

City of Houston, Texas, Ordinance No. 2018-\_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO FLOODPLAINS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.**

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**WHEREAS**, the residents and business owners of the City of Houston have experienced worsening flooding events, the most recent being Hurricane Harvey in 2017, which dropped more than 50 inches of rain in the region, and which was preceded by the 2016 Tax Day Flood and the 2015 Memorial Day Flood; and

**WHEREAS**, the Mayor and City Council have resolved to make the City more resilient as it rebuilds; and

**WHEREAS**, the City of Houston is a municipal corporation and home rule city organized under the Constitution and the general and special laws of the State of Texas, and thereby exercises powers granted by the City's Charter and the provisions of Article XI, Section 5 of the Texas Constitution; and

**WHEREAS**, in the exercise of its lawful authority, the City may enact police power ordinances to promote and protect the health, safety and welfare of the public; and

**WHEREAS**, the City may implement, in the exercise of its lawful authority, any federal law or rules relating to development in flood hazard areas; and

**WHEREAS**, a key tool in protecting human life, health, and economic stability, minimize damage to public facilities and utilities is ensuring responsible development in the floodplain areas; and

**WHEREAS**, the Federal Emergency Management Agency (FEMA) promulgates maps and recommended regulations for development in flood-prone areas; and

**WHEREAS**, FEMA and Houston Public Works study and identify flood hazard areas within the boundaries of the City of Houston, and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

**WHEREAS**, Houston has seen severe flooding since its founding, thus both historical and recent storms indicate that Houston will continue to see severe flooding events; and

**WHEREAS**, the City desires to continue its participation in the Federal Insurance Rate Map (FIRM) program and to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 to allow its residents and businesses to secure insurance protection against flooding events at the most reasonable rates available; and

**WHEREAS**, the Mayor charged Houston Public Works, and the Mayor's Recovery and Resilience Officers with studying the impact of these storms on the City's residents and business owners, and with making recommendations on reasonable, responsible rules for development throughout the City; and

**WHEREAS**, Houston Public Works has reviewed Chapter 19, Floodplains and implementing guidelines, has received technical assistance and input from professional stakeholder groups, has provided opportunity for public comment on these revisions, with over 3000 comments received, and after review and consideration, recommends the changes contained in this Ordinance; and

**WHEREAS**, in accordance with 44 CFR Part 60, FEMA encourages local communities to evaluate their regulations after a flood event, to adopt more stringent requirements based on local events, and to provide that local regulations for flood-prone areas should permit development in flood-prone areas only if:

- (1) The development is appropriate considering the probability of flood damage and will reduce flood losses; and
- (2) The development does not increase the danger to human life.

**WHEREAS**, the City expects that Atlas 14, currently under study by the Office of Water Prediction, National Weather Service, National Oceanic and Atmospheric Administration, will conclude that new rainfall amounts should be used in estimates for the Houston area, as the draft reports already show; and

**WHEREAS**, the City anticipates that FEMA will evaluate flood areas and issue new maps for the Houston area; and

**WHEREAS**, based on these preliminary estimations, the City Council finds that it is reasonable to expect that the new special flood hazard areas will include at least all the areas currently designated as the 100-year and 500-year flood zones on current FEMA maps; and

**WHEREAS**, the City Council finds that the regulations proposed by Houston Public Works to require elevation of structures to two-feet above the 500-year elevation is therefore reasonable, will reduce flood losses, and reduce the danger to human life; and

**WHEREAS**, the City Council finds that the regulations contained in this Ordinance will be further reviewed and re-evaluated as future conditions may warrant; and

**WHEREAS**, the City Council finds that, to promote the public health, safety and general welfare of the City, and to meet federal requirements contained in 44 CFR Part 60, it is desirable to adopt this Ordinance to:

- (1) Fulfill the City's obligation to regulate development in special flood hazard areas to ensure continued participation in FIRM;
- (2) Protect investments made by citizens and business owners in real property within the City;
- (3) Reduce flood losses and the loss of human life.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That Chapter 19 of the Code of Ordinances, Houston, Texas, is hereby amended to read as set forth in Exhibit A, attached hereto and incorporated herein.

**Section 3.** That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such non-substantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

**Section 4.** That the City Council hereby approves the new Mitigation Facility Recertification fee established in Section 19-16(c) of the Code of Ordinances, Houston, Texas, in the amount of \$199.52. The Director of Finance shall incorporate the new fee in the City Fee Schedule.

**Section 4.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 5.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect on 12:01 a.m. on September 1, 2018.

**PASSED AND APPROVED** this \_\_\_ day of \_\_\_\_\_, 2018.

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Mayor of the City of Houston

Prepared by Legal Dept. *Deirdre Perry*  
KM:asw 03/23/2018 Assistant City Attorney  
Requested by Carol Ellinger Haddock, Director, Houston Public Works  
L.D. File No. \_\_\_\_\_