

AN ORDINANCE

TO AMEND ARTICLE 19-7, STORMWATER MANAGEMENT, SECTION 19-7.9, VARIANCES, WAIVERS AND APPEALS, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE TO ALLOW A VARIANCE TO RECONSTRUCT A STRUCTURE DAMAGED OR DESTROYED BY CASUALTY WHICH WAS LOCATED WITHIN THE REGULATORY FLOODWAY WHERE CERTAIN SPECIFIC CRITERIA ARE MET (Z-4-2018)

WHEREAS, Chapter 19 of the Code of Ordinances provides for the regulation of development activity in areas located within the regulatory floodway in the city of Greenville; and

WHEREAS, the location of the regulatory floodway is based in part on the FEMA flood insurance rate map, the FEMA flood insurance study base flood elevation, and the City floodplain study base flood elevation, all of which may be amended from time to time such that a property that was not in the regulatory floodway at the time it was purchased may later be brought within the regulatory floodway; and

WHEREAS, Chapter 19 allows for the granting of variances to the provisions of Article 19-7, Stormwater Management, but does not allow for a variance to be granted where the development activity is located in a regulatory floodway; and

WHEREAS, City Council recognizes that the prohibition on development activity within the regulatory floodway can result in an unreasonable hardship for an existing business operating as a going concern which, but for the loss of a structure integral to the business through no fault of its own, would continue to contribute to the City's economy; and

WHEREAS, this Ordinance will only allow a pre-existing structure that was destroyed by casualty to be rebuilt and thus will not impact the environment to a greater degree than it was impacted prior to the loss of the structure; and

WHEREAS, the City Planning Commission, pursuant to public notice, held a public hearing on March 15, 2018, to consider the amendment, and the Commission recommended approval of the amendment to Chapter 19, Land Management, Article 19-7, Stormwater Management, Section 19-7.9, Variances, Waivers and Appeals, of the Code of Ordinances that is more fully reflected in the attached Exhibit;

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, Chapter 19, Land Management, Article 19-7, Stormwater Management, Section 19-7.9, Variances, Waivers and Appeals, of the Code of Ordinances of the City of Greenville is amended as provided in the attached Exhibit. This Ordinance shall become effective upon second and final reading by City Council.

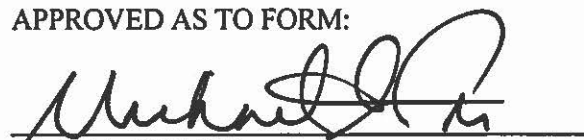
DONE, RATIFIED AND PASSED THIS THE 23 DAY OF APRIL, 2018.


MAYOR PRO TEM

ATTEST:


CITY CLERK

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Michael J. R.", written over a horizontal line.

CITY ATTORNEY

REVIEWED:

A handwritten signature in black ink, appearing to read "John F. Castle", written over a horizontal line.

CITY MANAGER

EXHIBIT

ARTICLE 19-7. - STORMWATER MANAGEMENT

Sec. 19-7.9. - Variances, waivers and appeals.

19-7.9.1 Variances.

(C) Variances shall be granted only upon:

- (1) Showing of good and sufficient cause; and**
- (2) A determination that the variance is the minimum necessary to afford relief; and**
- (3) A finding that failure to grant the variance would result in exceptional hardship to the applicant; and**
- (4) A finding that the granting of a variance would not result in increased flood heights, additional threats to public safety, or any public expense, nor create nuisances, cause fraud or victimization of the public, nor conflict with existing local laws or ordinances and that all buildings will be protected by methods that minimize flood damage during the base flood elevation; and**
- (5) A finding that the development activity cannot be located outside the regulatory floodplain; and**
- (6) A determination that the activity is not in a regulatory floodway, or if the activity is located within a regulatory floodway, a determination that: (i) the property associated with the development activity contained either a primary structure used for commercial purposes which was damaged or destroyed as a result of a casualty, or a secondary structure integral to the business operated on the property which was damaged or destroyed as a result of a casualty; (ii) no portion of the property was located within a regulatory floodway at the time the owner acquired the property; (iii) no portion of the property was located within a regulatory floodway when the structure was originally constructed; (iv) the structure was in use as an active business being operated as a going concern at such time that any portion of the property was placed in the regulatory floodway by virtue of regulatory action; (v) said use was continuously in operation until such time as the structure was damaged or destroyed as a result of a casualty; (vi) it would be inequitable to deny the property owner of the opportunity to rebuild a structure of the same footprint or less such that the business activity occurring prior to the casualty may be resumed; and (vii) the development activity would not result in any increase in flood levels during the base flood discharge. For development located within a regulatory floodway, no variance shall be granted where the variance was requested more than five years after the damage or destruction of the structure as a result of a casualty. Otherwise, No variances shall be granted to any development located in a regulatory floodway; and**
- (7) The applicant's circumstances are unique and do not represent a general problem; and**
- (8) The granting of the variance will not alter the essential character of the area involved including existing stream uses.**