

O R D I N A N C E

(Motion was made by Bea Bell,
seconded by Lynn Braden, that the
following Ordinance be passed:)

ORDINANCE NO. 84- 4

AN ORDINANCE BY THE TOWN OF WOODLOCH, TEXAS, PROVIDING FOR TITLE AND PURPOSE; PROVIDING FOR METHODS OF REDUCING FLOOD LOSSES; PROVIDING DEFINITIONS; PROVIDING FOR APPLICATION TO AREAS OF SPECIAL FLOOD HAZARDS WITHIN THE JURISDICTION OF THE TOWN OF WOODLOCH; PROVIDING FOR THE APPOINTMENT OF A LOCAL ADMINISTRATOR; ESTABLISHING DUTIES AND POWERS OF LOCAL ADMINISTRATOR; PROVIDING FOR PERMIT PROCEDURES; PROVIDING FOR VARIANCE PROCEDURES; PROVIDING PROVISIONS FOR FLOOD HAZARD REDUCTION; PROVIDING SPECIFIC STANDARDS FOR CONSTRUCTION IN AREAS OF SHALLOW FLOODING; PROVIDING SPECIFIC STANDARDS FOR SUBDIVISION PROPOSALS; PROVIDING PENALTY FOR VIOLATION; PROVIDING ABROGATION AND GREATER RESTRICTIONS; PROVIDING INTERPRETATION; AND PROVIDING WARNING AND DISCLAIMER OF LIABILITY; PROVIDING FOR SAVINGS CLAUSE AND EMERGENCY EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Texas has in Vernon's Annotated Texas Statutes Water Code, Section 16.315, delegated the responsibility to local governmental units to adopt regulations designed to promote the health, safety, and general welfare of the citizenry by establishing flood risk zones and by restricting occupancy and land development in flood prone areas;

WHEREAS, the flood hazard areas of the Town of Woodloch are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental service, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare;

WHEREAS, these flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WOODLOCH, TEXAS:

SECTION I.

This Ordinance shall be known and may be recited as the Flood Damage Prevention Ordinance of the Town of Woodloch, Texas.

SECTION II.

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 expenditures of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To insure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION III.

In order to accomplish its purposes, this Ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

SECTION IV.

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

"Appeal" means a request for review of the local administrator's interpretation of any provision of this Ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO Zone on the Flood Insurance Rate Map. The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater change of flooding in any given year.

"Base Flood" means the flood having a one percent change of being equalled or exceeded in any given year.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Existing mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the

construction of streets) is completed before the effective date of this Ordinance.

"Expansion to an existing mobile home park or mobile home subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete or the construction of streets).

"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 and/or
- (2) The unusual or rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" means the official map on which the Federal Insurance Administration 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 in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

"Floodway" means the channel of river or other water-course 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 one foot.

"Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purpose is not a "habitable floor."

"Mobile home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

"New mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this Ordinance.

"Start of construction" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings 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 a 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

"Structure" means a walled and roofed building, a mobile home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, 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.

For the purposes 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.
- "Variance" means a grant of relief from the requirements of this Ordinance which permits construction in a manner that would otherwise be prohibited by this Ordinance.

SECTION V.

This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Town of Woodloch, Montgomery County, Texas.

The areas of special flood hazards identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for The Town of Woodloch, Texas", dated July 3, 1984 with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps #481168, dated January 3, 1985, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

SECTION VI.

- (a) The mayor is hereby appointed local administrator to implement and administer the provisions of this Ordinance.
- (b) The duties and responsibilities of the local administrator shall include, but no be limited to:
 - (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Ordinance;
 - (2) Review, approve or deny all applications for development permits required by this Ordinance;

(3) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

(4) 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 map boundary and actual field conditions) the local administrator 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 this Ordinance.

(5) Notify adjacent communities prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Insurance Administration.

(6) Assure that maintenance is provided within the altered or relocated portion of said water course so that the flood carrying capacity is not diminished.

(7) When base flood elevation data has not been provided in accordance with this Ordinance, the local administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source in order to administer the provisions of this Ordinance.

SECTION VII.

(a) Application for a development permit shall be presented to the local administrator on forms furnished by him and may include, but not be limited to, plans in duplicate drawn to scale showing the locations, dimensions, and elevations of proposed landscape alterations, existing and proposed structures and a location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all proposed structures.

(2) Elevation in relation to mean sea level to which any non-residential structure shall be flood-proofed;

(3) A certificate from a registered, professional engineer or architect that the non-residential flood-proof structure shall meet the flood-proofing criteria of this Ordinance;

(4) Description of the extent to which any water course or natural drainage will be altered or relocated as a result of proposed development.

(c) Approval or denial of developmental permit by the local administrator shall be based on all of the provisions of this Ordinance and the following relevant factors:

(1) The danger to life and property due to the flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The cost 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.

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the flooded waters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(10) The relationship of the proposed use of the comprehensive plan for that area.

SECTION VIII.

(a) The Town Council of the Town of Woodloch shall hear and render judgment on requests for variances for the requirements of this Ordinance and appeals from decisions of the local administrator.

(b) The Town Council shall hear and render judgment on an appeal only when it is alleged there is an error in the requirement, decision, or determination made by the local administrator in the enforcement or administration of this Ordinance.

(c) Any person or persons aggrieved by the decision of the Town Council may appeal such decisions in the courts of competent jurisdiction.

(d) The local administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Insurance Administration upon request.

(e) 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 procedures set forth in the remainder of this section.

(f) Generally, 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 VII of this Ordinance have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above in the intent of this Ordinance, the Town Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance.

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

(i) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall be issued only 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 on or victimization of the public, or conflict with the existing local laws or ordinances.

base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the local administrator that the standard of this section, as proposed in this Ordinance is satisfied.

(2) Non-residential construction. New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base floor elevation or, together with attended utility and sanitary facilities, be flood-proof so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydro-static and hydro-dynamic loads and effects of buoyancy. A registered, professional engineer or architect shall submit a certification to the local administrator that the standards of this sub-section as proposed in this Ordinance have been satisfied.

(b) No mobile home shall be placed in the floodway or if applicable, a coastal high hazard area, except in an existing mobile home park or existing mobile home subdivision.

(c) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Specific requirements shall be:

(1) Over-the-top ties at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long requiring one additional tie per side;

(2) Frame ties at each corner of the home with five additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four additional ties per side;

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the mobile home be similarly anchored.

(d) For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruct-

tion or improvement of the streets, utilities and paths equals or exceeds fifty percent (50%) of value of the streets, utilities and paths before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision require:

- (1) Stands or lots are elevated or compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level. A registered, professional engineer, architect, or land surveyor shall submit a certification to the local administrator that the standard of this paragraph complies with this section.
- (2) Adequate surface drainage and access for a hauler are provided; and
- (3) In the instance of elevation on pilings (i) lots are large enough to permit steps, (ii) piling foundations are placed in stable soil no more than ten feet apart, and (iii) reinforcement is provided for pilings more than six feet above the ground level.

SECTION XI.

The following provisions shall apply to those areas that are designated on the Town of Woodloch Floodway Map as the Town of Woodloch Floodway and which are designated as areas of special flood hazard. Since the floodway is an extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply to that area:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional, registered engineer or architect is provided demonstrating that encroachment shall not result in any increase in flood levels during occurrence of the base flood discharge.
- (2) If paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Ordinance.
- (3) Prohibit the placement of any mobile homes, except in an existing mobile home park or subdivision.

SECTION XII.

- (a) All subdivision proposals shall be consistent with the provisions of this Ordinance.
- (b) All proposals for the development of subdivisions shall meet developmental permit requirements of this Ordinance.
- (c) Base flood level elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty lots or five acres, if not otherwise provided pursuant to this Ordinance.
- (d) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

SECTION XIII.

Any person who shall violate any of the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined the sum not exceeding \$200.00 and each and every violation of such provision shall constitute a separate offense and each day a violation shall occur shall constitute a separate offense.

Nothing herein contained shall prevent the Town of Woodloch from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION XIV.

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 XV.

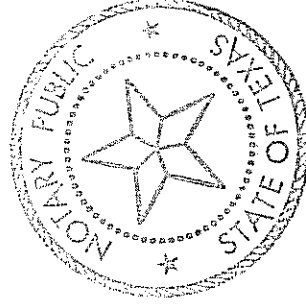
For the interpretation and application of this Ordinance, all provisions shall be:

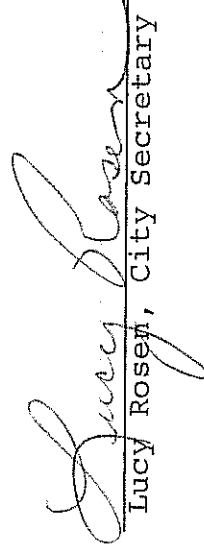
- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

C E R T I F I C A T E

I, the undersigned, Secretary of The Town of Woodloch, Texas, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted at a duly called meeting of the Town Council of the Town of Woodloch, Texas, on the 5th day of December, 1984, which Ordinance is of record in the Minutes of the said Town.

EXECUTED UNDER MY HAND AND SEAL of the Town of Woodloch, Texas this 5th day of December, 1984.





Lucy Rosen, City Secretary

LUCILLE F. ROSEN
Notary Public in and for State of Texas
My Commission Expires 8/10/85