ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 4406 AVENUE F FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A SINGLE FAMILY RESIDENCE 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 single family residence located at 4406 Avenue F within the 25- and 100-year floodplains as described in Building Permit application number 2013-060904 PR.

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 restriction on construction in the 25-year and 100-year floodplains prescribed by City Code Section 25-7-92 *(Encroachment On Floodplain Prohibited)*;

(B)   the easement requirements in City Code Section 25-7-152 *(Dedication of Easements and Rights-of-Way),* to exclude the footprint of the house and carport from the requirement to dedicate an easement to the limits of the 100-year floodplain;

(C)   the requirement that normal access to the building be by direct connection with an area at least one foot above the design flood elevation, prescribed by City Code Section 25-12-3, Building Code Section 1612.4.3 *(Means of Egress)*; and

(D)   the requirement that a non-conforming use not be expanded, changed, or altered in a way which increases its nonconformity, prescribed by City Code Section 25-12-3, Building Code Section G102.3 (*Nonconforming Uses*).

PART 4. The variances granted in this ordinance are effective only if the applicant meets the following conditions:

(A) The applicant shall dedicate an easement to the City as required by City Code Section 25-7-152 to the limits of the 100-year floodplain, excluding the house and carport. The City may not issue a Certificate of Occupancy for the building until the applicant submits all information and documentation necessary for the easement, and the easement as approved by the City Attorney is filed by the applicant in the Official Records of Travis County, Texas.

(B) The applicant shall submit 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 _____, 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

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_____ , 2013   § _____

Lee Leffingwell

Mayor

APPROVED: _____   **ATTEST:** _____

Karen M. Kennard   Jannette S. Goodall

City Attorney   City Clerk