

ORDINANCE NO. 16-462

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BUNKER HILL VILLAGE, TEXAS BY AMENDING SECTION 4-149, VARIANCE PROCEDURES, OF DIVISION 3, ADMINISTRATION, OF ARTICLE V, DRAINAGE AND FLOOD DAMAGE PREVENTION, OF CHAPTER 4, DEVELOPMENT, BUILDING AND CONSTRUCTION, TO PROHIBIT THE APPLICATION OF THE VARIANCE PROCEDURES CONTAINED THEREIN TO THE REGULATIONS CONTAINED IN SECTION 4-82, STORMWATER DRAINAGE MANAGEMENT PROGRAM AND THE LANDS TO WHICH ORDINANCE APPLIES, OF DIVISION 1, IN GENERAL, OF ARTICLE V, DRAINAGE AND FLOOD DAMAGE PREVENTION, OF CHAPTER 4, DEVELOPMENT, BUILDING AND CONSTRUCTION; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF THIS ORDINANCE, WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, Chapter 4 of the City’s Code of Ordinances contains a provision allowing for variances from the regulations contained in Chapter 4; and

WHEREAS, the City Council of the City of Bunker Hill Village, Texas finds it to be in the best interest of the health, safety and welfare of its residents to make such variance provision inapplicable to the City’s stormwater drainage management program regulations contained in Division 1 of Chapter 4; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUNKER HILL VILLAGE, TEXAS:

Section 1. The facts and matters contained in the preamble are hereby found to be true and correct.

Section 2. Section 4-149, Variance Procedures, of Division 3, Administration, of Article V, Drainage and Flood Damage Prevention, of Chapter 4, Development, Building and

Construction, of the Code of Ordinances of the City of Bunker Hill Village Texas is hereby amended by adding thereto the language underscored below:

:Sec. 4-149. - Variance procedures.

- (a) The board of adjustment, as established by city's comprehensive zoning ordinance, shall hear and render judgment on requests for variances from the requirements of this chapter.
- (b) The board of adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of this chapter.
- (c) Any person aggrieved by the decision of the board of adjustment may appeal such decision in the courts of competent jurisdiction.
- (d) The building official shall maintain a record of all actions involving an appeal and shall report variances to the federal emergency management agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the national register of historic places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this chapter.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 4-148(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) The following shall be prerequisites for the granting of variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (2) Variances shall only be issued upon:
- a. Showing a good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(j) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria outlined in subsections (a) through (i) above are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(k) The provisions of this Section 4-149 shall not be applicable to Section 4 - 82, Stormwater Drainage Management Program, of Division 1, In General, of Article V, Drainage and Flood Damage Prevention.”

Section 3. Penalty. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000. Each day of violation shall constitute a separate offense.

Section 4. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the

City Council of the City of Bunker Hill Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 16^h day of February, 2016.



Jay Williams
Mayor

ATTEST:



Karen Glynn
City Administrator