

Flood Mitigation Task Force

1b – Flood plain variances and flood buyout policy

FLOOD PLAIN VARIANCES

A floodplain variance is an exception to the standard development regulations for properties within the floodplain. There is a standard process for granting administrative variances by the Watershed Protection Department Director, when a development meets all of the administrative variance criteria. When a project does not conform to the requirements for an administrative variance, the Austin City Council may take action to grant a floodplain variance to the property owner/developer.

It is important to note that there are other types of variances to environmental and drainage regulations which may be granted (e.g., variances to impervious cover limitations, variances to detention and/or water quality requirements). The request for a floodplain variance should not be conflated with these other types of variances. For example, a property can be within the allowable impervious cover limits and still require a floodplain variance in order to get a development permit to remodel a bathroom, to build a second story, or to add a carport.

On average, there are 3 administrative variances are granted per year (based on 2004-2015), and there is an average of 6 requests per year to Council to grant floodplain variances (based on 1995-2015).

Flood Plain Variances Recommendations:

1. Continue the current floodplain policies, except as modified below, while allowing a variance process for many of the existing homes to remain or be modified in a reasonably safe manner and without damage to others.
2. Continue current floodplain policy as it relates to FEMA National Flood Insurance Program and Community Rating System to help reduce flood hazard insurance rates for all homeowners and property owners.
3. Consider additional flood mitigation requirements if development or redevelopment is allowed in a floodplain such as:
 - a. education for safely sheltering in place
 - b. disclosure and education when selling or renting property that has been granted a floodplain variance that may constitute a health and safety risk.
4. Consider requiring meaningful public notice for Council floodplain variances.
5. Consider expanding the requirements of the City Code section of the floodplain management regulations that explains floodplain variances (Chapter 25-12-3 Appendix G, Sections G105) to include additional information commonly discussed at past floodplain variance hearings.

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FLOOD BUYOUT POLICY

Buyouts are just one type of flood mitigation tool that can be used to reduce the risks to human health and safety as well as to property. This mitigation tool serves as a method of last resort for responsible communities to support their citizens, when other structural or maintenance solutions are infeasible, ineffective, or have a disproportionately high in cost relative to the benefits they would achieve.

The most reliable way to ensure that people do not flood is to keep them as far away from the hazard as possible; however, in an urban area it would be a gross oversimplification of an extremely complex reality to adopt a management strategy of only removing development from flood-prone areas. All of the available flood mitigation tools need to be considered when selecting the appropriate solution, and the Watershed Protection Department does consider and utilize the entire range of tools, including regional detention ponds, storm sewer improvements, and flood tunnels.

In order to grapple with the question of buyouts, the buyout/variance subcommittee of the Flood Mitigation Task Force has focused on three primary areas:

- I. Examination of the Lower Onion Creek Buyout Program;
- II. Examination of project prioritization approaches; and,
- III. Examination of the acquisition process.

The Lower Onion Creek Buyout Program is an extremely important focal point for Austin citizens and the City Council alike, and it serves both as an exercise in contrast and as a springboard for understanding the core elements that might form a general (city-wide) buyout policy, if one were to be adopted.

Prioritization is the first key step in the process of developing flood mitigation solutions. The Watershed Protection Department has developed a consistent and sophisticated process for prioritization, based on the philosophy that the highest risk problems should be addressed first.

Acquisition of property, along with relocation support, is at the heart of executing a buyout program. The City of Austin has significant flexibility in the acquisition process when the buyout program is voluntary (i.e. optional for property owners to sell). There are more prescriptive processes that have been established when using the powers of eminent domain. However, even when eminent domain is used there may be flexibility: constraints stem from the regulatory requirements (federal, state, and city) associated with the funding source (e.g., requirement to use specific provisions of the Uniform Relocation Act for federal funding from U.S. Army Corps of Engineers buyout program).

Flood Buyout Policy – General Recommendations:

6. A buyout program has shown to be a viable solution and it should remain a mitigation strategy, although not the first option.
 - a. Where buyouts have been identified as the optimal flood mitigation solution, expedite implementation of buyout programs and funding.

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- b. Continue the buyout program as primarily a voluntary program (i.e. optional for property owners to sell) except where there is a demonstrable threat to life and safety, or where Eminent Domain is a condition of funding.
 - c. Evaluate the efficiencies of the buyout program experiences by citizens, including staff and contractor performance. Conduct a post-buyout evaluation to ensure that important lessons can be captured and integrated into future processes.
 - d. Plan for a sustainable buyout program through consistent annual funding and ongoing focused evaluation and re-evaluation of flood risk
- 7. Initiate Upper Onion Creek buyout program.
 - 8. Develop a program of voluntary buyouts by citizen request, such as that developed by the Harris County Flood Control District.
 - 9. Evaluate the potential need for buyouts or other costly flood mitigation before annexing new developments into the City of Austin.
 - 10. Continue to evaluate the potential to implement flood mitigation solutions (such as detention ponds) on land that has been bought out.

Flood Buyout Policy – Lower Onion Creek (LOC):

- 11. Expedite the remaining LOC buyouts to finish by end of 2016, and expedite the existing Williamson Creek buyout program.
- 12. Evaluate the LOC outreach program and determine if there are improvements that can be made for the current and future buyouts.
 - a. Ensure that property owners fully understand the program. It is a very complicated process, and it is clear that it has been difficult for citizens to understand. Especially during the stress of flood recovery, it can be difficult to comprehend the multiple stages, requirements, property valuation, etc.
- 13. Assist property owners in understanding the consequences of not participating in a voluntary buyout program (e.g., increase in insurance rates; health and safety concerns, neighborhood character, etc.).
- 14. Develop a plan for eventually buying the LOC properties at risk, even if the current owner does not yet want to sell.

Flood Buyout Policy – Prioritization:

- 15. Develop a program for managing structures that have been catastrophically flooded by a rainfall event including:
 - a. Develop a method for prioritizing individual flooded properties

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- b. Develop a funding program
- 16. Develop a method for prioritizing individual/isolated properties which are at risk of flooding (i.e. those that meet specific thresholds of risk such as 10-yr flood depth and which are not part of a cluster).
- 17. Consider whether other risk parameters should be incorporated into prioritization (and perhaps design standards) such as watershed size, history of watershed experiencing high-magnitude events, and other factors.

Flood Buyout Policy – Acquisition:

- 18. City Council should adopt a consistent policy to be used across all buyout programs (both voluntary/optional for property owner and eminent domain acquisitions).
- 19. Consider ways to facilitate easier comprehension of the buyout process (e.g., FAQs for buyout process to dispel misinformation).