



Floodplain Ordinance Revisions

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Houston City Council voted just last month to approve revisions to its controversial Floodplain Ordinance. Here are some of the highlights of what the revised Ordinance does:

Regulated Area

Previously, Houston's code applied to new permits and plats in the 100-year floodplain. The new revisions extend this to the 500-year floodplain. Land in the 100-year floodplain has a 1% chance of flooding in a single year while the 500-year floodplain has a 0.2% chance of flooding. As you know, we managed to experience a series of events that met or exceeded the 100-year rainfall intensities in the past few years. The City intends to regulate new construction to the 500-year floodplain

Elevation

The previous regulations required a structure within the 100-year floodplain to be raised to the finished floor elevation plus one foot. The new regulations require a minimum elevation at the 500-year floodplain level plus two feet.

Does this mean I have to raise my structure?

Only if you are building new construction, building an addition, or improving your structure more than 50% of the value of the existing improvements, what the City considers a "substantial improvement." Nobody is grandfathered from these regulations, but it requires action on your part to trigger compliance.

Zero Net Fill

"Zero net fill" restrictions had previously applied to property in the 100-year flood zone. The new regulations will extend the zero net fill criteria to the 500-year flood zone. Imported fill cannot be used to achieve the new 500-year plus 2 feet requirement.

Impacts

Only incorporated areas of the City of Houston are affected by these revisions. We would not be surprised to see other municipalities in the metro area adopting similar standards. Certain areas are poised to experience large impacts. For example, the area north of Lake Houston has approximately a 6-8 foot difference between the previous 100-year elevation requirements and the new 500-year requirements.

Regardless of the development type, the revisions add an additional 51,200 acres of land (13% of the overall city limits) to the area regulated by Floodplain Ordinance.

Is there any way around this?

The Floodplain Ordinance does contain provisions for a variance in certain circumstances. Variance requests are heard by the City's General Appeals Board, and are not easily granted.

FEMA Floodplain Considerations

Prior to Hurricane Harvey, The Hydrometeorological Design Studies Center (HDSC) within the Office of Water Prediction (OWP) of National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (NWS) was updating precipitation frequency estimates for various parts of the United States and affiliated territories, which are published as Volumes of NOAA Atlas 14 (NA14). HDSC is currently updating estimates for the state of Texas that will be published in 2018 as NOAA Atlas 14 Volume 11 Version 2 the National Oceanic and Atmospheric Administration (NOAA). This update to precipitation estimates would most likely lead to revisions of the current floodplain maps by FEMA. Along with the Chapter 19 regulation revisions, an addendum was passed stating that if the FEMA floodplain maps within Harris County are updated, the City of Houston City Council will vote within 60 days on whether to amend the floodplain regulations again.

If the FEMA maps are updated, the 100-year water surface elevation would likely rise and may be as high as the existing 500-year water surface elevation in certain areas. In the past, the process of updating the FEMA maps has proven to be lengthy. Future updates to maps would likely take several years and be adopted on a watershed-by-watershed basis.

It is likely that additional amendments to Chapter 19 will continue to be made, and we will follow along with the updates and their associated impacts.

If you would like to speak to either of the authors about these regulations you can contact Omar Izfar at oizfar@wcglaw.com or James Jones at jjones@jonescarter.com