ORDINANCE NO. 1670

AMENDING ORDINANCE NO. 1172

AN ORDINANCE AMENDING ORDINANCE NO. 1172 OF THE CITY OF FARMERS BRANCH, TEXAS ADOPTING REGULATIONS FOR REDUCING FLOOD LOSSES, CONTROLLING AND REGULATING OF BUILDING DESIGN INCLUDING ADDITIONS, REPAIRS, ALTERATIONS, GRADING, EARTH EXCAVATION OF ANY KIND, PLACING OF FILL, OF ALL RESIDENTIAL AND NON-RESIDENTIAL CONSTRUCTION WHICH ARE OR WILL BE LOCATED IN ALL LAND SHOWN WITH THE SPECIAL FLOOD HAZARD AREAS INDICATED ON THE OFFICIAL FLOOD PLAIN MAPS, ADOPTING THE FLOOD HAZARD BOUNDARY MAP AND THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, SETTING FORTH THE AREAS WITHIN FARMERS BRANCH TO WHICH THE PROVISIONS OF THIS ORDINANCE APPLY, PROVIDING FOR THE ADMINISTRATION OF THE REQUIREMENTS OF THIS ORDINANCE, PROVIDING FOR PERMITS FOR IMPROVEMENTS, ESTABLISHING A PROCEDURE FOR VARIANCES, ADOPTING PROVISIONS FOR FLOOD HAZARD REDUCTION, ENABLING INJUNCTIVE RELIEF, ESTABLISHING PENALTIES, PROVIDING FOR SEVERABILITY, AND DECLARING AN EMERGENCY.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS:

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Texas has delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Farmers Branch, Texas, does ordain as follows:

SECTION B. FINDINGS OF FACT

1. The flood hazard areas of the City of Farmers Branch, Texas are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and
relief, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are created by the cumulative effect of obstructions in flood plains which cause an increase in flood hazard areas by use vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed, or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;

2. To minimize expenditure of public funds for flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding;

4. To minimize prolonged business interruptions;

5. To minimize damage to public and private facilities and utilities located in flood plains;

6. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

7. To provide a uniform procedure by which all alterations to the floodway and floodway fringe will be documented, reviewed, inspected and maintained within guidelines herein established.

8. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blighted areas; and

9. To insure the potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purpose, this ordinance uses the following methods:

1. Restrict or prohibit uses and development that are dangerous to health, safety or property in times of flooding, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging and other development which may increase flood damage;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE 2

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

01. APPEAL: Means a request for a review of the City Engineer's interpretation of any provision of this ordinance or a request for a variance.

02. AREA OF SHALLOW FLOODING: Means a designated AO and AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet. This condition occurs where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

03. AREA OF SPECIAL FLOOD HAZARD: Is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

04. AREA OF IMPOSSIBLE FLOODING: Is the land which because of topography or permanent flood hazards alleviation measures, not requiring maintenance and/or operating procedures, is determined to be not subject to flooding by the occurrence of a Base Flood.

05. AREA OF CONTROLLED FLOOD PROTECTION: Is the land which because of flood hazard alleviation measures requiring continuing maintenance and/or operating procedures is determined to be not subject to flooding by the occurrence of a Base Flood provided such flood hazard alleviation measures are perpetually maintained and/or operated in accordance with standards established by the City Council.

06. BASE FLOOD: Means the flood having a one percent chance
of being equalled or exceeded in any given year based on existing land use within the watershed.

07. CITY ENGINEER: The City Engineer of the City of Farmers Branch, or designated representative.

08. DEVELOPMENT: Means any man-made change to improved or unimproved real estate, but not limited to, buildings or other structures, platting, mining, dredging, filling, grading, paving, excavation or drilling operations.

09. ELEVATED BUILDING: Means a nonbasement building (i) built in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeled movement of floodwaters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3 (5) of the National Flood Insurance Program Regulations.

10. EXISTING CONSTRUCTION: Means for the purposes of determining rates, improvements for which the "start of construction" commenced before the effective date of the FIRM or before December 19, 1977, for FIRM's effective before that date.

11. FLOOD OR FLOODING: Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters.

2. The unusual and rapid accumulation or runoff of surface water from any source.

12. FLOOD HAZARD BOUNDARY MAP (FHBM): Means an official map approved and adopted by the City Council, issued by the Federal Insurance Administration, where the areas within the boundaries of special flood hazards have been designated as Zone A.

13. FLOOD INSURANCE RATE MAP (FIRM): Means an official map approved and adopted by the City Council, on which the Federal Insurance Administration has delineated both the
areas of special flood hazards and the risk premium zones applicable to the community.

14. FLOOD INSURANCE STUDY: Is the official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, as well as the Flood Hazard Boundary-Floodway Map.

15. FLOODPLAIN OR FLOOD-FRONE AREA: Means any land area susceptible to being inundated by water from any source (see definition of flooding).

16. FLOOD PROTECTION SYSTEM: Means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

17. FLOODWAY: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood with a one-foot increase in the water surface elevation.

18. FUNCTIONALLY DEPENDENT USE: Means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

19. HIGHEST ADJACENT GRADE: Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

20. LOWEST FLOOR: Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

21. LEVEE: Means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert
the flow of water so as to provide protection from temporary flooding.

22. **LEVEE SYSTEM:** Means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

23. **MANUFACTURED HOME:** Means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

24. **MEAN SEA LEVEL:** Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

25. **NEW CONSTRUCTION:** Means, for flood plain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

26. **START OF CONSTRUCTION:** (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

27. **STRUCTURE:** Means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
28. **SUBSTANTIAL IMPROVEMENT:** Means any repair, reconstruction, or improvement of a structure when:

A. The cost of which equals or exceeds 50 percent of the market value of the structure either, 1) before the improvement or repair is started, or 2) if the structure has been damaged and is being restored, before the damage occurred; or

B. The improvement will increase the total area of a lot occupied by building by more than 20%.

For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

29. **VARIANCE:** Is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship.

30. **VIOLATION:** Means the failure of a structure or other development to be fully compliant with the City of Farmers Branch floodplain management regulations.

31. **WATER SURFACE ELEVATION:** Means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929.

**ARTICLE 3**

**GENERAL PROVISIONS**

**SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas of special flood hazard and areas of controlled flood protection within Farmers Branch. Areas of special flood hazard are those designated in Section B of this Article together with such additional areas as may be designated by the City Council.
SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Farmers Branch" dated April 12, 1974, with accompanying Flood Insurance Rate Maps and Flood Hazard Boundary-Floodway Maps, dated February 15, 1978, revision date September 30, 1980, and any revisions thereto approved by the City Council, are hereby adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF FILL PERMIT

A Fill Permit for any improvement within a special flood hazard and within an area of controlled flood protection shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be platted, located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be: 1) considered as minimum requirements; 2) liberally construed in favor of the governing body; and 3) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. REMOVAL OF LANDS FROM AREAS OF SPECIAL FLOOD HAZARD

The limits of an area of special flood hazard may be reduced if the potential for flood damage is reduced to the extent required by the City Council and the Federal Emergency Management Agency (FEMA) and other governing agencies. A change in limits shall be accomplished by the person desiring such change furnishing either:

1. engineering evidence that the property is not subject to flooding by the base flood; or

2. engineering plans and supportive hydrologic and hydraulic studies for improvements to change the limits of the area of special flood hazard.

The information shall be furnished to the Local Administrator. When it has been determined by the Local Administrator that the
flood hazard has been alleviated, the information shall be submitted concurrently to the Federal Emergency Management Agency and other agencies for review and/or approval. Upon receipt of the reviews and/or approval, the application will be forwarded to the City Council for action.

If both the Federal Emergency Management Agency and City Council approve the information and plans furnished and the method of flood hazard alleviation, the limits of an area of special flood hazard may be revised as justified. Such change in limits shall occur after any required facilities have been provided in accordance with the approved plans.

SECTION H. AREAS OF CONTROLLED FLOOD PROTECTION

The Farmers Branch-Carrollton Flood Control District shall be an area of controlled flood protection. If the flood hazard alleviation measures are not permanent in nature or if continuing maintenance and/or operating procedures are required to assure that the occurrence of a Base Flood will not result in flooding, the land removed from an area of special flood hazard shall be designated as an Area of Controlled Flood Protection. The continuation of this designation shall be contingent upon the concurrence of the City Council and FEMA that the flood hazard alleviation measures are maintained and/or operating procedures continued in such a manner that the occurrence of a Base Flood will not result in flooding. Fill Permits for land so designated shall be issued during such time as flood hazard alleviation measures are determined by Local Administrator to be adequate. Fill Permits shall be forwarded to the Farmers Branch-Carrollton Flood Control District for review. The Local Administrator shall issue the Fill Permit after receipt of the Flood Control District review. The permit procedure will be the same as Article 4C(5). Adequacy shall be determined by the capability of the Area of Controlled Flood Protection being able to withstand the occurrence of a Base Flood without flooding occurring within the Area of Controlled Flood Protection. Streets shall have a minimum top of curb elevation of 428.00 (6" curb) which shall put the top of curb no lower than one (1') foot below the base flood water surface for twelve (12) hours.

The degree of control with respect to flooding by the City Council and FEMA within such areas shall be commensurate with the probability of flooding occurring if such maintenance and/or operating procedures are not continued. Binding contracts or other enforceable assurances that the required flood hazard alleviation measures will be continuously capable of providing protection from flooding in accordance with standards acceptable to the City Council and FEMA shall be required in such areas. Failure to comply with such standards shall result in the Area of Controlled Flood Protection being again designated as an area of special flood hazard.

Special flood hazard areas protected from inflowing flood waters by their total or partial enclosure by levees, canals, ditches, conduits, or similar drainage facilities shall remain as
special flood hazard areas until facilities approved by the City Council and FEMA have been provided which will remove any flood waters which may accumulate in such enclosed area. The facilities provided to remove internal accumulations of flood water shall be adequate to protect all of such enclosed area from flooding to the standards required by this ordinance. Lands within such enclosed area necessary for canals, ditches, detention basins and similar open drainage ways approved by the City Council and FEMA shall be designated as floodways. All land within such enclosed areas may be designated as an area of Controlled Flood Protection, with the exception of that designated as a floodway, upon the completion of all facilities required for the removal of internal accumulations of flood waters and the protection from inflowing flood waters in accordance with plans approved by the City Council and FEMA. Fill Permits shall not be issued for any part of such enclosed areas until the entire area so enclosed, with the exception of that designated as a floodway, has been designated as an area of Controlled Flood Protection. Excavation, filling and/or grading operations in progress upon the effective date of this ordinance may be continued without a Fill Permit unless the City Engineer determines that:

a. Such work or binding contract for such work, was not initiated prior to December 19, 1977;

b. Such work is not beneficial toward the development of the land to its highest and best use; or

c. Such work endangers land to flooding which was not designated as a special flood hazard area on December 19, 1977.

It is the intent of this ordinance to provide for conditions which will permit the development and use of land to continue without threat of interruption after a special flood hazard area has been designated as an area of Controlled Flood Protection. Adequate provision of these conditions requires that facilities for the detention of peak flows and the removal of flood waters which may accumulate within areas totally or partially enclosed, as described in the proceeding paragraph, shall have adequate capacity to perform their required function under adverse conditions. The design capacity for such facilities shall be based upon the development of the entire area contributing flood flows to the facility under rainfall conditions which can be anticipated upon the occurrence of a Base Flood. The normal storage and/or discharge capacity of such facilities shall provide protection to developed land and structures and shall limit street inundation to the standards established by this ordinance. In addition, the water surface elevation of the Base Flood shall not exceed the lowest floor elevation of any structure within an enclosed area, as previously described, if pumps are required for the discharge of accumulated flood flows and the largest single pump provided for that area is inoperative during the occurrence of the Base Flood.

SECTION I. IMPROVEMENTS WITHIN THE AREA OF SPECIAL FLOOD HAZARD

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Improvements that are within the area of special flood hazard but do not alter the limits of the area of special flood hazard or that are in Zones AO and AH are subject to the same conditions and procedures of Article 3, Section G with one exception.

Submittal to the Federal Emergency Management Agency and other agencies are not required if the Local Administrator determines that the improvement will not:

a. significantly change the existing topography;

b. affect the elevation and velocity of the base flood; and

c. change the floodway boundary.

SECTION J. ELM FORK OF THE TRINITY RIVER

There will be no encroachments allowed into the floodway of the Elm Fork of the Trinity River.

SECTION K. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards will be free from flooding or flood damages. This ordinance shall not create liability on the part of Farmers Branch or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF CITY ENGINEER AS LOCAL ADMINISTRATOR

The City Engineer, or his designated representative, is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties and responsibilities of the Local Administrator shall include, but not be limited to:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance;

2. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404
of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

3. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Engineer shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section D(2) of this Article;

4. Notify the Texas Water Commission prior to any alteration or relocation of a creek or channel, and submit evidence of such notification to the Federal Emergency Management Agency;

5. Assure that maintenance responsibility is provided within the altered or relocated portion of said creek or channel so that the flood carrying capacity is not diminished;

6. When base flood elevation data has not been provided in accordance with Article 3, Section B, the City Engineer shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer the provision of Article 5.

7. Review all applications for fill permits required by adoption of this ordinance.

8. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

SECTION C. PERMIT PROCEDURES

1. An applicant for a Fill Permit shall submit an application to the City Engineer. The application must be on a form approved by the City Engineer, and must be signed by the owner of the property to be improved.

2. An applicant for a Fill Permit shall request a pre-application conference with representatives from the Engineering Department.

At the pre-application conference, the City Engineer shall determine what information is necessary for a complete evaluation of the proposed project, and may require the applicant to submit the necessary information including, but not limited to the following:

a. Vicinity Map/overall map of project area;

b. Improvement Plan to scale showing dimensions and elevations of proposed and existing improvements and
relationship to existing and proposed special flood hazard areas;

c. Acreage figures for the entire tract, the area located in the special flood hazard area, and the area proposed to be removed from the special flood hazard area;

d. Hydrologic and hydraulic analyses;

e. Water surface profiles;

f. Plotted cross-sections;

g. Erosion control and/or sedimentation control plan;

h. Landscape plan;

All of the submittal information must be performed by a registered professional engineer in the State of Texas, with the seal of the engineer affixed with signature to same submittal.

3. Approval or denial of a Fill Permit by the City Engineer shall be based on all of the provisions of this ordinance and the following relevant factors:

a. The danger to life and property due to flooding or erosion damage;

b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage and the effect of such damage on the individual owner;

c. The danger that materials may be swept onto other lands to the injury of others;

d. The compatibility of the proposed improvement with existing and anticipated development;

e. The safety of access to and the provision of required parking for the property in times of flood for ordinary and emergency vehicles;

f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities;

g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

h. The relationship of the proposed use to the approved plan for that area;

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i. The preservation of wildlife and wetland areas that are so designated by the U.S. Army Corps of Engineers;

j. The protection of significant stands of trees and vegetation.

4. If the Federal Emergency Management Agency and other agencies approve the improvement plan, then the City Engineer shall submit the permit application to the City Council. Upon City Council approval, the City Engineer shall issue the Fill Permit.

5. After the improvement has been completed, the City Engineer shall inspect the area to verify compliance with the approved application. No permits applicable to the improvement area lying within the special flood hazard area shall be issued by the City prior to inspection by the City Engineer.

SECTION D. VARIANCE PROCEDURES

1. The City Council shall hear and render judgment on requests for variances from the requirements of this ordinance.

2. The City Council shall hear and render judgment on a request for variance only when it is alleged there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this ordinance.

3. Any person or persons aggrieved by the decision of the City Council may appeal such decisions in the courts of competent jurisdiction.

4. The City Engineer shall maintain a record of all actions involving variances and shall report variances to the Federal Emergency Management Agency upon request.

5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

6. Generally, variances may be issued for new construction and substantial improvements to residential structures only, 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 C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this ordinance, the City Council may attach such
conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Sections C and D).

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

9. 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) a showing of 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 or victimization of the public, or conflict with existing local laws or ordinances.
   c. Any applicant to whom 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.
   d. Pecuniary hardship, standing alone, shall not be grounds for the granting of a variance.

10. Variances may be issued by the City Council 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 Article 4, Section D(1)-(9) 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.

ARTICLE 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements;

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement
of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

7. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B, (6), or (iii) Article 5, Section D, (3) the following provisions are required (when an area has been removed from an area of special flood hazard, only Paragraph 1 shall apply.):

1. Residential and non-residential Construction: New construction or substantial improvement of any structure shall have the lowest floor, including basement, and access facilities elevated to three (3') feet (minimum) above the base flood elevation. Parking facilities shall be elevated to one (1') foot (minimum) above the base flood. A registered professional engineer shall submit a certification to the City Engineer that the standard is satisfied. There shall be no more than one basement level.

2. Enclosures—new construction and substantial improvements, with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a
registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. Manufactured homes:

a. No manufactured home shall be placed in a floodway.

b. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Specific requirements shall be:

   i. over-the-top ties at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;

   ii. frame ties at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;

   iii. all components of the anchoring system be capable of carrying a force of 4,800 pounds;

   iv. any additions to the manufactured home be similarly anchored.

c. These manufactured home standards are applicable only to those which are presently permitted for use by caretakers and watchmen.

d. In the event other manufactured home uses are permitted in the future, applicable standards shall be adopted prior to such permitted use.

e. All manufactured homes to be placed or substantially improved within Zones A and AH on the City of Farmers Branch Firm Map shall be elevated on a permanent foundation such that the lowest floor of the manufactured home be three foot (minimum) above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provision of Section B-3 of this Ordinance.
4. **Floodways**; located within areas of special flood hazard established in Article 3, Section B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

   a. Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

   b. If Article 5, Section B(2) (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

   c. Prohibit the placement of any manufactured homes.

**SECTION C. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)**

Located within the areas of special flood hazard and controlled flood protection established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of structures shall have the lowest floor elevated three feet (minimum) above the highest adjacent grade at least as 1' higher as the depth number specified on the community's FIRM if such structure is within a presently platted subdivision. Basements must be floodproofed a minimum of 2' above the base flood elevation and there shall be no more than one basement level.

2. No new structures, required parking for such structures or access to such structures, or substantial improvements of existing structures shall be permitted in AO Zones of platted areas filed for record after December 19, 1977.

3. A registered professional engineer shall submit a certification to the City Engineer that the standards of this Section are satisfied.

4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
SECTION D. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C and D of this ordinance.

2. All proposals for the development of subdivisions including manufactured home, parks and subdivisions shall meet Fill Permit requirements of Article 3, Section C, Article 4, Section C, and the provisions of Article 5 of this ordinance.

3. Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or 5 acres, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B(6) of this ordinance.

4. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including manufactured home parks and subdivisions facilities shall be located and constructed to minimize flood damage.

SECTION E. STANDARDS FOR IMPROVEMENTS IN AREAS OF SPECIAL FLOOD HAZARD

Improvements to reduce the limits of the area of special flood hazard or within the area of special flood hazard as referenced in Article 3, Sections G and H shall conform to the following criteria:

1. Alterations of the area of special flood hazard may not increase the water surface elevation of the base flood.

2. Alterations of the area of special flood hazard may not create an erosive velocity on or off site. The mean velocity of the stream downstream of the improvement(s) may not exceed the velocity prior to the improvement(s).

3. Alterations of the area of special flood hazard may be allowed only to the extent permitted by equal conveyance on both sides of the natural channel with separate owners.

4. The toe of any fill slope must parallel the natural channel to maintain balanced stream flow in the altered special flood hazard area.

5. An environmental impact study and complete stream rehabilitation program must be approved prior to any relocation of the natural creek.
6. To provide accessibility to the special flood hazard area for maintenance and to reduce exposure to erosion, the maximum slopes shall not exceed four (horizontal) to one (vertical) in a fill area. The slope of excavated areas not in rock shall not exceed four (horizontal) to one (vertical).

7. Vertical walls, terracing, and other treatments will be considered only as part of a landscaping plan and if access for maintenance is provided and if there is no unbalanced resultant stream flows.

8. Landscaping plan submission shall include erosion control of cut and fill areas and sedimentation control during construction.

9. The effects of existing or proposed public or private improvements will be used in determining water surface elevations and velocities.

10. Any alteration of the special flood hazard area shall not cause any additional expense in any current or proposed public capital improvement.

ARTICLE VI

NUISANCE

Any construction, modification, improvement, land cut or fill in violation of this ordinance is hereby declared a public nuisance and the continuation of such activity may be enjoined by a court of competent jurisdiction.

ARTICLE VII

CONFLICT WITH OTHER ORDINANCES

Whenever the standards and specifications in this ordinance conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.

ARTICLE VIII

SEVERABILITY

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.
ARTICLE IX
INJUNCTIVE RELIEF

In addition to, and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.

ARTICLE X
PENALTY

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction in the municipal court, shall be subject to a fine not to exceed Two Hundred Dollars ($200.00) for each offense and each and every day that such violation continues shall constitute a separate offense.

ARTICLE XI
EFFECTIVE DATE

The fact that there is no comprehensive ordinance guaranteeing the continued designation of Farmers Branch as a participating community by the Federal Emergency Management Agency, creates an urgency and an emergency in the preservation of the public health, safety and welfare and requires that this ordinance shall take effect immediately upon its passage and after publication of the caption of said ordinance as the law in such cases provides and it is accordingly so ordained.

Duly passed by the City Council of the City of Farmers Branch, Texas, on this the 4th day of May, 1987.

APPROVED:

[Signature]
Mayor

ATTEST:

[Signature]
City Secretary

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APPROVED AS TO FORM:

[Signature]
City Attorney
FILL PERMIT PROCESS

PREAPPLICATION CONFERENCE
TECHNICAL CRITERIA EVALUATION

APPLICATION MADE
WITH TECHNICAL DATA

ENGINEERING TO VIEW
(CIVIL AND OTHER DEPTS.)

REVIEW OF FIELD FLOOD CONTROL DISTRICT

FEMA

CORP OF ENGINEERS
MARSHALLERY-PROCLEAR WATER ACT

TEXAS WATER COMMISSION
OF WATER IRRIGATION

IF NO CHANGES IN BASE FLOOD PARAMETER

PERMIT ISSUED

NO PERMIT REQUIRED

PERMIT ISSUED

PERMIT ISSUED

CITY COUNCIL ACTION

PERMIT ISSUED

PERMIT ISSUED

PERMIT ISSUED

REVIEW OF COMPLETED WORK
REQUIRED FROM 2 SEGMENTS
OF OTHER DEPTS.

REVIEW OF COMPLETED WORK
REQUIRED FROM 3 SEGMENTS
OF OTHER DEPTS.

UNION IMPROVEMENT 2
LIMITED OR EMERGENCY MAINTENANCE ACTIVITY

ENGINEERING DEPT.