

ORDINANCE NO. 1471

AN ORDINANCE OF THE TOWN OF HIGHLAND PARK, TEXAS, REPEALING CHAPTER 7½ FLOOD HAZARD PREVENTION AND IN LIEU THEREOF ADOPTING A NEW CHAPTER 7½ DEFINING THE FLOOD HAZARD AREAS OF THE TOWN OF HIGHLAND PARK, TEXAS; PRESCRIBING RULES AND REGULATIONS FOR CONSTRUCTION IN FLOOD HAZARD AREAS TO REDUCE FLOOD LOSSES; APPOINTING THE TOWN ENGINEER TO IMPLEMENT THE PROVISIONS OF THIS ORDINANCE AND DEFINING THE DUTIES AND RESPONSIBILITIES OF THE TOWN ENGINEER, REQUIRING PERMITS TO SUBDIVIDE, DEVELOPING, AND MAINTENANCE WORK IN FLOOD HAZARD AREAS; ESTABLISHING A DISCLAIMER OF LIABILITY; PROVIDING FOR A PENALTY FOR VIOLATION THEREOF NOT TO EXCEED THE SUM OF ONE THOUSAND DOLLARS (\$1,000); PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A VALIDITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED by the Town of Highland Park, Texas, that:

SECTION 1.

That the Code of Ordinances of the Town of Highland Park, Texas is hereby amended by repealing Chapter 7½ Flood Hazard Prevention in its entirety.

SECTION 2.

That the Code of Ordinances of the Town of Highland Park, Texas is hereby amended to include a new Chapter to be numbered 7½, which shall read as follows:

**“Chapter 7½
FLOOD PLAIN/FLOOD DAMAGE PREVENTION ORDINANCE**

Article I. Statutory Authorization

Article II. Definitions

Article III. General Provisions

Article IV. Administration

Article V. Provisions for Flood Hazard Reduction

Article VI. Penalty for Non-Compliance

ARTICLE I
STATUTORY AUTHORIZATION

Section A. Statutory Authorization.

The Legislature of the State of Texas has in Vernon, Texas Civil Statutes (VTCA 16.315 to 16.318) delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town of Highland Park, Texas does ordain as follows:

Section B. Findings of Fact.

- (1) The flood hazard areas of the Town of Highland Park, 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 floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses 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 to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) 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 blight areas;
and

- (7) Insure that potential buyers are notified that property is in a flood area.

Section D. Methods of Reducing Flood Losses.

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

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, 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 floodplains, 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 II 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.

ALLUVIAL FAN FLOODING means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM), subject to a one percent or greater chance of flooding in any given year, to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD means the land in the floodplain within a community is subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD means the flood having a one percent or greater chance of being equaled or exceeded in any given year.

BASEMENT means any area of the building having its floor subgrade (below ground level) on all sides.

CRITICAL FEATURE means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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 structure member of the elevated floor elevated above the ground level 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, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. 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 met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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 or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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.

FLOOD PROOFING means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY 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 without cumulatively increasing the water surface elevation more than a designated height.

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.

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

HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or;
 - (2) Directly by the Secretary of the Interior in states without approved programs.

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.

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.

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.

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.

NEW CONSTRUCTION means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

RECREATIONAL VEHICLE means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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, rehabilitation, addition, 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. 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

SUBDIVISION means the division or alteration of any tract of land situated within the Corporate Limits in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to the Town of Highland park, or for laying out or altering an existing building site or any building sites, streets, alleys or parts or other portions intended for public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto for the purpose, whether immediate or future, of creating

building sites. Subdivision includes re-subdivision or the alteration of established building sites composed of all or portions of previously established lots or tracts.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure where the work to be performed is limited to, and for the sole purpose of, correcting any and all existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official; or
- (2) Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure."

VARIANCE is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III GENERAL PROVISIONS

Section A. Lands to Which This Ordinance Applies.

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town of Highland Park, Texas.

Section B. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the Town of Highland Park" dated August 23, 2001, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Section C. Establishment of Development Permit.

Development Permits (flood plain permit, building permit) shall be required to ensure conformance with the provisions of this ordinance and other applicable ordinances and regulations required.

Section D. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable Town ordinances and 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 ordinance, easement, covenant, or deed restriction 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. Warning and Disclaimer or 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 or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE IV ADMINISTRATION

Section A. Designation of the Floodplain Administrator.

The Town Engineer is hereby appointed as the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Section B. Duties and Responsibilities of the Floodplain Administrator.

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (2) Review, approve or deny flood plain permit application to determine whether proposed building site/improvements will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for Development/Floodplain permits required by adoption of this Chapter.
- (4) 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.
- (5) 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 Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Texas Natural Resources Conservation Commission (TNRCC), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.

- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the community.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than the Town's permissible increase of the base flood elevation, provided that the community first applies for a conditional FIRM revision through FEMA.

Section C. Permit Procedures.

- (1) Application for a Floodplain Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - c. A certificate from a registered professional engineer or architect that the non-residential flood proofed structure shall meet the flood proofing criteria of Article 5, Section B (2);
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - e. Maintain a record of all such information in accordance with Article 4, Section (B)(1).
- (2) Approval or denial of a Development/Floodplain Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter 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 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 use with existing and anticipated development;
- e. The safety of access to 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 such as sewer, gas, electrical and water systems;
- 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 necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- j. The relationship of the proposed use to the comprehensive plan for that area.

Section D. Variance Procedures.

- (1) The Town of Highland Park's Board of Adjustment (herein referred to as "Appeal Board") as established by the community shall hear and render judgment on requests for variances from the requirements of this Chapter.
- (2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.
- (3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

- (4) The Floodplain Administrator shall maintain a record of all actions involving an appeal 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 or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.
- (6) Variances may be issued for new construction and substantial improvements 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 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 Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) 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) showing a 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 on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any application 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.

- (11) Variances may be issued by a community 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 V. 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 or substantial improvements shall be designed (or modified) and adequately 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(8), or (iii) Article 5, Section C(3), the following provisions are required:

- (1) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.
- (2) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.
- (3) Enclosures – new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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.

Section C. Standards for Areas of Shallow Flooding (AO/AH Zones).

Located within the areas of special flood hazard 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 where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated one foot (minimum) above the base flood elevation highest adjacent grade, which shall be at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified). A registered professional engineer, architect, or land surveyor shall submit a certification to the Town Engineer that the standard of this section is satisfied.
- (2) All new construction and substantial improvements of non-residential structures:
 - (i.) shall have the lowest floor (including basement) elevated at or above the highest adjacent grade, which shall be at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - (ii.) shall together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C(1)a., 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. Floodways.

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:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section D(1) above is satisfied, all new construction and substantial improvements shall also comply with all applicable flood hazard reduction provisions of this Chapter.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

ARTICLE VI. PENALTIES FOR NON-COMPLIANCE

In accordance with Section 60.1(b) of the CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over restrictive conflicting local laws, ordinances, or codes."

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars (\$1,000.00) per day for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town of Highland Park, Texas from taking such other lawful action as is necessary to prevent or remedy any violation."

SECTION 3. SEVERABILITY.

All other provisions of the Code of Ordinances and any other ordinance of the Town of Highland Park in conflict herewith, be and the same are hereby repealed; and all other provisions of the Code of Ordinances and any other ordinance of the Town not in conflict herewith shall remain in full force and effect.

SECTION 4.

Should any word, phrase, sentence, or subsection of this ordinance be held to be void, unconstitutional, or unenforceable, the same shall not affect the validity of the remaining portions of said ordinance which shall remain in full force and effect.

SECTION 5. CODIFICATION.

This ordinance shall be deemed to be incorporated into the Code of Ordinances of the Town of Highland Park, Texas as Chapter 7½ and numbered accordingly.

SECTION 6. EFFECTIVE DATE AND DECLARING AN EMERGENCY.

It is hereby found and declared by the Town of Highland Park, Texas that: (1) severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; (2) flooding is likely to result in loss of life or destruction of property within its jurisdiction; and (3) in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

APPROVED on this 16th day of July, 2001.

APPROVED AS TO FORM:



Albert D. Hammack
Town Attorney

APPROVED:



Gifford Touchstone
Mayor

ATTEST:



James Fisher
Town Secretary

**FLOOD PLAIN
PERMIT PROCEDURE & CHECKLIST**

- A. An applicant for a flood plain permit shall submit the attached application to the flood plain administrator of the Highland Park.

- B. An applicant for a flood plain permit shall request a pre- application Conference with the Town's flood plain administrator to determine what information is necessary for a complete evaluation of the proposed project. The applicant may be required to submit necessary information including, but not limited to the following:

- 1) Vicinity Map/overall map of the project area.
- 2) Improvement plan to scale showing dimensions of proposed and existing improvements.
- 3) Acreage figures for the entire tract, the area located in the special flood hazard area, and the proposed to be improved/altered.
- 4) Hydrologic and Hydraulic Analysis.
- 5) Water Surface profile.
- 6) Plotted Cross Sections.
- 7) Erosion Control/Sedimentation Plan.
- 8) Landscape plan.
- 9) List of materials to be used for the improvements and method of work.
- 10)

Other.....
.....
.....
.....

NOTE

All of the submitted information must be performed by a Licensed Professional Engineer in the State of Texas; with the seal of the engineer affixed with signature to same submittal.

Approval or denial of a fill permit by the Town Engineer Shall be Based on all of the Town of Highland Park Ordinance No. 1471.

* **PROPERTY OWNER**

Name:.....
Address:.....
Telephone No.....

* **ENGINEER/CONTRACTOR**

Name:.....
Address:.....
Telephone No:.....

* **PROPERTY LOCATION**

Subdivision:.....
Block No.:.....
Lot No.....
Acreage.....
Address.....

* **PROPERTY USAGE**

.....R.O.W.
.....Easement
.....Park
.....Other

* **DESCRIPTION OF PROPOSED WORK**

.....

TOTAL ESTIMATED MATERIAL TO BE PLACED / REMOVED IN FLOOD PLAIN:.....

* **TOTAL EVALUATION OF ALL WORK TO BE DONE UNDER THIS PERMIT:**

\$.....

* **PLEASE READ AND ACKNOWLEDGE:**

A. The flood hazard boundary maps and other flood data used by the flood plain administrator in evaluating flood hazard to proposed development are considered reasonable and accurate for regulating purposes and are based on the best available scientific information. Greater floods can and will occur by manmade or natural causes. Issuance of this permit shall not create liability on the part of the Town of Highland Park or any administrative decision lawfully made there under. The owner is aware of the above facts and does hereby agree to indemnify or hold harmless the Town of Highland Park from any suits, Judgment claims, or demands which might occur as a result of the contractor and issuance of Flood Plain Permit.

* B. Construction shall conform to the standard methods of construction of the Town of Highland Park.

* C. This permit becomes null and void if work is not commenced within 180 days, or if construction or work is suspended or abandoned for 90 days after work is commenced.

* D. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The Granting of a permit does not violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

* E. I am the owner of the above described property or his dully authorized agent. Permission is hereby granted to enter the premise and make all inspection.

SIGNATURE OF OWNER.....

NOTARY SEAL

State of.....
County of.....
Before me this.....day
of..... 20__ Personally
appeared.....
known to me to be the person who executed this
document.
My commission expires.....

FOR USE BY FLOODPLAIN ADMINISTRATOR

- 1) The proposed work is.....is not.....in conformance with the standards and regulations of the Town of Highland Park.
- 2) Other agencies approval (Corp., FEMA, TNRCC).....
- 3) Council approval is.....is not.....required. Date approved.....
- 4) For residential and non-residential, the lowest floor(including basement) must be elevated or flood proofed to.....feet mean sea level. The existing base flood elevation is.....
- 5) Permittee must submit a certification from a licensed professional engineer, or registered public land surveyor that the finished floor level of the structure has been constructed at the specified elevation.
- 6) A certified as-built drawing shall be provided to Flood plain Administrator.
- 7) Other Provisions.....
.....
.....
- 8) Reason for Rejection.....
.....
.....
.....

Floodplain Administrator

Date: