



REPORT N° AMÉ-19-55-R

Date	17/06/2019
Submitted by	Marie-Eve Bélanger
Subject	Floodplain regulations in regards to building permits
File N°	n/a

1) **NATURE/GOAL :**

The nature of this report is to advise Council of the policies surrounding renovations or reconstruction of a house located within a floodplain overlay under the Zoning By-law.

2) **DIRECTIVE/PREVIOUS POLICY :**

n/a

3) **DEPARTMENT'S RECOMMENDATION :**

THAT Report No. AMÉ-19-44-R, which outlines the policies surrounding renovations or reconstruction of a house located within a floodplain overlay under the Zoning By-law, be received as information.

QUE le rapport no. AMÉ-19-44-R, qui souligne les politiques applicables pour des rénovations ou reconstruction d'une maison située sur une plaine inondable relativement au règlement de zonage, soit reçu à titre d'information.

4) **BACKGROUND :**

Floods are the most commonly occurring natural hazard in Canada. Mitigating flood risks is key to increase resilience of our affected community. Land use planning will play an important role and is a strong tool in managing and restricting development in areas of flood hazard.

In Clarence-Rockland, we have various legislative and policy instruments that come into play, such as; the Provincial Policy Statement, the United Counties Official Plan, the City of Clarence-Rockland's Official Plan and the Zoning By-law. These documents all provide long-term flood mitigation through development restrictions.

The City has flood plain maps that dates back to the 1980's. The areas known to be subject to the 1 in 100 year flood events are the ones that are currently mapped. While it is important to note that we do have floodplain mapping, some areas might not be accurate.

5) **DISCUSSION :**

The Infrastructure and Planning Department has received multiple phone calls from residents affected by the 2019 flooding. The majority of the property owners are hoping to raise their houses higher than the 1:100 year flood elevation while some request to demolish and rebuild.

The Department needs to evaluate each request on a case-by-case basis. There are many policies involved when considering each request. The Official Plans offer policies in regards to repairs and minor additions to existing buildings as well as Development and Site Alterations in the flood plain.

Firstly, we need to consider the Zoning By-law. Under the Zoning, we have provisions for a property that is included under the flood plain overlay. It is indicated that the provisions of the flood plain overlay will take precedence over the provisions of the underlying zone. For example, if a property is zoned R1-FP, it means that the zone is R1 and that there is a flood plain overlay (-FP). A list of permitted uses is included under the flood plain overlay and are as follows:

- Agricultural use, excluding buildings;
- Conservation use, excluding buildings;
- Flood or erosion control works;
- Forestry operation, excluding buildings;
- Marine facility;
- Park;
- Marina;
- Golf course, excluding buildings;
- Parking lot;
- Public infrastructure, excluding stormwater management facility.

As such, residential uses are not permitted under a floodplain overlay.

There are also provisions in the By-law in regards to the repairs and minor additions of existing buildings or structures:

- Repairs and minor additions to existing buildings or structures are permitted, provided that all new works are undertaken using appropriate flood proofing measures, and
- Minor additions to existing buildings or structures shall comply to the Official Plans.

The Zoning By-law also stipulates that the 1:100 year flood elevation along the Ottawa River is the 45.1 metre contour.

Secondly, the Official Plans provide policies similar to the Zoning by-law, in regards to the permitted uses in the floodplain. The Official Plan policies of the Clarence-Rockland OP does mention that development and site alterations are not permitted under the flood plain development constraint. However, under certain circumstances, development can be approved. There are also some possibilities to do some minor renovations and minor additions to existing buildings

within those policies. As we are dealing with renovations and reconstruction of legal non-conforming buildings, the provisions of the Zoning by-law will be the primary focus. The provisions of the OPs will be followed if a new building on a new lot is built. The Department will still do its best to implement the policies of the OP as much as we can.

The Department wants to advise Council of the steps that the Department will take for different types of permit applications in the flood plain. Here are some examples:

Example 1: Raising a house

Raising a home's foundation will be considered a repair, as indicated in the Zoning by-law's Flood plain overlay provision. As mentioned previously, repairs are permitted in the flood plain as long as appropriate flood proofing measures are undertaken. The Zoning by-law does not provide a definition of "appropriate flood proofing measures", and consequently makes it difficult for staff to assess. However, we understand that the 1:100 year floodplain is at 45.1 metres along the Ottawa river. We have been recommending that residents who wish to raise their houses or cottages should do so while respecting the 45.1 metre elevation. Therefore, no openings in the house should be below that threshold. In addition, we will require that a Professional Engineer stamp the design for the proposed renovation. The majority of the property owners that we met agree with the elevation and want to ensure that their property is safe if another flood event would occur.

However, in some cases, reaching a 45.1 m elevation might not be feasible especially where the land and access is very low. In this case, we will request that the owner's Engineer provide us with a design that indicates how they can achieve appropriate floodproofing.

The Department will also be looking for residents to try to achieve a safe access, as per the Official Plan policies. Having a safe access means that any driveway or road (private or public) is not more than 30 cm below the flood plain elevation. The goal is to maintain access in case of another emergency.

Example 2: Rebuilding

Property owners are allowed to rebuild their homes in the flood plain, however, some restrictions apply. The house will need to be rebuilt on the same footprint, since it is a legal non-conforming use. Being legal non-conforming means that the house was legal (building permit was issued) but is no longer conforming to the provisions of the Zoning by-law. Since residential uses are not permitted under the flood plain overlay, the new home cannot further increase the extent or degree of

non-conformity. The newly built house will need to have openings only above the 45.1 metre elevation and will need to be floodproofed, in accordance with design plans certified by a Professional Engineer.

Any changes in the footprint of the house will require a minor variance, as the extent of non-conformity is increasing.

Safe access is also important and we will take the same approach as for Example 1.

Example 3: New construction on a vacant lot

A new building permit for a house on a vacant lot will only be issued if the following is respected:

- Safe access to the house (driveway or road is more than 30 cm below the flood plain elevation)
- No openings are below the 45.1 m elevation.
- Floodproofing is reached.
- All other provisions of the Official Plans are respected.

6) **CONSULTATION:**

The Department has consulted with South Nation Conservation, the United Counties of Prescott and Russell, the Town of Whitewater and the City's solicitor to name a few.

7) **RECOMMENDATIONS OR COMMENTS FROM COMMITTEE/ OTHER DEPARTMENTS :**

n/a

8) **FINANCIAL IMPACT (expenses/material/etc.):**

n/a

9) **LEGAL IMPLICATIONS :**

n/a

10) **RISK MANAGEMENT :**

The Department will evaluate each situation as a case-by-case basis and we will recommend the best approach to minimize risk for the residents and the City.

11) **STRATEGIC IMPLICATIONS :**

n/a

12) **SUPPORTING DOCUMENTS:**

n/a