



TO: Mayor and Councilmembers

FROM: John Moran, City Manager

DATE: March 22, 2011

SUBJECT: Second Reading of Ordinance # O-2011-0322-002 amending Article 4 of the Building and Construction and amending Section 4.130 of the International Mechanical Code, 2006 Edition to extend enforcement of building codes in the Extraterritorial Jurisdiction

Ordinance # O-2011-0322-002 attached

Action: Approve or disapprove Ordinance # O-2011-0322-002.

(VI - A)

CITY OF FARMERSVILLE

ORDINANCE O-2011-0322-002

AN ORDINANCE OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF FARMERSVILLE, TEXAS, AS HERETOFORE AMENDED, THROUGH THE AMENDMENT OF ARTICLE 4, "BUILDING AND CONSTRUCTION," BY AMENDING SECTION 4.130, "ADOPTION OF THE INTERNATIONAL MECHANICAL CODE, 2006 EDITION" TO EXTEND THE APPLICATION AND ENFORCEMENT OF SAID CONSTRUCTION-RELATED ORDINANCE, TO THE FULLEST EXTENT ALLOWED BY LAW, TO INCLUDE THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF FARMERSVILLE, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING ENGROSSMENT AND ENROLLMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Farmersville, Texas is a Type A General – Law Municipality located in Collin County having a population of less than 5,000 persons as determined by the most recent federal census, created in accordance with the provisions of Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas;

WHEREAS, the City has previously adopted the *International Mechanical Code*, 2006 Edition, which has been codified in Section 4.130 of the Code of Ordinances, City of Farmersville, Texas (the "Farmersville Code");

WHEREAS, under the provisions of the Constitution and the laws of the State of Texas, including particularly Chapters 212 and 230 of the Texas Local Government Code, as heretofore or hereafter amended, and the Court of Appeals' interpretation in *City of Lucas v. North Texas Municipal Water District*, 724 S.W.2d 911, 823-824 (Tex.App.-Dallas 1986, writ ref'd, n.r.e), the City of Farmersville is authorized to enforce its subdivision ordinance in the City's incorporated area and extraterritorial jurisdiction and may also enforce its construction-related ordinances and issue building permits for construction in the City's incorporated area and extraterritorial jurisdiction; and

WHEREAS, the City Council of the City of Farmersville, Texas, desires to amend said ordinance to extend the application of this construction-related ordinance within the incorporated area and extraterritorial jurisdiction of the City of Farmersville, Texas to the extent allowed by law.

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

SECTION 1. INCORPORATION OF FINDINGS

The findings set forth above are found to be true and correct and are hereby incorporated into the body of this Ordinance and made a part hereof for all purposes as if fully set forth herein.

SECTION 2. AMENDMENT TO SECTION 4.130 OF THE FARMERSVILLE CODE

From and after the effective date of this Ordinance, Section 4.130 of the Farmersville Code, entitled "Adoption of the *International Mechanical Code*," is hereby deleted in its entirety and replaced with a new Section 4.130 entitled "Adoption of the *International Mechanical Code*, 2006 Edition" to read as follows:

"Sec. 4.130 Adoption of the *International Mechanical Code*, 2006 Edition

The *International Mechanical Code*, 2006 Edition, together with any approved amendments, is hereby adopted by the City Council of the City of Farmersville as a general standard for regulating the erection, installation, addition, alteration, repair, relocation, replacement, maintenance or use of any heating, ventilating, cooling, refrigeration system, incinerators or other miscellaneous heat-producing appliances system in the City of Farmersville and its extraterritorial jurisdiction. The City Council hereby extends the application and enforcement of the *International Mechanical Code*, 2006 Edition, as amended, to the fullest extent allowed by law, to include the incorporated area and extraterritorial jurisdiction of the City of Farmersville, Texas. The *International Mechanical Code*, 2006 Edition, as amended, shall be applicable to all construction, repair, renovation and remodeling activities within the corporate limits of the City of Farmersville and its extraterritorial jurisdiction as those boundaries may be from time to time adjusted by annexation, disannexation, or otherwise. Unless deleted, omitted, expanded or otherwise changed herein, all provisions of such *International Mechanical Code*, 2006 Edition, as amended, shall be fully applicable and binding and in full force and effect. A copy of the *International Mechanical Code*, 2006 Edition, as amended, referred to herein shall be kept on file in the office of the City Secretary."

SECTION 3. SEVERABILITY

It is hereby declared to be the intention of the City Council that the several provisions of this Ordinance are severable, and if any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

SECTION 4. REPEALER

This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all ordinances, resolutions, and/or policies of the City, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION 5. PUBLICATION

The City Secretary of the City of Farmersville is hereby directed to publish in the Official Newspaper of the City of Farmersville the Caption, Penalty and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

SECTION 6. ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

SECTION 7. SAVINGS

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 8. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by Texas law.

PASSED on first reading on the 8th day of March, 2011, and second reading on the 22nd day of March, 2011 at properly scheduled meetings of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

APPROVED THIS 22nd DAY OF March, 2011.

APPROVED:

**BY: _____
Joseph E. Helmberger, P.E., Mayor**

ATTEST:

Edie Sims, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Alan D. Lathrom, City Attorney