are not attractive to home buyers in this area.
  - Protect Troy residents who would have been unaware of the previous flood hazard designation, and the increased risk of flooding, when the home was purchased. The city did not feel that state laws provided adequate protection to home buyers

- The foregoing concerns still exist today. There would still be an incentive to fill floodplains, albeit through legal means to do so, and more development may occur on lands previously considered undesirable. There is no method by which homebuyers can be made aware of the previous status of the floodplain on their home site unless research is done by the buyer.
- Troy City Ordinance Chapter 42 prohibits land owners from building homes with basements on lands removed from the floodplain, despite the owners having legally removed the land from the floodplain by fill and compensating cuts as required by the MDEQ and the City of Troy ordinance requirements, and despite the owner receiving Troy approval of the LOMR-F application and legally obtaining a LOMR-F from FEMA.
- The city of Troy is at a competitive disadvantage with other Michigan communities that legally permit basements in areas legally removed from the floodplain.
- Lack of a basement can decrease the value of the house and decrease residential development and tax revenue.
- The residential building community is interested in amending Chapter 42 to permit basements on lands legally removed from the floodplain in accordance with Troy, MDEQ and FEMA regulations.
- In order to implement the change the last sentence of Paragraph (a) of Section 6.(1) of Chapter 42 would be deleted in its entirety.

#### Financial Considerations:

- Additional residential development may result from amending the ordinance to allow basements.

#### Legal Considerations:

There are no legal considerations. The City of Troy can legally continue with its more restrictive ordinance or amend the ordinance to allow basements equal to State and Federal Statute.

#### Policy Considerations:

- Consistent with Goal #2 of the City of Troy 2006-2008 Goals & Objectives policy (Retain and Attract Investment While Encouraging Redevelopment).

#### Options:

- The Council can approve or disapprove the suggested resolution.
- The Council can amend the suggested resolution.