

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 1000 NORTH LAMAR BOULEVARD FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE TO ALLOW CONSTRUCTION OF A COMMERCIAL BUILDING AND ASSOCIATED PARKING WITHIN 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 commercial building and associated parking located at 1000 North Lamar Boulevard within the 25- and 100-year floodplains as described in Site Plan application number SP-2016-0067C.

**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 in City Code Section 25-7-61 (*Criteria for Approval of Development Applications*), subsection (A)(5)(a), that a development application may not be approved unless the proposed development will not result in additional adverse flooding impact on other property;
- (B) 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;
- (C) the easement requirements in City Code Section 25-7-152 (*Dedications of Easements and Rights-of-Way*), to exclude the footprint of the building from the requirement to dedicate an easement to the limits of the 100-year floodplain;

- (D) the requirement in City Code Section 25-12-3, Building Code Section 1612.4.3 (*Means of Egress*), 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;
- (E) the requirement in City Code Section 25-12-3, Building Code Section G103.4 (*Activities in Riverine Flood Hazard Areas*), that new construction, substantial improvement, or other development, including fill, not be permitted unless the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the design flood elevation at any point that results in adverse flooding impact on other property;
- (F) the requirement in City Code Section 25-12-3, Building Code Section G103.5 (*Floodway Encroachment*), that a development involving floodway encroachment not be approved unless a Professional Engineer demonstrates that the development will not cause any increase of the level of the design flood;
- (G) the requirement in City Code Section 25-12-3, Building Code Section G103.5.1 (*Floodway Revisions*), that no floodplain variance may be considered for a floodway encroachment that increases the level of the design flood until the applicant has applied for a conditional Flood Insurance Rate Map (“FIRM”) revision and has received the approval of the Federal Emergency Management Agency (“FEMA”); and
- (H) the requirement in City Code Section 25-12-3, Building Code Section G102.3 (*Nonconforming Uses*), 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 to the limits of the 100-year floodplain, excluding the footprint of the commercial building. 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.

- (C) The applicant shall submit a letter of map revision application to FEMA after the application has been reviewed by the City. The applicant shall complete all actions necessary to respond to any review comments by FEMA and to obtain final approval by FEMA. The applicant must submit to the City an acknowledgement of a complete application of the map revision before the City may issue a Certificate of Occupancy for the building.
- (D) Before the City may issue a Certificate of Occupancy for the building, the applicant shall submit to the City proof, in a form acceptable to the City, that the following conditions have been met:
  - (1) The applicant has restricted the associated parking to occupying tenants and their guests only and that no general public parking shall be allowed;
  - (2) The applicant has erected easily visible signs in the associated parking area stating that the parking lot is located in the floodplain and subject to flooding in rain events; and
  - (3) The applicant has included in the tenant lease agreement a provision stating that the parking lot is located in the floodplain and subject to flooding in rain events.
- (E) The applicant shall submit a certification by a registered design professional certifying that the proposed development will withstand the flood forces generated by the 100-year flood and that the design is in accordance with the latest edition of the American Society of Civil Engineers, *Flood Resistant Design and Construction*, ASCE 24-14, before the City may issue building permits for the commercial building and associated parking.

**PART 5.** This variance expires if the building for which this variance is granted does not receive a released Site Plan and Building Permit before November 21, 2017.

**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 \_\_\_\_\_, 2016

**PASSED AND APPROVED**

\_\_\_\_\_, 2016      §  
   §  
   §      \_\_\_\_\_  
   Steve Adler  
   Mayor

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

**ATTEST:** \_\_\_\_\_  
                         Jannette S. Goodall  
                         City Clerk

