

**CITY OF SEABROOK
ORDINANCE NO. 2019-07**

CORRECTION TO THE FLOOD DAMAGE PREVENTION PENALTY PROVISIONS

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SEABROOK, TEXAS, CHAPTER 38, "FLOOD", ARTICLE II, "FLOOD DAMAGE PREVENTION", DIVISION 2, "ADMINISTRATION, VARIANCE PROCEDURES AND PENALTIES", BY DELETING IN ITS ENTIRETY ONLY SECTION 38-60, "PENALTIES FOR NONCOMPLIANCE", TO COMPLY WITH JURISDICTIONAL LIMITS OF MUNICIPAL COURT; PROVIDING FOR A PENALTY IN AN AMOUNT OF \$500.00, OR THE MAXIMUM PROVIDED BY LAW FOR VIOLATION OF ANY PROVISIONS OF THE SUBJECT CHAPTER; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH, SPECIFICALLY INCLUDING SECTION 38-60 OF ORDINANCE 2016-27 RELATING TO PENALTIES FOR NONCOMPLIANCE; AND PROVIDING FOR SEVERABILITY AND NOTICE.

WHEREAS, in March of 2013, the City was provided copies of the Preliminary Flood Insurance Rate Map (FIRM) panels; and

WHEREAS, in November of 2013, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for our community; and FEMA did not receive any appeals of the proposed flood hazard determinations. Therefore, the determination of FEMA as to the proposed flood hazard determinations for our community is considered final. The Flood Insurance Rate Map (FIRM) for our community became effective on January 6, 2017, and will revise the FIS report and FIRM which were in effect prior to this date; and

WHEREAS, as a requirement to participate in the National Flood Insurance Program (NFIP) the City of Seabrook was required to revise its Code of Ordinances, Chapter 38, entitled "Floods", and as part of that update, was also required to adopt the Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) dated for January 2017;

WHEREAS, by Ordinance 2016-27 the City Council did adopt the NFIP, but has become aware that the penalties provided in Section 2 of that Ordinance, is in conflict with the penalties contained in Section 38-60 "Penalties for Noncompliance" which includes potential imprisonment for up to 30 days and that Section 38-60 therefore should be stricken and deleted in its entirety to comply with the jurisdictional limits of municipal court and the requirements of Section 2 of Ordinance 2016-27, attached hereto

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

SECTION 1. FINDINGS OF FACT.

That the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct and adopted as fact.

SECTION 2. AMENDMENT TO THE SEABROOK CITY CODE OF ORDINANCES, CHAPTER 38, "FLOOD", ARTICLE II, "FLOOD DAMAGE PREVENTION", DIVISION 2, "ADMINISTRATION, VARIANCE PROCEDURES AND PENALTIES", BY DELETING IN ITS ENTIRETY ONLY SECTION 38-60, "PENALTIES FOR NONCOMPLIANCE".

The Seabrook City Code of Ordinances, Chapter 38, "Flood", Article II, "Flood Damage Prevention", Division 2, "Administration, Variance Procedures and Penalties", Section 38-60 "Penalties for Noncompliance" only is deleted in its entirety as specifically provided hereafter:

~~"[Sec. 38-60. – Penalties for noncompliance.~~

~~No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00, (or the maximum amount permitted by law); or imprisoned for not more than 30 days (or the maximum amount permitted by law); or both, for each violation; and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.]~~

(Ord. No. 2016-27 , § 1(Att. A), 11-1-2016)

Secs. 38-60[1]—38-75. - Reserved."

SECTION 3. INCORPORATION INTO THE CODE; PENALTY CLAUSE.

This Ordinance is hereby incorporated and made a part of the Seabrook City Code. Violation of this Ordinance is subject to the penalty section of said Code of Ordinances, Section 1-15, "General penalty; continuing violations" which provides that any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500.00, or the maximum amount provided by law. Each day of violation shall constitute a separate offense.

SECTION 4. SEVERABILITY.

In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provisions hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Seabrook, Texas declares that it would have passed each every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 5. REPEAL OF PREVIOUS ORDINANCE.

All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance are hereby expressly repealed, specifically including Ordinance No. 2016-27 Section 38-60, "Penalties for Noncompliance" only which is hereby repealed upon the adoption of this Ordinance.

SECTION 6. NOTICE.

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on this 5th day of February, 2019.

PASSED, APPROVED, AND ADOPTED on final reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on this 19th day of February, 2019.

By: _____
Thomas G. Kolupski
Mayor

ATTEST:

By: _____
Robin Hicks TMRC
City Secretary

APPROVED AS TO FORM:

Steven L. Weathered, City Attorney