

ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 101 RED RIVER FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A RETAINING WALL AND PLACEMENT OF FILL IN THE 25 AND 100-YEAR FLOODPLAINS; ESTABLISHING CONDITIONS FOR THE VARIANCES; AND PROVIDING AN EXPIRATION DATE FOR THE VARIANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. This ordinance applies to the construction of a retaining wall and placement of fill on a commercial site located at 101 Red River within the 25 and 100-year floodplains as described in Site Plan application number SP-2012-0333C.

PART 2. Council has considered the factors for granting a variance from floodplain regulations prescribed by City Code Section 25-12-3, Building Code Appendix G, Section G105.7 (*Conditions for Issuance*). Council finds that the variances granted by this ordinance are the minimum necessary to afford relief, are based on good and sufficient cause, and failure to grant the variance would result in exceptional hardship. Council further finds that the variances granted in this ordinance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

PART 3. A variance is granted from:

- (A) the requirement that the applicant provide a drainage study upon the director's request, prescribed by City Code Section 25-7-31 (*Director Authorized to Require Drainage Studies*);
- (B) the requirement that a site plan may not be approved unless the development will not result in additional identifiable adverse flooding on other property, prescribed by City Code section 25-7-61 (*Criteria for Approval of Plats, Construction Plans, and Site Plans*), subsection (A) (5) (a);
- (C) the requirement that the floor of a proposed building in the Central Business Area be at least two feet above the 100-year floodplain, prescribed in City Code Section 25-7-94 (*Exceptions in Central Business Area*) subsection (C) (1);

- (D) the requirement that the applicant demonstrate the development will not increase the design flood elevation at any point that results in additional adverse flooding on other property, prescribed in City Code Section 25-12-3 Building Code Appendix G, Section G103.4(*Activities in Riverine Flood Hazard Areas*);
- (E) the requirement that the applicant submit a certification by a Professional Engineer that demonstrates the development will not cause any increase of the level of the design flood, prescribed by City Code Section 25-12-3 Building Code Appendix G, Section G103.5(*Floodway Encroachment*);
- (F) the requirement that variances be considered only after the applicant has applied for a conditional Flood Insurance Rate Map (FIRM) revision and received approval of the proposed FIRM revision from the Federal Emergency Management Agency, prescribed in City Code Section 25-12-3 Building Code Appendix G, Section G103.5.1(*Floodway Revisions*); and
- (G) the requirement that the applicant provide an engineering analysis demonstrating the flood-carrying capacity of the altered or relocated portion of the watercourse, prescribed in City Code Section 25-12-3 Building Code Appendix G, Section G103.6.1(*Engineering Analysis*).

PART 4. The variances granted in this ordinance are effective only if the applicant submits a completed Elevation Certificate certifying the elevation of the finished floor of the building, signed by a professional land surveyor, engineer or architect authorized by law to certify elevations, before the City may issue a Certificate of Occupancy for the building.

PART 5. This variance expires if the project for which this variance is granted does not receive a Building Permit before September 2, 2014.

PART 6. Approval of this variance does not constitute approval of zoning, subdivision, a site plan, a building permit, or any other development permit, and it does not constitute a commitment to any particular land use, intensity of land use, or utility services. Approval of this variance does not constitute a guarantee of flood insurance availability, rates, or requirements.

PART 7. This ordinance takes effect on_____, 2013.

PASSED AND APPROVED

_____	§	_____
, 2013	§	
	§	Lee Leffingwell
		Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk