

ORDINANCE NO. ~~2021--3835~~3858

AN ORDINANCE AMENDING CHAPTER 94 "FLOODS" OF THE CODE OF ORDINANCES BY REVISING REGULATIONS AND PROCEDURES FOR APPEALS, AND CREATING A FLOODPLAIN MANAGEMENT APPEALS BOARD; PROVIDING A REPEALING CLAUSE; CONTAINING A SEVERABILITY CLAUSE; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; PROVIDING THAT ANY PERSON VIOLATING THE TERMS OF THIS ORDINANCE SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE FINED IN A SUM NOT TO EXCEED TWO THOUSAND DOLLARS; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE, TEXAS:

Section 1: That Chapter 94, "Floods", Article II "Flood Hazard Reduction", Division 2 "Administration", Section 94-65 "Variance procedures", of the La Porte, Texas, Code of Ordinances is hereby amended and shall hereinafter read as follows:

"Sec. 94-65. - Appeal of Decision of Floodplain Administrator; Variances

- a) There is hereby established an appeal board to be known as the Floodplain Management Appeals Board, to be comprised of five (5) individuals appointed by the La Porte City Council to two (2) year terms, which shall:
 - 1) hear and render judgment on an appeal when it is alleged that there is an error in an any order, requirement, decision, or determination made by the floodplain administrator in the enforcement of administration of this article.
 - 2) hear and render judgment on requests for variances from the requirements of this article.

- b) In exercising its authority to hear appeals the Floodplain Management Appeals Board may reverse or affirm, in whole or in part, or modify the floodplain administrator's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the floodplain administrator. The floodplain administrator shall maintain a record of all actions involving an appeal.

c) any of the following persons may appeal to the Floodplain Management Appeals Board a decision made by the floodplain administrator that is not related to a specific application, address, or project:

- (1) a person aggrieved by the decision; or
- (2) any officer, department, board, or bureau of the City affected by the decision.

d) any of the following persons may appeal to the Floodplain Management Appeals Board a decision made by the floodplain administrator that is related to a specific application, address, or project:

- (1) a person who:
 - (A) filed the application that is the subject of the decision;
 - (B) is the owner or representative of the owner of the property that is the subject of the decision; or
 - (C) is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or
- (2) any officer, department, board, or bureau of the City affected by the decision.

e) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed not later than the 30th day after the date the decision is made. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

f) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

g) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed.

h) In exercising its authority to hear requests for variances, the Floodplain Management Appeals Board shall be subject to the following standards and guidelines:

(1) Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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.

(c) Any application to which 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.

(2) 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 (i) the criteria outlined in section 94-65(1)-(9) of this article are met, and (ii) 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.”

(3) 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 section 94-64(2) of this article have been fully considered. As the lot size increases beyond the one-half half acre, the technical justification required for issuing the variance increases.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(6) 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 article.

(7) Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article as stated in section 94-34 herein.

i) Any person or persons aggrieved by the decision of the Floodplain Management Appeals Board may appeal such decision in a court of competent jurisdiction.

j) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.”

Section 2. Any person, as defined in Section 1.07 (27), Texas Penal Code, who shall violate any provision of the ordinance, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed TWO THOUSAND DOLLARS (\$2000.00).

Section 3. Each and every provision, paragraph, sentence and clause of this Ordinance has been separately considered and passed by the City Council of the City of La Porte, Texas, and each said provision would have been separately passed without any other provision, and if any provision hereof shall be ineffective, invalid or unconstitutional, for any cause, it shall not impair or affect the remaining portion, or any part thereof, but the valid portion shall be in force just as if it had been passed alone.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

Section 5. 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 is 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 Chapter 551, Tx. Gov't 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.

Section 6. This Ordinance shall be effective fourteen (14) days after its passage and approval. The City Secretary shall give notice of the passage of this ordinance by causing the caption hereof to be published in the official newspaper of the City of La Porte at least once within ten (10) days after the passage of this ordinance.

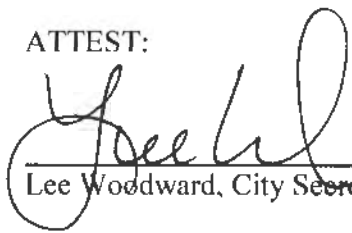
PASSED AND APPROVED this the 13th day of DECEMBER 2021.

CITY OF LA PORTE, TEXAS

By: _____


Louis R. Rigby, Mayor

ATTEST:


Lee Woodward, City Secretary



APPROVED AS TO FORM:


Clark Askins, Assistant City Attorney