

**ORDINANCE NO.**

**AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 1200 WEST KOENIG LANE FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A MULTI-FAMILY DEVELOPMENT AND ASSOCIATED PARKING IN THE 25-YEAR 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 multi-family development and associated parking located at 1200 West Koenig Lane within the 25-year and 100-year floodplains as described in site plan application number SP-2021-0276C.SH.

**PART 2.** Council has considered the factors for granting a variance from floodplain regulations prescribed by Subsection (F) of City Code Section 25-12-54 (*Flood Resistant Construction*). 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 in City Code Section 25-7-92 (*Encroachment on Floodplain Prohibited*), that a development application may not be approved if a proposed building or parking area encroaches on the 25-year floodplain or the 100-year floodplain;
- (B) the requirement in City Code Section 25-12-53 (*Flood Loads*), that normal access to a building be by direct connection with an area that is a minimum of one foot above the design flood elevation; and
- (C) the requirement in City Code Section 25-12-54 (*Flood Resistant Construction*), that a nonconforming use not be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

**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 (*Dedication of Easements and Rights-of-Way*) to the limits of the 100-year floodplain. The City may not issue a certificate of occupancy for the buildings 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) Before the City may approve and release the site plan application, the applicant shall provide to the City proof of approval from the Texas Department of Transportation (TXDOT) for connection to the TXDOT storm drain system in West Koenig Lane.
- (C) Before the City may approve and release the site plan application, the applicant shall include certain elements in the building foundation design to increase flood protection to the eastern-most unit on the ground level up to three feet above the 100-year floodplain.
- (D) Before the City may issue a certificate of occupancy for a building, the applicant shall submit to the City a certification from a design professional that the certain elements in the building foundation design to increase flood protection to the eastern-most unit on the ground level up to three feet above the 100-year floodplain, as referenced above, were constructed.
- (E) Before the City may issue a certificate of occupancy for a building, the applicant shall submit to the City a completed elevation certificate certifying the elevation of the finished floor of the building as proposed by the approved site plan application, signed by a professional land surveyor, engineer, or architect authorized by law to certify elevations.
- (F) Before the City may issue a certificate of occupancy for a building, the applicant shall submit to the City a letter issued by the Federal Emergency Management Agency indicating acknowledgment for a Letter of Map Revision for the development associated with this site plan.

**PART 5.** This variance expires if the development for which this variance is granted does not receive a released site plan and building permit within one year of the effective date of this ordinance.

**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 \_\_\_\_\_, 2022

**PASSED AND APPROVED**

\_\_\_\_\_, 2022

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Steve Adler  
Mayor

**APPROVED:** \_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_  
Myrna Rios  
City Clerk