

**ORDINANCE NO. 2016-08**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING CHAPTER 39 OF THE CITY CODE RELATING TO FLOOD DAMAGE PREVENTION BY ADDING SECTION 39.046(2) REGARDING NOTIFICATION TO PROSPECTIVE TENANTS IN FLOOD ZONE AREAS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**RECITALS:**

1. The City of San Marcos ("City") has experienced several major flood events in recent years.
2. The City recognizes a local need for mitigation and notice to potentially impacted persons residing in properties prone to harmful flood waters and the effect of such.
3. The City intends to utilize this ordinance in concert with the existing rules and regulations of the Federal Emergency Management Administration and other regulatory organizations to help protect the health, safety and welfare of our citizens during and after a flooding crisis.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**SECTION 1.** Chapter 39, Flood Damage Prevention, of the San Marcos City Code is hereby amended by adding section 39.046(2) to read as follows:

**Sec. 39.046. - Existing structures.**

- (1) Structures and uses of structures which lawfully exist prior to the effective date of this ordinance and which do not conform to this article may be continued subject to the following conditions:
  - (a) *In floodway.* Existing structures and uses within a floodway shall not be expanded or enlarged unless the effect of proposed expansion or enlargement does not cause an additional increase in floodway elevation during the occurrence of the base flood discharge, as certified by a registered professional engineer.
  - (b) *Modifications to existing structure.* Any repair, reconstruction or improvement of an existing structure within a floodplain which constitutes substantial improvement shall be undertaken only in full compliance with this article, and the owner shall be required to obtain a floodplain permit before repair, reconstruction or improvement shall begin.

(2) Notification. The owner or manager of any property used for rental purposes shall provide written notice on a form provided by the City to advise prospective tenants that the property is located in a Special Flood Hazard Area and that the leased premises and any personal property located thereon are subject to damage or destruction in flood events. This notice shall be provided on or before execution of a lease or occupancy, as applicable. Proof of notification shall be provided to a city code enforcement official upon request.

**SECTION 2.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 3.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

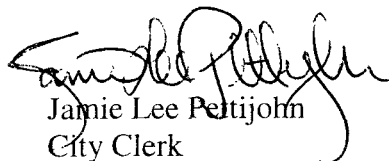
**SECTION 4.** This ordinance will take effect after its passage, approval and adoption on second reading.

**PASSED AND APPROVED** on first reading on April 5, 2016.


**PASSED, APPROVED AND ADOPTED** on second reading on April 19, 2016.

  
Daniel Guerrero  
Mayor

Attest:

  
Jamie Lee Peltijohn  
City Clerk

Approved:

  
Michael J. Cosentino  
City Attorney