

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS,
ESTABLISHING A SEWAGE CAPACITY ALLOCATION SYSTEM;
PROVIDING FOR NEW DEFINITIONS; PROVIDING FOR AN
ADMINISTRATIVE FEES CLAUSE; PROVIDING FOR A
SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

Section 1 LEGISLATIVE INTENT

It is the intent of this sewage capacity allocation system to ensure that adequate public facilities are available to support development concurrent with the impacts of such development. This system is designed to achieve this objective by allocating and monitoring sewage which is transmitted from the Farmers Branch Drainage Basin through transmission lines owned by Farmers Branch for treatment by the Trinity River Authority. This system guarantees that such sewage will not exceed the capacity allotted to the Town, pursuant to a contract between the Town and Farmers Branch, before new sewage collection facilities necessary to collect and transmit sewage from the Farmers Branch Drainage Basin for treatment are constructed.

Section 2 FINDINGS

1. The Town and Farmers Branch executed a contract on December 23, 1986, which allocated six hundred fifteen million gallons (615 MG) of sewage that may be transmitted through transmission lines owned by Farmers Branch from the Farmers Branch Drainage Basin to the Trinity River Authority for treatment.

2. On January 23, 1990 and May 22, 1990, respectively, the Town adopted Resolution No. R90-007 and Resolution No. R90-066, which established a moratorium on the issuance of building permits in the Les Lacs area of the Town to provide sufficient time for a comprehensive update of the Town's Master Plan and to adequately address problems related to limited sewer capacity in the Farmers Branch Drainage Basin. The Town had found that the issuance of such permits and approvals would potentially jeopardize the Town's ability to plan for appropriate land uses and adequate facilities in this area. This moratorium has been twice extended and has been expanded to prohibit acceptance of applications for site plans and detailed development plans in the Les Lacs area by Resolutions R90-133 and R90-020 adopted on November 13, 1990 and February 12, 1991, respectively.

3. The Town now has plans to construct sewage collection facilities which will provide sufficient capacity to support the full development potential of the Farmers Branch Drainage Basin. However, it is estimated that construction of such facilities will not be completed for from three to six years.
4. The moratorium can now be lifted and development in the Farmers Branch Drainage Basin should be allowed to proceed. However, because limited sewage capacity will continue to exist until such facilities are constructed, such sewage flows generated by uses constructed must be carefully monitored and allocated to ensure that capacity is not exceeded before additional capacity is available.
5. From the years 1984 to 1990, sewage flow from the Farmers Branch Drainage Basin through Farmers Branch's transmission line has averaged five hundred sixty-two million nine hundred sixty thousand four hundred ten (562,960,410) gallons per year.
6. Based on this average, approximately fifty-two million four hundred forty-eight thousand (52,448,000) gallons of sewage capacity allocated to the Town in the contract with Farmers Branch remain available to support future development in the Farmers Branch Drainage Basin.

7. There are three hundred seventy-three and ninety-six one hundredths (373.96) undeveloped/underutilized acres in the Farmers Branch Drainage Basin.
8. If all of the undeveloped/underutilized acres in the Farmers Branch Drainage Basin are developed to the highest density and intensity authorized under existing zoning, approximately two billion three hundred million (2,300,000,000) gallons of sewage will be generated by uses constructed on the undeveloped/underutilized acreage.
9. The additional sewage flow which could be generated by anticipated development in the Farmers Branch Drainage Basin exceeds the remaining available capacity.
10. It is necessary for the Town to allocate and monitor sewage capacity to future development in the Farmers Branch Drainage Basin to ensure that such development will not generate sewage flow which exceeds the Town's allocated capacity, before adequate public facilities are constructed.
11. Ensuring that adequate public facilities are available to meet the public facility needs of development concurrent with the impacts of such development furthers the health,

safety and general welfare of the public and, therefore, constitutes a valid public purpose.

12. This sewage capacity allocation system is a fair and reasonable means of achieving this public purpose.
13. Allowing persons to reserve sewage capacity prior to issuance of a building permit in limited circumstances, provides equity by ensuring that persons do not expend monies unnecessarily on predevelopment activities only to find when they apply for a building permit that all available capacity has been consumed.
14. However, it is necessary to establish reasonable limitations and restrictions on the amount of capacity which can be reserved and the length of time such reservations shall be valid so that the Town's objective of allowing development in the Farmers Branch Drainage Basin to proceed while monitoring available capacity to ensure that such capacity is not exceeded are achieved.
15. The limitations on the number of gallons of sewage capacity which may be reserved prior to issuance of a Building Permit, the point in the development approval process at which such reservations can be made, and the length of time such reservations shall be in effect have

been carefully analyzed and the limitations and restrictions imposed are reasonable and further the Town's objectives without destroying the effectiveness of the sewage capacity allocation system.

16. The time during which this sewer capacity ordinance system shall be in effect is reasonable, when viewed in light of the existing circumstances identified above. The sewer capacity allocation system will be discontinued when adequate sewer facilities which will support the anticipated development potential of the Farmers Branch Drainage Basin are constructed.
17. All owners of interests in real property in the Farmers Branch Drainage Basin are afforded a reasonable use over a reasonable period of time.
18. This sewage capacity allocation system is the minimum necessary to accomplish the Ordinance's stated public purpose.
19. Substantial harm to the public health, safety and general welfare of the Town will result from the unmonitored issuance of Building Permits and Certificates of Occupancy for proposed developments which will generate sewage flows that exceed available sewage capacity.

Therefore, an emergency and imperative public necessity is created.

Section 3 DEFINITIONS

The words and phases used in this Ordinance shall have their usual meanings, except as defined below:

1. "Allocated Sewage Flow" means the number of gallons per year of sewage flow allocated to an Applicant upon issuance of a Certificate of Sewage Capacity by the City Engineer, in accordance with this Ordinance.

2. "Applicant" means all persons who submit an Application for a Certificate of Sewage Capacity pursuant to Section 8 of this Ordinance.

3. "Application" means the application for a Certificate of Sewage Capacity submitted to the City Engineer in the form and containing the information required by Section 8 of this Ordinance.

4. "Available Sewage Capacity" means the sewage capacity which is available to be allocated to new development initially calculated in accordance with Section 6 and/or

continuously recalculated in accordance with Section 8e and Section 10 of this Ordinance.

5. "Building permit" means a permit for the erection, construction, enlargement, alterations, repair, moving, improvement, removal, conversion or demolition of any building or structure regulated by the Addison Code, as provided for in Section 5.16.

6. "Certificate of Occupancy" means the certificate authorizing the occupancy of a building or structure, as provided for in Section 5.24 of the Addison Code.

7. "Certificate of Sewage Capacity" or "Certificate" means the certificate issued by the City Engineer, allocating a specified number of gallons of Allocated Sewage Flow, pursuant to Section 8 of this Ordinance.

8. "City Engineer" means the Engineer of the Town of Addison.

9. "Farmers Branch Drainage Basin" means an area of the Town of Addison depicted on the map attached as Exhibit A.

10. "Person" shall include any individual, or individuals, corporation, partnership, association or other legal entity.

11. "Town" means the Town of Addison, Texas.

Section 4 APPLICABILITY

a. Duration

This Ordinance shall be effective until the following sewage collection and transmission facilities have been constructed and are actively collecting and transmitting sewage:

- (1) Eastside Interceptor Sewer System consisting of Interceptor Tunnel and Collector Sewer Lines.
- (2) Marsh Lane Lift Station, Force Main and Collector Sewer Line.

b. Location

The provisions of this Ordinance shall apply only to applications for Building Permits and Certificates of Occupancy covered by Section 5 of this Ordinance in the

Farmers Branch Drainage District as depicted on the map attached hereto as Exhibit A.

Section 5 BUILDING PERMITS/CERTIFICATE OF OCCUPANCY

a. The building official shall not accept an application for a Building Permit for a building or structure to be located in the Farmers Branch Drainage Basin unless the application is accompanied by a Certificate of Sewage Capacity issued by the City Engineer, pursuant to Section 8d of this Ordinance, except that no Certificate of Sewage Capacity shall be required prior to issuance of a Building Permit for:

- (1) activities or uses requiring a Building Permit which do not generate sewage flow;
- (2) activities or uses requiring a Building Permit which will not generate additional flow above that generated by the building's or structure's immediate prior use;
- (3) uses which are to be established or activities which are to be conducted in an existing building or structure which has not been continuously vacant

for twelve months immediately preceding the effective date of this Ordinance.

(4) persons who have applications for Building Permits pending on the effective date of this Ordinance.

b. If no building permit is required for the proposed use or activity, but such use or activity will generate sewage flows and the building or structure in which the proposed use is to be located has not generated sewage flow or has been vacant for the twelve months immediately preceding the effective date of this Ordinance, no application for a Certificate of Occupancy shall be accepted by the building official until the person submitting such application has been issued a Certificate of Sewage Capacity from the City Engineer pursuant to Section 8d of this Ordinance.

Section 6 DETERMINATION OF AVAILABLE SEWAGE CAPACITY

a. Within ten (10) days of the effective date of this Ordinance, the City Engineer shall determine the Available Sewage Capacity for allocation to persons making application for Building Permits or Certificates of Occupancy covered by this Ordinance. Available Sewage Capacity shall be determined by deducting the annual

average flows through the Farmers Branch Drainage Basin collection system for the last five (5) years, as established by in-line meters, from six hundred fifteen million (615,000,000) gallons.

- b. Six months from the date of initial determination of Available Sewage Capacity and every six months thereafter, or when deemed appropriate by the City Engineer, the City Engineer shall recompute Available Sewage Capacity by deducting the average annual flows through the Farmers Branch Drainage Basin collection system for the five (5) years immediately preceding the date of recomputation, measured in gallons, as established by in-line meters.

- c. The Available Sewage Capacity determined at the time of each semi-annual review required by Section 6b shall supersede the estimate of such capacity maintained by the City Engineer pursuant to Section 8. Determination of Available Sewage Capacity thereafter will be based upon such revised computation.

Section 7 RESERVATION OF CAPACITY

- a. A person who has had a final site plan or final development plan approved by the City Council or, when no

site or development plan is required, a final plat, may request a reservation of Available Sewage Capacity for the uses or activities authorized by such approval by filing an Application pursuant to Section 8a of this Ordinance, at any time following such approval.

- b. The maximum number of gallons of Available Sewage Capacity which may be reserved for a development during the period of time this Ordinance is in effect shall not exceed eighteen million (18,000,000) gallons per year.

- c. The number of residential units and/or square feet of non-residential uses which may be constructed pursuant to a reservation of Available Sewage Capacity, obtained in accordance with this Section, shall be determined in accordance with the Table of Maximum Reserved Capacity, attached hereto as Exhibit C. If the City Engineer determines that the Table of Maximum Reserved Capacity should be modified at any time during the term of this Ordinance, he shall propose such modification to the City Council, which may adopt a revised Table of Maximum Reserved Capacity by Resolution. If an Applicant for a reservation of Available Sewage Capacity submits documentation that the number of units or square feet of development are different than that specified in the Table of Maximum Reserved Capacity, the City Engineer,

applying sound, generally accepted engineering principles may establish a maximum number of units and square feet of development based on and supported by Applicant's documentation.

- d. The maximum number of gallons of Available Sewage Capacity which may be reserved for a development, in accordance with Subsection (b) of this Section, shall be reduced by all Allocated Sewage Capacity assigned to such development pursuant to all Certificates of Sewage Capacity issued for the development prior to the date the Application for reservation is filed.

- e. No more than one reservation of Available Sewage Capacity may be approved for any development during the term of this Ordinance, unless Building Permits or Certificates of Occupancy have been issued for all uses covered by the Certificate, or until the Certificate has expired or has been relinquished voluntarily.

- f. A Certificate of Sewage Capacity issued pursuant to this Section and Section 8 shall expire within one year of the date of issuance for all uses or activities covered by the Certificate for which a Building Permit or Certificate of Occupancy has not been issued, unless the Certificate expressly provides for a longer period in

which case the Certificate shall expire in accordance with the terms and conditions contained therein. An Applicant may reapply for a Certificate of Sewage Capacity following expiration of the original Certificate; provided that, the Allocated Capacity under the new Certificate shall not exceed the Allocated Sewage Capacity under the expired Certificate, reduced by the annual gallons of sewage flow generated by the uses constructed pursuant to such expired Certificate.

- g. Whenever an Applicant requests that a reservation of sewage capacity extend for a period longer than one year, the City Council, based on recommendations by the City Engineer, shall attach such terms and conditions of such extension as are appropriate, including but not limited to, a schedule of development which conforms to the approved plan, if any, showing dates of completion for the uses or activities covered by the Certificate of Sewage Capacity. Approval of a reservation of Sewage Capacity to extend beyond one year shall not affect the Allocated Sewage Capacity determined under subsection (c).

Section 8 SEWAGE CAPACITY ALLOCATION PROCESS

- a. Applications -- Information Required

Applications for Certificates of Sewage Capacity shall be filed with the City Engineer at the same time as an application or applications for Building Permits or Certificates of Occupancy covered by Section 5 of this Ordinance or at the time allowed by Section 7a. The Application shall contain the following information:

- (1) Applicant's name and address;
- (2) A general description of Applicant's proposed uses or activities;
- (3) A map indicating the location of the proposed uses or activities;
- (4) The approved final plat, site plan, final development plan or other document evidencing approval of the proposed development by the Town;
- (5) The number and type of residential dwelling units the Applicant proposes to construct as a part of such development; and
- (6) The total square feet by building or structure for all non-residential uses the Applicant proposes to construct as a part of such development.

b. The City Engineer shall review the Application and determine the total sewage flow, expressed in average gallons per year, which will be generated by the uses described in the Application in accordance with the Table of Equivalent Flows attached hereto as Exhibit B and establish the Allocated Sewage Flow for the proposed development. If an Applicant submits documentation that Actual Sewage Flows generated by the use or development are different than those specified in the Table of Equivalent Flows, the City Engineer, applying sound, generally accepted engineering principles, may establish an Allocated Sewage Flow for the proposed use or development that is based on and supported by Applicant's documentation.

c. The Table of Equivalent Flows shall be reviewed by the City Engineer on a regular basis, but no later than six (6) months from the effective date of this Ordinance and every six (6) months thereafter. If the City Engineer determines that the Table of Equivalent Flows should be modified at any time during the term of this Ordinance, he shall propose such modification to the City Council which may adopt a revised Table of Equivalent Flows by Resolution.

- d. Certificates of Sewage Capacity shall be issued by the City Engineer on a first-come, first-serve basis determined by the date of the filing of the Application so long as Available Sewage Capacity exceeds the proposed developments Allocated Sewage Flow. Each Certificate of Sewage Capacity issued shall specifically state the Allocated Sewage Flow for the proposed development.

- e. The City Engineer shall deduct from the Available Sewage Capacity the Allocated Sewage Capacity for each Certificate of Sewage Capacity issued, on a continuous basis as Certificates of Sewage Capacity are issued.

- f. No Certificate of Sewage Capacity shall be issued to any Applicant if Applicant's Allocated Sewage Flow exceeds the Available Sewage Capacity.

Section 9 ALTERNATIVES IF INSUFFICIENT AVAILABLE SEWAGE CAPACITY

- a. An Applicant who has been denied a Certificate of Sewage Capacity because of insufficient Available Sewage Capacity, pursuant to Section 8f, may be issued a Building Permit or Certificate of Occupancy if:

(1) Applicant applies for a modification of the approved final plat, site plan or final development plan for the proposed development, in accordance with the procedures established by this Code, which reduces the densities and/or intensities of the proposed uses or phases the project so that annual average sewage flows, determined in accordance with Section 8, will not exceed Available Sewage Capacity. Upon final approval of the modification in accordance with the procedures established by this Code, the City Engineer shall recalculate the annual average sewage flows that will be generated by the project as modified, in accordance with the procedures established in Section 8, and shall issue a Certificate of Sewage Capacity in accordance with the provisions of this Ordinance if available Sewage Capacity exceeds Allocated Sewage Flow; or

(2) after consultation with and approval of the City Engineer, the Applicant agrees to construct temporary on-site sewage treatment facilities adequate to meet the facility needs of Applicant's proposed development; provided that, all requirements for and conditions of construction of such facilities contained in Addison's Code are

fully complied with and that upon completion of the connection and transmission facilities listed in Section 4a the Applicant connects to such facilities. The agreement to construct facilities and to connect to the new facilities upon completion of construction shall be evidenced by a written agreement executed by the Applicant and the Town, which specifically delineates the responsibilities of Applicant with regard to construction of temporary on-site sewage facilities and connection to the system and the time frame for completion of construction. Upon completion of the construction of all sewage treatment facilities identified in the agreement and approval of such facilities by the City Engineer, the building official may issue a Building Permit for the Applicant's proposed development; or

- (3) the Applicant petitions the Town to request additional capacity under the contract with Farmers Branch and sufficient additional capacity to support the proposed use or activity is made available by Farmers Branch.

Section 10 EXPIRATION OF ALLOCATED SEWAGE CAPACITY

Allocated Sewage Capacity for a particular use shall remain valid only so long as the Building Permit or Certificate of Occupancy issued for the proposed use remains valid. Upon expiration of the Building Permit or Certificate of Occupancy, the Allocated Sewage Capacity shall also expire with respect to such use and a new Certificate of Sewage Capacity must be obtained for such use. Upon expiration of Allocated Sewage Capacity for a particular use, the City Engineer shall recompute Available Sewage Capacity by adding the Allocated Sewage Capacity stated on the Certificate for such use to the then Available Sewage Capacity.

Section 11 TRANSFERABILITY OF CERTIFICATE OF SEWAGE CAPACITY

No Certificate of Sewage Capacity may be transferred to another person or proposed development unless the transfer is approved in conjunction with approval of a Building Permit or Certificate of Occupancy by the building official.

Section 12 APPEALS

An Applicant may appeal the decision of the City Engineer to deny a Certificate of Sewage Capacity to the City Council. The only

basis for such appeals shall be the City Engineer's calculation of Allocated Sewage Flow.

Section 13 ADMINISTRATIVE FEES

- a. Within ten (10) days of the effective date of this Ordinance, the City Council shall by Resolution, establish a schedule of fees to be paid by Applicants. Such fees shall be set in amounts necessary to cover the cost of administration of the Sewage Capacity Allocation Ordinance. The City Engineer shall regularly review the schedule of fees, but no less often than thirty (30) days before one (1) year from the effective date of this Ordinance and every year thereafter, to determine whether the schedule of fees covers the cost of administration of this Ordinance. If the City Engineer determines that the schedule of fees should be adjusted to reflect the then current cost of administration, the City Engineer shall so advise the City Council and the schedule of fees shall be modified by the City Council by Resolution to reflect then current costs.

- b. The Applicant shall pay the then current fee as set by Resolution at the time the Application is filed.

Section 14 AFFECT ON GENERAL PLAN, ZONING AND SUBDIVISION AND LAND DEVELOPMENT REGULATIONS

This Ordinance affects and is solely limited to the issuance of Building Permits and Certificates of Occupancy, covered by Section 5 of this Ordinance and final plat, site and development plan approval as provided in Section 7. Except as provided in this Ordinance, this Ordinance shall not affect any provision of the Town's general plan, zoning regulations, subdivision and land development regulations, or other Town ordinances or other regulations relating to the permissible use of property, density and development, design and improvement standards and requirements, all of which shall remain operative and shall be in full force and effect without limitation with respect to the development subject to this Ordinance.

Section 15 SEVERABILITY

If any portion of this Ordinance is held invalid or unconstitutional, the invalidity or unconstitutionality of that portion shall not affect the remaining portions of this Ordinance.

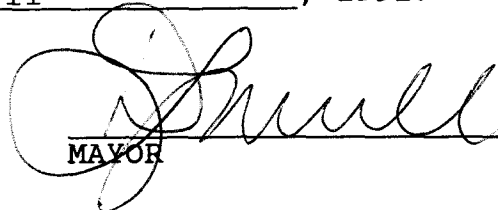
Section 16 INCORPORATION OF EXHIBITS

Exhibits A, B and C are attached hereto and hereby are made a part of this Ordinance by reference.

Section 17 EMERGENCY

The importance of this Ordinance creates an emergency and an imperative public necessity, and the Ordinance shall take effect and be in force from and after its adoption.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS
this 9th day of April, 1991.



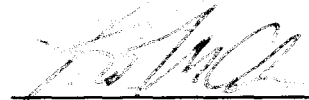
MAYOR

ATTEST:



CITY SECRETARY

APPROVED AS TO FORM:

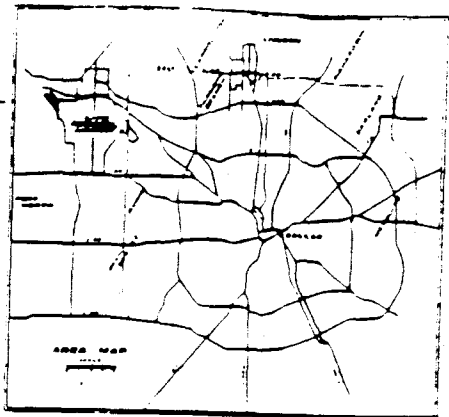


CITY ATTORNEY

EFFECTIVE DATE:

4-11-91

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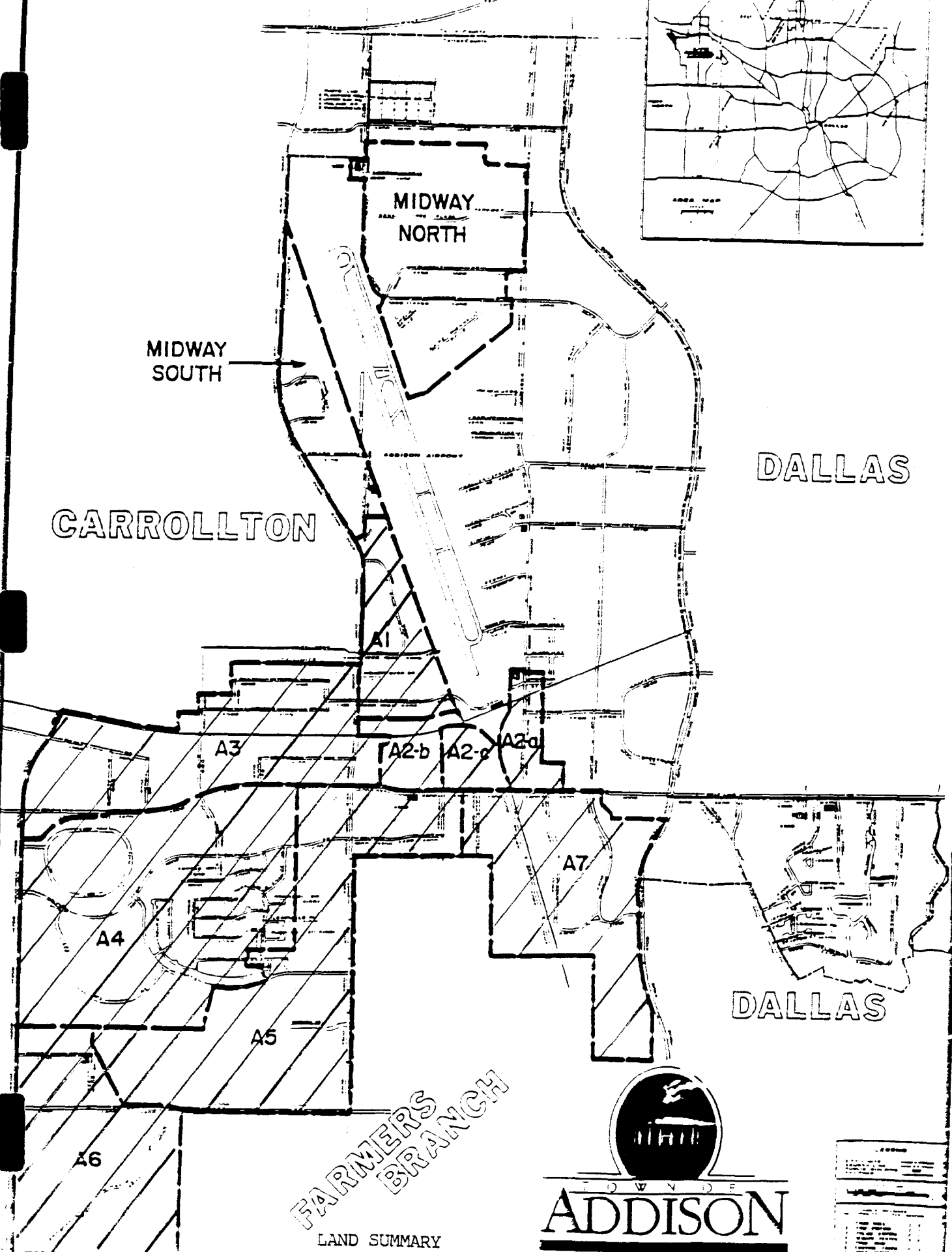


MIDWAY NORTH

MIDWAY SOUTH

DALLAS

CARROLLTON



DALLAS

FARMERS BRANCH



LAND SUMMARY EXHIBIT A

Table with multiple rows and columns, likely containing a legend or data for the land parcels.

ESTIMATED DRY WEATHER WASTEWATER FLOW

February 11, 1991

RESIDENTIAL

ESTIMATED DRY WEATHER
WASTEWATER FLOW

One (1) Single Family Residence; Modular Home; Mobile Home	350 gpd
One (1) Duplex	300 gpd/Unit
One (1) Triplex; Fourplex; Condo Unit; P.U.D. Unit (6+ Units/ Acre to 24 Units/Acre)	245 gpd/Unit
One (1) Apartment Unit (24+ Units/ Acre)	175 gpd/Unit
One (1) Hotel or Motel Room	175 gpd/Room

COMMERCIAL

ESTIMATED DRY WEATHER
WASTEWATER FLOW

Office	115 gpd/1000 Sq.Ft. of Floor
Office Warehouse	87 gpd/1000 Sq.Ft. of Floor
Retail; Shopping Center	210 gpd/1000 Sq.Ft. of Floor
Restaurant; Cafeteria	175 gpd/100 Sq.Ft. of Floor
Hospital	350 gpd/Bed
Rest Home	175 gpd/Bed
Church (Worship Services Only)	5 gpd/Seat
School (Includes Gym and Cafeteria)	25 gpd/Student
Supermarket	65 gpd/1000 Sq.Ft. of Floor
Discount Store	55 gpd/1000 Sq.Ft. of Floor

*Gallons per day (gpd)

MAXIMUM RESERVED CAPACITY
April 1, 1991

RESIDENTIAL DEVELOPMENT

*ALLOWABLE DEVELOPMENT UNITS

Single-Family Residence; Modular Home; Mobile Home	141 Units
Duplex	164 Units (82 Duplexes)
Triplex; Four Plex; Condo Unit, P.U.D. Unit (6 to 24 Units/Acre)	201 Units
Apartments (24+ Units/Acre)	282 Units
Hotel or Motel	282 Rooms

COMMERCIAL

Office	429,000 S.F.
Office Warehouse	567,000 S.F.
Retail, Shopping Center	235,000 S.F.
Restaurant, Cafeteria	28,180 S.F.
Hospital	141 Beds
Rest Home	282 Beds
Church (Worship Services Only)	9,863 Seats
School (Includes Gym & Cafeteria)	1,973 Students
Supermarket	759,000 S.F.
Discount Store	897,000 S.F.

*Based on reservation of 18,000,000 gallons per year
of wastewater.