

**ORDINANCE No. 2016-226
CITY OF SHOREACRES, TEXAS**

AN ORDINANCE AMENDING FLOODPLAIN MANAGEMENT REGULATIONS REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) SO THAT THE CITY OF SHOREACRES MAY REMAIN ELIGIBLE TO PARTICIPATE IN THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP); AMENDING FLOOD DAMAGE PREVENTION REGULATIONS TO INCREASE FREEBOARD AND REQUIRE NEWLY INSTALLED MECHANICAL AND ELECTRICAL SERVICE EQUIPMENT TO BE AT OR ABOVE THE DESIGN FLOOD ELEVATION; ADOPTING THE MOST RECENTLY UPDATED FLOOD INSURANCE RATE MAP (FIRM) AS PREPARED BY FEMA AND TO BE DATED JANUARY 6, 2017; PROVIDING FOR THE MAXIMUM PENALTY ALLOWED BY LAW FOR VIOLATIONS; CONTAINS A SAVINGS CLAUSE; CONTAINING A SEVERABILITY CLAUSE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

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

That section 30-31 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 30-31. - Statutory authorization.

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315 ~~[Civil Statutes]~~ delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of Shoreacres, Texas, does ordain the provisions of this article.

That section 30-35 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 30-35. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one-percent-annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent 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.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means, the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year. Also called the Base Flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Design flood elevation (DFE) means, the elevation that includes free-board above the base flood elevation established by FEMA. Also called minimum base flood elevation (see section 30-42).

Development means any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS): See "Flood elevation study."

Floodplain or floodprone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any

combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood surge hazard area (FSHA) means, areas that have flood surge hazards associated with wind driven waves, tidal surges and hurricane wave wash where higher construction standards and the control of fill and grading may reduce flood damage (see section 30-98). FSHA includes inland areas within the Limit of Moderate Wave Action (LiMWA).

Floodway: See "Regulatory floodway."

Free-board means, the additional elevation above the FEMA base flood elevation to reach the minimum base flood elevation required by the City of Shoreacres (see section 30-42).

Functionally dependent use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
- (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Limit of Moderate Wave Action (LiMWA) means, the inland limit of the area expected to receive 1.5-foot or greater breaking waves during the 1-percent-annual-chance flood event.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Minimum base flood elevation means, the elevation that includes free-board above the base flood elevation established by FEMA. Also called design flood elevation (see section 30-42).

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Recreational vehicle means a vehicle which is: (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area: See "Area of special flood hazard."

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

That section 30-37 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 30-37. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study for Harris County and Incorporated Areas," dated January 6, 2017 ~~[June 18, 2007]~~, with accompanying ~~[the most effective]~~ Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated January 6, 2017 ~~[June 18, 2007]~~ and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

That section 30-42 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 30-42. - Minimum base flood elevation – design flood elevation.

All structures shall be built to a minimum elevation of the ~~[minimum]~~ base flood elevation established by FEMA plus two ~~[one]~~ foot free-board, so that each structure will be built to at least the ~~[minimum]~~ base flood elevation plus two ~~[one]~~ foot free-board. Datum used shall be based on the most recent adjustment figures established by the Harris Galveston Coastal Subsidence District. Method of measurement shall be done in accordance with this article.

That the Shoreacres City Code is hereby amended by adding a section, to be numbered 30-43, which section reads as follows:

Sec. 30-43. - New and replaced mechanical and electrical service equipment.

A newly installed air conditioning compressor, heat pump, electrical service disconnect, meter pan, meter socket, service tray, or load distribution center (breaker box) shall be installed at or above the design flood elevation.

Exception: An existing load distribution center (breaker box) in a non-substantially damaged structure may be replaced in its pre-existing location without elevating to or above the design flood elevation.

That section 30-67 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 30-67. - Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this article.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.

- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ) and Harris County Flood Control District, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 30-37, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of division 3 of this article.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.

That section 30-97 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 30-97. - Basis for establishing the flood surge hazard areas.

The areas of flood surge hazard areas ~~[is]~~ hereby identified by the City of Shoreacres are:

- (a) The ~~[as the]~~ entirety of the area east of Sunrise Drive to the shoreline of Galveston Bay within the jurisdiction of the City of Shoreacres. The city council finds and declares that the area set forth in this section was inundated by waters from tidal surge and hurricane wave wash on or about September 13, 2008. This includes the entire area shown on the January 6, 2017, Flood Insurance Rate Map, adjacent to Galveston Bay, within the Limit of Moderate Wave Action (LiMWA).
- (b) The entirety of the area west of West Country Club Drive within the jurisdiction of the City of Shoreacres. This includes the entire area shown on the January 6, 2017, Flood Insurance Rate Map within the Limit of Moderate Wave Action (LiMWA) adjacent to the reach of Taylor Bayou.

That section 30-98 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 30-98. - Flood surge hazard areas.

Located within the areas of flood surge hazard established in section 30-97, are areas designated as being within the Limit of Moderate Wave Action (LiMWA) ~~[eastal high hazard areas (zones V1-30, VE, and/or V) and special flood hazard areas (zone AE) east of Sunrise Drive to the shoreline of Galveston Bay]~~. These flood surge hazard and LiMWA areas have flood surge hazards associated with wind driven waves, ~~[waters from]~~ tidal surges and hurricane wave wash where higher construction standards and the control of fill and grading may reduce flood damage; therefore, in addition to meeting all provisions outlined in this article ~~[section]~~, the following provisions shall ~~[must]~~ also apply:

- (1) All new construction and substantial improvements in coastal high hazard areas (V1-30, VE, and/or V) shall be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level plus two ~~[one]~~ foot free-board.
- (2) All new construction and substantial improvements in special flood hazard areas (zone AE) shall be elevated on pilings and columns so that the lowest floor is elevated to or above the base flood elevation plus two ~~[one]~~ foot free-board.
- (3) The pile column foundation and the structure attached thereto are anchored to resist floatation, collapse, and lateral movement due to the effects of wind and water loads.
- (4) New construction and substantial improvements have the space below the lowest floor free of obstruction or enclosed with nonsupporting breakaway walls, or open lattice work.
- (5) A registered professional engineer or architect must develop or review the structural design, specification, and plans and certify that the designs and methods of construction to be used meet accepted standards of practice for meeting the provisions of CFR 60.3(e)(4)(ii) and breakaway walls (CFR 60.3(e)(7)).
- (6) Prohibit the use of fill for structural support of buildings.
- (7) Prohibit the use of fill to raise the grade of any lot above the minimum required to achieve proper drainage.

* * * *

That if any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance; and,

That the City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

PASSED AND APPROVED this the 10th day of October 2016.

(CITY SEAL)

Kimberly Sanford, Mayor

ATTEST:

David K. Stall, CFM, TEM
City Secretary

M/2		Yea	Nay	N/V	Absent
<input type="checkbox"/>	K. Sanford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	R. Bowles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	R. Hoskins	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	D. Jennings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	J. McKown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	N. Schnell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Passed / Failed

David Stall, City Secretary - Date