

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 44-14

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART B, "LAND DEVELOPMENT REGULATIONS," THROUGH THE AMENDMENT OF CHAPTER 90, "SUBDIVISIONS," THROUGH THE AMENDMENT OF ARTICLE VI, "STANDARDS," THROUGH THE AMENDMENT OF DIVISION 6, "DRAINAGE," BY THE AMENDMENT OF SECTION 90-402, ENTITLED "MINIMUM DRAINAGE STANDARDS," AND BY ADDING TWO NEW SECTIONS, IDENTIFIED AS SECTION 90-403, ENTITLED "FEMA FULLY DEVELOPED FLOODPLAIN," SECTION 90-404, ENTITLED "SPECIAL FLOOD HAZARD AREA (FEMA FLOODPLAIN)," REGARDING THE 100-YEAR FLOODPLAIN, AND THROUGH THE AMENDMENT OF CHAPTER 98, "ZONING," THROUGH THE AMENDMENT OF ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS," THROUGH THE AMENDMENT OF DIVISION 5, "FLOODPLAIN," BY AMENDING SECTION 98-1081, ENTITLED "FLOODPLAIN PREFIX TO DISTRICT DESIGNATION"; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the Town of Flower Mound, Texas, has recommended the amendment of Chapter 90 of the Code of Ordinances, entitled "Subdivisions," through the amendment of Article VI, "Standards," through the amendment of Division 6, "Drainage," by the amendment of Section 90-402, entitled "Minimum Drainage Standards," and by the addition of two new sections identified as Section 90-403, entitled "Fully Developed FEMA Floodplain," Section 90-404, entitled "Special Flood Hazard Area (FEMA Floodplain)"; and

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the Town of Flower Mound, Texas, has recommended the amendment of Chapter 98 of the Code of Ordinances, "Zoning," through the amendment of Article IV, "Supplementary District Regulations," through the amendment of Division 5, "Floodplain," by amending Section 98-1081, entitled "Floodplain Prefix To District Designation"; and

WHEREAS, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning and Zoning Commission and of all testimony and information submitted during said public hearing, the Town Council of the Town of Flower Mound, Texas, has determined that it is in the public's best interest and in furtherance of the health,

safety, morals, and general welfare of the citizens of the Town to amend the Town Code of Ordinances as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual determinations of the Town of Flower Mound and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 90-402 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Minimum Drainage Standards" is deleted and replaced in its entirety with a new Section 90-402, also entitled "Minimum Drainage Standards," to read as follows:

"Sec. 90-402. Minimum Drainage Standards.

A. The physical design of the proposed subdivision or development shall conform to the minimum storm sewer, drainage and floodplain criteria and standards set forth in the Town's engineering standards manual, as amended; provided, however, that notwithstanding anything contained therein to be contrary, the Planning and Zoning Commission and/or the Town Council may require for a development plan approved by the Town Council after March 1, 1992, and for which an approved and adopted zoning concept plan does not exist as of that date, that:

(1) Excepting construction associated with public infrastructure crossings or stormwater detention in the Fully Developed FEMA floodplain, the 100-year (hereinafter "1% chance") floodplain must be kept in its natural state and that no construction or construction-related activity shall be allowed therein; or

(2) If such construction or construction-related activity is allowed, that there shall be zero increase in the 1% chance water surface elevation and zero increase in the water velocity on any property upstream, downstream or on the opposite bank

and/or lot (if under different ownership) from the proposed construction or construction-related activity.

The 1% chance floodplain referred to herein is divided into two (2) different component areas identified as the “Fully Developed FEMA Floodplain, and the Special Flood Hazard Area (FEMA Floodplain), as such components are further described in this Chapter.”

SECTION 3

From and after the effective date of this Ordinance, Chapter 90, “Subdivisions,” of the Code of Ordinances is amended through the amendment of Article VI, “Standards,” through the amendment of Division 6, “Drainage,” by adding new Sections 90-403 and 90-404, entitled “Fully Developed FEMA Floodplain,” and “Special Flood Hazard Area (FEMA Floodplain), respectively, to read as follows:

Sec. 90-403. FEMA Fully Developed Floodplain.

- A. The Fully Developed FEMA Floodplain shall mean the Special Flood Hazard Area (FEMA Floodplain) that would be inundated by the one percent (1%) annual chance (100-year) flood based on future hydrology provided in the Town Wide Hydrologic Study(i.e., fully developed flows).
- B. No construction or construction related activities and no structures or uses are allowed in the Fully Developed FEMA Floodplain.
- C. Exception: If such construction, construction related activity, structure or use is allowed, there shall be zero increase in the fully developed water surface elevation and zero increase in the water velocity on any property that is upstream, downstream, or on the opposite bank and/or lot (if under different ownership) from the proposed construction or construction-related activity.
- D. A hydraulic study must be provided by a Licensed Professional Engineer for review by the Town to verify conformance with the above-identified Exception(s).
- E. Any request for an exception must be presented to the Town Council for their review and approval.

Sec. 90-404. Special Flood Hazard Area (FEMA Floodplain).

A. The Special Flood Hazard Area (FEMA Floodplain) is the land in the floodplain within the Town subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map ("FHBM"). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V. The Special Flood Hazard Area is known as the FEMA Floodplain, which area is reflected within the Flood Insurance Study and the boundaries shown on the Town's Flood Insurance Rate Map ("FIRM") panels.

B. No construction or construction related activities and no structures or uses are allowed in the Special Flood Hazard Area (FEMA Floodplain).

C. Work within the FEMA Floodway designated area is prohibited.

D. Exception: If such construction, construction related activity, structure or use is allowed, there shall be zero increase in the 1% chance water surface elevation and zero increase in the water velocity on any property that is upstream, downstream, or on the opposite bank and/or lot (if under different ownership) from the proposed construction or construction-related activity.

E. Exception to the designated FEMA Floodway: If such construction, construction related activity, structure or use is allowed, there shall be zero increase in the 1% chance water surface elevation and zero increase in the water velocity on any property that is upstream, downstream, or on the opposite bank and/or lot from the proposed construction or construction-related activity. Only subdivisions platted after the effective date of this ordinance are permitted to receive an exception for floodway reclamation. Subdivisions platted prior to the effective date of this ordinance are ineligible to receive the floodway reclamation exception. Platted and replatted lots and lots of record are ineligible to receive the floodway reclamation exception regardless of the plat or replat date.

- F. A hydraulic study must be provided by a Licensed Professional Engineer for review by the Town to verify conformance with the above-identified Exception(s) criteria.
- G. Any request for an exception must be presented to the Town Council for their review and approval. Upon approval of the exception by Town Council, the applicant must provide the Town a Conditional Letter of Map Revision (CLOMR) application. After Town review of the CLOMR, the developer must submit the application to FEMA for FEMA's review and approval. No construction or construction related activity may begin prior to receipt of FEMA's approval of the CLOMR and a Town approved Floodplain Development Permit.
- H. Upon completion of the reclamation activity an as-built survey and a revised hydraulic model are to be provided to staff for review of conformance with the approved exception. Upon verification of compliance, a Letter of Map Amendment (LOMR) application is to be submitted, by the developer, to FEMA for their review and approval.
- I. Prior to receiving FEMA's LOMR approval, any structure situated within the reclamation area or which has its foundation or footing affected by the fill placed within the reclamation area will not receive a building permit.
- J. Letter of Compliance will be issued and the Floodplain Development Permit will be closed."

SECTION 4

From and after the effective date of this Ordinance, Section 98-1081 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Floodplain prefix to district designation" is deleted and replaced in its entirety with the following Section 98-1081 also entitled "Floodplain prefix to district designation:"

"Sec. 98-1081. Floodplain prefix to district designation.

To provide for the appropriate use of land that has a history of inundation or is determined to be subject to flood hazard as a result of studies by the U.S. Army Corps. of Engineers ("Corps."), Federal Emergency Management Association ("FEMA") or other competent authority, and to promote the health, safety and general welfare and provide protection from flooding, portions of certain zoning districts are designated with a Floodplain (FP) prefix of "FP." Notwithstanding any such floodplain district designation or other state or federal regulated floodplain designation, the Planning and Zoning Commission and/or the Town Council may require that, excepting construction associated with public infrastructure crossings or storm water detention in FEMA Fully Developed floodplain, the 1% chance floodplain must be kept in its natural state and that no construction, construction-related activity, structure or use shall be allowed therein."

SECTION 5

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 6

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 8

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

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DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 4th DAY OF AUGUST, 2014.

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY