

ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 4515 AVENUE D 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 4515 Avenue D within the 25- and 100-year floodplains as described in Building Permit application number 2018-129666 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 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 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;
- (C) 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;

1 (D) the requirement in City Code Section 25-12-3, Building Code Section G102.3
2 (Nonconforming Uses), that a nonconforming use not be expanded, changed,
3 enlarged, or altered in a way which increases its nonconformity;

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

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

13 (B) The applicant shall submit a completed Elevation Certificate certifying the
14 elevation of the finished floor of the building, signed by a professional land
15 surveyor, engineer, or architect authorized by law to certify elevations, before
16 the City may issue a Certificate of Occupancy for the building.

17 **PART 5.** This variance expires if the building for which this variance is granted does
18 not receive a released Building Permit within one year of the effective date of this
19 ordinance.

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

25 **PART 7.** This ordinance takes effect on _____, 2019

26 **PASSED AND APPROVED**

27
28 §
29 §
30 _____, 2019 § _____
31 Steve Adler
32 Mayor

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35 **APPROVED:** _____
36 Anne L. Morgan
37 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk