

ADOPTED
MAR 24 1988

FILED

ORDINANCE NO. 0-88-6

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MARY L. SLINKARD

CO. & DEPUTY CLERK
BENTON, COUNTY, ARK.

BE IT ENACTED BY THE QUORM COURT OF THE
COUNTY OF BENTON, STATE OF ARKANSAS AN
ORDINANCE TO BE ENTITLED:

AN ORDINANCE PROVIDING FOR THE ESTAB-
LISHMENT OF A FLOOD DAMAGE PREVENTION
ORDINANCE PROGRAM FOR BENTON COUNTY
AND OTHER PURPOSES.

Section 1. FLOOD DAMAGE PREVENTION REGULATORY CODE ADOPTED
BY REFERENCE. There is hereby adopted by reference a flood
damage prevention regulatory code for Benton County,
Arkansas such flood damage prevention regulatory code
having been delegated by the legislature of the State
of Arkansas and set forth in Arkansas Statutes Sections
21-1901 through 21-1904 (Act 629 of 1969). A copy
of the referenced regulatory code shall be filed in
the office of the County Clerk and shall be available
for inspection and copying by any person during normal
office hours. The code shall include the following
articles:

ARTICLE 1. Statutory authorization, findings
of fact, purpose and methods
ARTICLE 2. Definitions
ARTICLE 3. General provisions
ARTICLE 4. Administration
ARTICLE 5. Provisions for flood hazard
reduction

Section 2. Any person or corporation who violates
any measure adopted under this code may be fined not
more than one hundred dollars (\$100.00) for each offense.
Each day during which such violation exists is a separate
offense.

Section 3. Any ordinance in conflict herewith or in
conflict with the code adopted herein is hereby repealed.

ATTEST:



A. E. NORWOOD

3/25/88

DATE


MARY L. SLINKARD, COUNTY CLERK

DATE ADDED. 3 24 88

Revised as of January 28, 1988

FLOOD DAMAGE PREVENTION CODE

OUTLINE

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FLOOD DAMAGE PREVENTION CODE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Arkansas has in Act 629 of 1969 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Quorum Court

of Benton County, Arkansas, does ordain as follows:

SECTION D. FINDINGS OF FACT

(1) The flood hazard areas of Benton County 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, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this code 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;

ARTICLE 2

DEFINITIONS

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

APPEAL- means a request for a review of the Flood Plain Administrator's interpretation of any provision of this code or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD- is the land in the floodplain within a community 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). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, Al-99, VO, Vl-30, VE or V.

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

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. Normal farming operations including the construction of uninhabitable buildings are exempt from the definition of development.

ELEVATED BUILDING-means a nonbasement building (i) built, in the case of a building in Zones Al-30, AE, A, A99, AC,AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones Vl-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 of the base flood. In the case of Zones Al-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones Vl-30, VE, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3 (e) (5) of the National Flood Insurance Program regulations.

ARTICLE 2 continued

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 HAZARD BOUNDARY MAP (FHBM) --means an official map of a community on which the Federal Emergency Management Agency has delineated the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M and/or E.

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

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 as systems typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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.

MANUFACTURED HOME-- means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes

ARTICLE 2 cont.

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 flood plain management purposes, structures for which the "the start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.

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

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

SUBSTANTIAL IMPROVEMENT- means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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 purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE- is a grant of relief to a person from the requirements 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

ARTICLE 2 cont.

VIOLATION- means the failure of a structure or other development to be fully compliant with the community's flood plain 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) (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 flood plains of coastal or riverine areas.

ARTICLE 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS CODE APPLIES

The code shall apply to all areas of special flood hazard within the jurisdiction of Benton County.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency on its Flood Hazard Boundary Map (FHBM), Community No. 050419, dated Oct. 18, 1977, and any revisions thereto are hereby adopted by reference and declared to be a part of this code.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of this code.

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 code and other applicable regulations.

SECTION E. ADOPTION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

In the interpretation and application of this code, 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 code 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 code 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 code 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 code or any administrative decision lawfully made thereunder.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATION

The County Judge or his designatee is hereby appointed 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 flood plain management.

SECTION B. DUTIES & 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 permit application to determine whether proposed building site will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (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 Arkansas Soil and Water Conservation Commission 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.

SECTION C. PERMIT PROCEDURES

- (1) Application for a Development Permit and a \$10.00 application fee shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited

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 floodproofed;

c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing 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 Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

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

b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage 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 Appeal Board as established by the community shall hear and render judgement on requests for variances from the requirements of this ordinance.

- (4) The Floodplain Administrator shall maintain a record of all actions involving or appearing 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 ordinance.
- (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 the one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this ordinance, the 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) 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.
- (10) 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 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

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

- (1) All new construction 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(4), 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 to or 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

(3) Manufactured Homes

a. Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. All manufactured homes shall be in compliance with Article 5, Section B (1).

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

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

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

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

(4) All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

ADOPTED
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MARY L. GLINKARD
COUNTY CLERK
BENTON COUNTY, ARK.

ORDINANCE NO. 0-91-29

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF A FLOOD DAMAGE PREVENTION PROGRAM FOR BENTON COUNTY AND FOR OTHER PURPOSE.

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS:

Section 1. FLOOD DAMAGE PREVENTION CODE ADOPTED BY REFERENCE. There is hereby adopted by reference a flood damage prevention code for Benton County, Arkansas, such flood damage prevention code having been delegated by the legislature of the State of Arkansas in Act 629 of 1969. A copy of the referenced code shall be filed in the office of the County Clerk and shall be available for inspection and copying by any person during normal office hours. The code shall include:

ARTICLE 1 Statutory authorization, findings of fact, purpose and methods
ARTICLE 2 Definitions
ARTICLE 3 General provisions
ARTICLE 4 Administration
ARTICLE 5 Provisions for flood hazard reduction

Section 2. Any person or corporation who violates any measure adopted under this code may be fined not more than one hundred dollars (\$100) for each offense. Each day during which such violation exists is a separate offense.

Section 3. Any ordinance in conflict herewith or in conflict with the code adopted herein is hereby repealed.

Section 4. It is hereby found and declared by Benton County that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; 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 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.

ATTEST:

Mary L Glinkard
Mary Lou Glinkard, County Clerk
Sponsor: Environment Committee

Bruce Rutherford
Bruce Rutherford County Judge

Date

9/13/91

3-194

MARY LASHINKARD
CO. & COUNTY CLERK
BENTON COUNTY, ARK.

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1

STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORITY

The Legislature of the State of Arkansas has in Act 629 of 1969 delegated the responsibility of local governments to adopt regulations designed to minimize flood losses. Therefore, the Quorum Court of Benton County, Arkansas, does ordain as follows:

SECTION B. FINDINGS OF FACT

- (1) The flood hazard areas of Benton County 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 hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed 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 project;

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HARRY L. CLARKWARD
CO. & CLERK
BENTON COUNTY, ARK.

- (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.

'91 SEP 13 AM 10 48

MARK L. LINDHARD
COUNTY CLERK
BENTON COUNTY, ARK.

ARTICLE 2

DEFINITIONS

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

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 become 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) with a one percent chance or greater annual chance of flooding 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 of flow may be evident. Such flooding is characterized by ponding and sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in a floodplain within a community 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). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, AI-99, VO, VI-30, VE or V.

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

BASEMENT - means an 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 may 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 operation or storage of equipment or materials. Normal farming operations including construction of non-residential buildings are excluded from the definition of development.

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'91 SEP 13 AM 10 48

MARY L. CLINKARD
CO. & PERMITS CLERK
BENTON COUNTY, ARK.

ELEVATED BUILDING - means a nonbasement building (i) built, in the case of a building in Zones AI-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 VI-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 AI-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 VI-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."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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 - is 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.

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MARIE L. SLINKARD
CO. & FINANCIAL CLERK
BENTON COUNTY, ARK.

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 or 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.

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LAWRENCE L. SHUMARD
CO. & REGISTER CLERK
BENTON COUNTY, ARK.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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.

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MARY L. CLARKARD
CO. & P. CLERK
BENTON COUNTY, ARK.

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; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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, as well as a manufactured home.

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 to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or (2) Any alteration of a "historic structure", provided that the alteration will 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.)

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'91 SEP 13 AM 10 49

MARY L. CLINKARD
CO. & DEPUTY CLERK
BENTON COUNTY, ARK.

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.

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MARY L. CLUNKARD
CO. & FINANCIAL CLERK
BENTON COUNTY, ARK.

ARTICLE 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This Ordinance shall apply to all areas of special flood hazard within the jurisdiction of Benton County.

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 Benton County," dated September 18, 1991, 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 part of this ordinance.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

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 regulations, except that normal farming operations including construction of non-residential buildings are exempt from this provision.

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.

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NADY L. CLINKARD
CO. & PROBATE CLERK
BENTON COUNTY, ARK.

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.

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MAJOR CLERK
GO. & PRIVATE CLERK
BENTON COUNTY, ARK.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The County Judge is hereby appointed 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 are not limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (2) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (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 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 the Arkansas Solid and Water Conservation Commission 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.

MARY L. CLARKARD
 CO. & DEPT. CLERK
 BENTON COUNTY, ARK.

(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 AI-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 more than one foot 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 AI-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA.

SECTION C. PERMIT PROCEDURES

(1) Application for a Development 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, including the placement of manufactured homes, 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 floodproofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing 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).

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'91 SEP 13 AM 10 49

WILLIAM W. BELLARD
COMMUNITY DEVELOPMENT CLERK
BERTHOLD COUNTY, ARK.

(2) Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage 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 appeal Board as established by the community shall hear and render judgement on requests for variances from the requirements of this ordinance.

(2) The Appeal Board shall hear and render judgement 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 ordinance.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

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MARY L. LINKARD
CO. & CLERK
BENTON COUNTY, ARK.

(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 ordinance.

(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 the one-half acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the 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, additional nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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DEPARTMENT OF PUBLIC SAFETY
SHERIFFS OFFICE
CO. & PROBATE CLERK
BENTON, COUNTY, ARK.

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 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

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

- (1) All new construction 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:

3-211

MARY L. HUBBARD
CO. & PROBATE CLERK
BENTON COUNTY, ARK.

(1) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or 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 floodproofed 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.

3-212

MARY S. LUKKARD
COUNTY CLERK
BENTON COUNTY, ARK.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

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

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

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. 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 have the lowest floor (including basement) elevated above the highest adjacent grade 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).

(2) All new construction and substantial improvements of non-residential structures;

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MARY L. SLINKARD
CC & CLERK
BENTON COUNTY, ARK.

CERTIFICATION

It is hereby found and declared by Benton County
(local unit)

that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; 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.

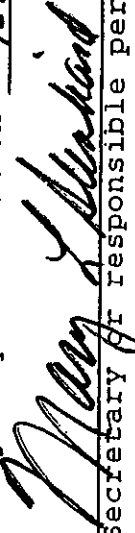
APPROVED

9-12-91

(date)


(Community Official)

I, the undersigned, MARY L. SLINKARD, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the Benton County Quorum Court, at a regular meeting duly convened on 9-12-91


(Secretary or responsible person)

(SEAL)

3-216

ORDINANCE NO. O-2003-32

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 38, ARTICLE II (FLOOD DAMAGE PREVENTION) OF THE *CODE OF ORDINANCES OF BENTON COUNTY*

WHEREAS, as a condition of participation in the National Flood Insurance Program, local governments are required to adopt, administer, and enforce certain flood damage prevention regulatory measures; and

WHEREAS, the Benton County Flood Damage Prevention Ordinance, initially passed in 1991, and codified in Section 38, Article II of the Code of Ordinances of Benton County (hereafter referred to as the Code) has been reviewed and determined to be in need of certain technical amendments.

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS:

SECTION 1. That the definition of *Development* in Sec. 38-26 of the Code is amended to read as follows: “*Development* means any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment or materials. Normal farming operations are excluded from the definition of development.”

SECTION 2. That the definition of *Elevated building* in Sec. 38-26 of the Code is amended to read as follows: “*Elevated building* means a non-basement building (i) built, for 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, for a building in zone V1-30, VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow 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 one (1) foot above the base flood.

For 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 floodwaters. For zones V1-30, VE or V, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.”

SECTION 3. That Sec. 38-32 of the Code, Compliance, is amended to read as follows: “No structure or land shall be located, altered or have its use changed without full compliance with the terms of this article and other applicable regulations, except that normal farming operations are exempt from this section.”

SECTION 4. That Sec. 38-51 of the Code, Development permit, is amended to read as follows: “A development permit shall be required to ensure conformance with this article. The permitted site shall be posted with a notice, provided by the floodplain administrator, evidencing the issuance of a development permit. Said notice shall be visible from a point of vehicular access to the property, and remain posted until the development is completed.”

SECTION 5. That Sec. 38-53 of the Code, Designation of floodplain administrator, is amended to read as follows: “The County Judge, or his designee, is appointed as the Floodplain Administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.”

SECTION 6. That Sec. 38-54(a)(6) of the Code, Duties and responsibilities of the floodplain administrator, is amended to read as follows: “Notify, in riverine situations, adjacent communities and the Arkansas Soil and Water Conservation Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.”

SECTION 7. That Sec. 38-55 (a) of the Code, Variance procedures, is amended to read as follows: “ An appeal board is hereby established to hear and render judgment on requests for variances from the requirements of this article. The Benton County Planning Board shall serve as said appeal board.”

SECTION 8. That Sec. 38-73 (1) of the Code, *Residential construction* under Specific standards, is amended to read as follows: “*Residential construction*. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above an elevation one (1) 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 section 38-52(a)(1), is satisfied.”

SECTION 9. That Sec. 38-73 (2) of the Code, *Nonresidential construction* under Specific standards, is amended to read as follows: “*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 an elevation one (1) foot 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 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 floodproofed, shall be maintained by the floodplain administrator.”

SECTION 10. That Sec. 38-73 (4) (b) of the Code, *Manufactured homes* under Specific standards, is amended to read as follows: “Manufactured homes that are placed or substantially improved with zones A1-30, AH and AE on the community’s FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above an elevation one (1) foot above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.”

SECTION 11. That Sec. 38-73 (4) (c) (1) of the Code, *Manufactured homes* under Specific standards, is amended to read as follows: “The lowest floor of the manufactured home is at or above an elevation one (1) foot above the base flood elevation; or”

SECTION 12. That Sec.38-74 (c) of the Code, Standards for subdivision proposals, is amended to read as follows: “Base flood elevation data shall be generated for subdivision proposals, site plan proposals, and other proposed developments, including the placement of manufactured home parks and subdivisions if not otherwise provided pursuant to Section 38-30 or 38-54 (8).”

SECTION 13. That Sec. 38-75 (1) of the Code, under Standards for areas of shallow flooding (AO/AH zones), is amended to read as follows: “All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community’s FIRM (at least two feet if no depth number is specified).”

SECTION 14. That Sec. 38-75 (2) (a) of the Code, under Standards for areas of shallow flooding) AO/AH zones), is amended to read as follows: “Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community’s FIRM (at least two feet if no depth number is specified); or”

SECTION 15. That ARTICLE II, DIVISION 3 of the Code, FLOOD DAMAGE PREVENTION, is amended by adding the following: “Sec. 38-77. Penalties for noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violations of the provisions of this article 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, firm, or corporation who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, for each violation, and in addition shall pay all costs and expenses involved in the case. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of this article, shall not exceed two hundred fifty dollars (\$250.00) for each day that it may be unlawfully continued. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.”

APPROVED:

GARY D. BLACK, COUNTY JUDGE
DATE SIGNED: July 15, 2003

ATTEST:

MARY L. SLINKARD, COUNTY CLERK
SPONSOR: JP Sheridan
DATE ADOPTED: July 10, 2003
Votes For: 11 Votes Against: _____
Abstain: ____ Present: _____ Absent: 2

ORDINANCE NO. O-2003-33

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 38, ARTICLE I OF THE *CODE OF ORDINANCES OF BENTON COUNTY* REGARDING PLANNING OFFICE FLOODPLAIN AND STORMWATER CHECKS AFTER 9-1-1 ADDRESS ASSIGNMENTS

WHEREAS, provisions contained in the Benton County Code of Ordinances (hereafter referred to as the Code) require the assignment of a physical address for new residential and commercial structures; and

WHEREAS, regulations concerning flood hazard prevention and storm water may, depending upon location and size, be applicable to new developments; and

WHEREAS, Section 58-106 of the Code provides for address assignment notifications necessary for the efficient and effective administration of Planning Office responsibilities; such enabling subsequent checks to help insure that new developments are compliant with, and developers aware of, floodplain and storm water regulations that may apply; and

WHEREAS, the Environmental Committee of the Quorum Court, after thorough consideration, has recommended approval of a Code amendment to require Planning Office floodplain and storm water checks.

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS:

That Section 38, Article I of the Code is amended by adding the following: “Sec. 38-1. Required Floodplain and Storm water Checks. After the receipt of an address assignment, as provided in Sec. 58-106, the Planning Office shall determine whether the site is located in a designated floodplain, and the applicability of storm water regulations. Notifications to affected parties of the necessity to comply with county floodplain regulations, and that state and/or county storm water regulations may be applicable, shall be made promptly after receipt of address assignment notification.

APPROVED:

/s/ Gary D. Black
GARY D. BLACK, COUNTY JUDGE

ATTEST:

/s/ Mary L. Slinkard
MARY L. SLINKARD, COUNTY CLERK
SPONSOR: JP Sheridan
DATE ADOPTED: July 10, 2003
Votes For: 11 Votes Against: _____
Abstain: _____ Present: _____ Absent: 2

ORDINANCE NO. O-2007-22

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 38 (FLOODS) OF THE *CODE OF ORDINANCES OF BENTON COUNTY, ARKANSAS* TO UPDATE THE FLOOD DAMAGE PREVENTION PROGRAM FOR BENTON COUNTY; AND DECLARING AN EMERGENCY

WHEREAS, as a condition of participation in the National Flood Insurance Program, local governments are required to adopt, administer, and enforce certain flood damage prevention regulatory measures; and

WHEREAS, the Benton County Flood Damage Prevention Ordinance, initially passed in 1991, amended in subsequent years, and codified in Chapter 38 of the Code of Ordinances of Benton County, Arkansas has been reviewed and determined to be in need of technical amendments; and

WHEREAS, said amendments are necessary to insure Benton County's continued participation in the National Flood Insurance Program.

NOW THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS:

ARTICLE 1. That the following definitions in **Section 38-26, Definitions**, of the *Code of Ordinances of Benton County* are hereby amended to read as follows:

“*Area of shallow flooding* means a designated AO or AH zone on the county's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, and where the path of the flooding is unpredictable. Such flooding is characterized by ponding and sheet flow.”

“*Area of special flood hazard* means the land in a floodplain within the county 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 insurance rate map (FIRM). After detailed studies have been completed, zone A usually is refined into zones AE, AH, or AO.”

“*Elevated building* means a non-basement building:

(1) Built, in zones AE, A, AO, AH, X, and D, to have the top of the bottom floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and

(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of one foot above the base flood.

For zones AE, A, AO, AH, 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 floodwaters.

ARTICLE 2. That **Section 38-30, Basis for establishing areas of special flood hazard**, of the Code of Ordinances of Benton County, Arkansas is hereby amended to read as follows:

“**Sec. 38-30.** 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 Benton County, Arkansas and Incorporated Areas” dated September 28, 2007, with accompanying flood insurance rate maps (FIRM) are adopted by reference and declared to be part of this article.”

ARTICLE 3. That **Section 38-54, Duties and responsibilities of the floodplain administrator** part (a) (6) is hereby amended to read as follows:

“(6) Notify, in riverine situations, adjacent communities and the Arkansas Natural Resource Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.”

ARTICLE 4. That **Section 38-54, Duties and responsibilities of the floodplain administrator**, part (a) (9) is hereby amended to read as follows:

“(9) When a regulatory floodway has not been designated, require that no new construction, substantial improvements or other development, including fill, shall be permitted within zone AE on the county’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 more than one foot at any point within the county.”

ARTICLE 5. That **Section 38-54, Duties and responsibilities of the floodplain administrator**, part (b) is hereby amended to read as follows:

“Under 44 CFR 65.12 of the National Flood Insurance Program regulations, the county may approve certain development in zones AE or AH on the county’s FIRM which increases the water surface elevation of the base flood by more than one foot, provided the county first applies for a conditional letter of map revision through FEMA.”

ARTICLE 6. That **Section 38-73, Specific standards**, part (4) is hereby amended to read as follows:

“(4) *Manufactured homes.*

a. All manufactured homes placed within zone A on a county’s FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this subsection, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This is in addition to all applicable state and local anchoring requirements for resisting wind forces.

b. Manufactured homes that are placed or substantially improved within zones AH and AE on the county’s FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above an elevation one foot above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

c. Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within zones AH and AE on the county's FIRM that are not subject to this subsection shall be elevated so that either:

1. The lowest floor of the manufactured home is at or above an elevation one foot above the base flood elevation; or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.”

ARTICLE 7. That **Section 38-73, Specific standards**, part (5) is hereby amended to read as follows:

“(5) *Recreational vehicles.* All recreational vehicles placed on sites within zones AH and AE on the county's FIRM shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of section 38-52(a) and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.”

ARTICLE 8. Severability. If any court of competent jurisdiction finds that any section, clause, sentence, or phrase of this ordinance is invalid or unconstitutional, that finding in no way affects the validity of the remaining portions of this ordinance.

ARTICLE 9. Emergency Clause. It is hereby found and declared by Benton County that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; 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:

/s/ Gary D. Black
GARY D. BLACK, COUNTY JUDGE
DATE SIGNED: 10-01-07

ATTEST:

/s/ Mary L. Slinkard
MARY L. SLINKARD, COUNTY CLERK
SPONSOR: Environmental Committee
ADOPTED: September 27, 2007
Votes for: 11 Against: _____
Abstain: _____ Present: _____ Absent: 2

CERTIFICATE

I, Mary L. Slinkard, the undersigned County Clerk of Benton County, Arkansas, hereby certify that the foregoing pages are a true and perfect copy of Ordinance No. O-2007-22 duly passed by a vote of 11 yeas, 0 nays, 2 absent, at a regular session of the Quorum Court of Benton County, Arkansas, held at the regular meeting place of the Quorum Court at 5:00 o'clock p.m., on the 27th day of September, 2007, and that said Ordinance is of record in Ordinance Record Book No. 7, Page 615, now in my possession.

GIVEN under my hand and seal this 1st day of October, 2007.

MARY L. SLINKARD, County Clerk

(SEAL)

ORDINANCE NO. O-2007-23

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 38 (FLOODS) OF THE *CODE OF ORDINANCES OF BENTON COUNTY, ARKANSAS* TO UPDATE THE FLOOD DAMAGE PREVENTION PROGRAM FOR BENTON COUNTY; AND DECLARING AN EMERGENCY

WHEREAS, sections of Chapter 38 (Floods) of the *Code of Ordinances of Benton County, Arkansas* were previously amended by Ordinance No. O-2007-22; and

WHEREAS, additional technical amendments to Chapter 38 (Floods) of the *Code of Ordinances of Benton County, Arkansas* have been determined to be necessary by the Federal Emergency Management Agency; and

WHEREAS, said amendments are necessary to insure Benton County's continued participation in the National Flood Insurance Program.

NOW THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS:

ARTICLE 1. That **Section 38-26, Definitions**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations) means Parts 59-75 contain Federal regulations upon which local floodplain managements are based.

44 CFR § 65.12 means the section of the Federal regulations which involves revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments.

100-year flood means any flood with a 1% chance of occurring in any given year. The term is misleading, because of its statistical derivation. A “100-year flood” may occur many times in any given 100-year period, or it may not occur at all in 100 years.

A Zones are special flood hazard areas without detailed studies, where base flood elevations have not been determined.

Accessory Structures are structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

AE Zones are special flood hazard areas where detailed studies have determined base flood elevations.

AH Zones are special flood hazard areas characterized by shallow flooding with ponding effects (where floodwaters accumulate in depressions and linger until absorbed or evaporated).

AO Zones are special flood hazard areas characterized by shallow flooding with sheet flow (where floodwaters flow in a broad, shallow sheet rather than through a narrow channel).

Area of shallow flooding means a designated AO or AH zone on the county's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, and where the path of flooding is unpredictable. Such flooding is characterized by ponding and sheet flow.

Area of special flood hazard means the land in a floodplain within the county 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 insurance rate map (FIRM). After detailed studies have been completed, zone A usually is refined into zones AE, AH, or AO.

Automatic entry and exit of floodwaters means that the water must be able to enter and exit with no intervening action from a person.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year. (100-year flood)

Base flood elevation refers to the expected height of floodwaters during the peak of the base flood event.

Basement means an area of the building having its floor sub grade (below ground level) on all sides.

BFE is the acronym for Base Flood Elevation.

Buoyancy is the upward force exerted by water. Buoyancy can cause underground tanks to float free and can lift structures off foundations.

CFR is the acronym for the Code of Federal Regulations. The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The Federal regulations pertaining to the national Flood Insurance Program are found in title 44, Emergency Management and Assistance.

Crawlspace is a type of structural foundation where the space beneath the lowest floor is typically not deep enough to allow a person to stand and not all four walls are below grade.

Critical Facilities include: Governmental facilities that are considered essential for the delivery of critical services and crisis management (such as data and communication centers and key governmental complexes); facilities that are essential for the health and welfare of the whole population (such as hospitals, prisons, police and fire stations, emergency operations centers, evacuation shelters and schools); mass transportation facilities (such as airports, bus terminals, train terminals); lifeline utility systems (including potable water, wastewater, oil, natural gas, electric power and communications systems); high potential loss facilities (such as nuclear power plants or military installations); hazardous material facilities (such as industrial facilities housing

or manufacturing or disposing of corrosives, explosives, flammable materials, radioactive materials and toxins.

D Zones areas in which the flood hazard has not been determined, but may be possible.

Development broadly means any manmade change in improved or unimproved real estate. It includes, but is not limited to, construction, reconstruction, or placement of a building, or any addition or substantial improvement to a building. "Development" also includes the installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 consecutive days. The installation of utilities, construction of roads, bridges, culverts or similar projects are also "developments." Construction or erection of levees, dams, walls, or fences; drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface are "developments." Storage of materials including the placement of gas and liquid storage tanks are "developments," as are channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters. "Development" does not include maintenance of existing buildings and facilities, maintenance of existing drainage ditches, resurfacing of roads, gardening, plowing, routine farming, or similar practices that do not involve filling, grading, or construction of levees.

Development Permit refers to the permit required for placing a "development" in the floodplain.

Elevated building means a non-basement building:

(1) Built, in zones AE, A, AO, AH, X and D, to have the top of the bottom floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and

(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of one foot above the base flood.

For zones AE, A, AO, AH, 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 floodwaters.

Elevation Certificate refers to FEMA form 81-31, which for the purposes of this article must be properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by the county.

Existing Structure means, for floodplain management purposes, a structure which is in place before any reconstruction, rehabilitation, addition, or other improvement takes place.

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

Federal Emergency Management Agency, or FEMA, is the Federal agency responsible for administering the National Flood Insurance Program.

FEMA is the acronym for the Federal Emergency Management Agency.

Fill refers to the placement of natural sand, dirt, soil, rock, concrete, cement, brick, or similar material at a specified location to bring the ground surface up to a desired elevation.

FIRM is the acronym for Flood Insurance Rate Map.

Flood Fringe refers to the portion of the 100-year floodplain which is outside the floodway.

Flood insurance rate map (FIRM) means an official map of the county, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the county.

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.

Flooding events are general or temporary conditions of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain refers to any land area susceptible to inundation by floodwaters from any source. For the purposes of this article, floodplain refers to the land area susceptible to being inundated by the base flood.

Floodplain Administrator refers to the county official designated in this article as responsible for the administration of floodplain management regulations.

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 proofing means any combination of structural and nonstructural 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.

Flood proofing Certificate refers to FEMA form 81-65, which for the purposes of this article must be properly completed by a Professional Engineer or Architect licensed to practice in the State of Arkansas.

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.

Flow-through openings are openings specifically designed to allow floodwaters to flow into and out of enclosed spaces, minimizing the danger of foundation or wall collapse from lateral hydrostatic pressure.

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 shipbuilding 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:

(1) Listed individually in the National Register of Historic Places, a listing maintained by the Department of the Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) 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;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Hydrodynamic forces are the forces and stresses associated with moving water, including impacts from objects carried in the water.

Hydrostatic flood forces are the forces and stresses associated with standing floodwaters.

Lateral forces are the horizontal hydrostatic forces associated with standing water. Water exerts an equal force in all directions, and as little as three feet of standing water can generate sufficient lateral force to collapse a foundation or wall.

Levee means a manmade structure, usually earthen embankments 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.

Lowest floor refers to the lowest floor of the lowest enclosed area (including basement). For a typical slab-on-grade construction, the elevation of the lowest floor is the top of the first floor of the house. For a typical basement foundation construction, the elevation of the lowest floor is the top of the basement floor. For a typical crawlspace foundation construction, the elevation of the lowest floor is the top of the first floor of the house. For typical split-level constructions, the elevation of the lowest floor is the top of the first living area floor – the garage floor is not the lowest floor as long as there are no living areas in the garage and it is used solely for storage, parking vehicles and entry to

the house. The elevation of the lowest floor of a manufactured home, however, is the bottom surface of the lowest floor joist.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured Home Park or subdivision means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

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 the county's flood insurance rate map are referenced.

Mixed Use Structures are structures with both a business and a residential component, but where the area used for business is less than 50% of the total floor area of the structure.

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the county on September 12, 1991, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including at a minimum the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed on or after the effective date of floodplain management regulations adopted by the county.

No Adverse Impact principle is a principle of restricting or prohibiting land development that does harm or "adversely affects" someone else's property or land.

Nonresidential Structures are structures used only for commercial or public purposes, such as businesses, schools, churches, etc.

No-Rise Certificates are formal certifications signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase in flood levels within the community during the occurrence of a base flood event.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Section 404 Wetlands Permit is a permit required under Section 404 of the Clean Water Act for the discharge of dredged and fill material into any surface water of the United States. The US Army Corps of Engineers issues Section 404 permits.

SFHA is the acronym for Special Flood Hazard Area.

Slab anchors are anchors where the hook of the anchor is wrapped around a horizontal rebar in the slab before the concrete is poured.

Special flood hazard areas are geographical areas identified on FEMA flood insurance rate maps as being at-risk for flooding. The maps further categorize these areas into various flood risk zones A, AE, AH, and AO. See area of special flood hazard.

Start of construction, 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, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

State Coordinating Agency is the agency that acts as a liaison between FEMA and a community for the purposes of floodplain management. The Arkansas Natural Resources Commission is the State Coordinating Agency for Arkansas.

Structure, for the purposes of floodplain management, refers to any building with two or more rigid walls and a fully secured roof on a permanent site or to any gas or liquid storage tank that is principally above ground.

Substantial damage is damage of any origin where the cost to restore a structure to its original undamaged state would equal or exceed 50% of the market value of the structure before any damage occurred. In determining whether substantial damage has occurred, estimators must use standard contractor and materials costs. There are no exceptions for homeowners who make their own repairs or for discounted or free raw materials.

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 to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions;
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore,

permits construction or development in a manner otherwise prohibited by this article. (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 county's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance 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.

X Zones are a special group of insurance risk zones. One type, shown as non-shaded areas on FEMA issued flood maps, indicates a zone where flooding is not expected to occur. The second type, shown as shaded areas of FEMA flood maps, indicates a flood hazard area that is expected to be affected by the 500-year flood, but not by the 100-year base flood.”

ARTICLE 2. That **Section 38-30, Basis for establishing areas of special flood hazard**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“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 Benton County, Arkansas and Incorporated Areas" dated September 28, 2007, with accompanying flood insurance rate maps (FIRM), dated September 28, 2007, are adopted by reference and declared to be part of this article.”

ARTICLE 3. That **Section 38-32, Compliance**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

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

ARTICLE 4. That **Section 38-34, Reserved**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“Sec. 38-34. Abrogation and greater restrictions.

This article does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this ordinance and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies.”

ARTICLE 5. That **Section 38-52, Permit Procedures, part (a)**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“(a) Application for a development permit under this article shall be presented to the floodplain administrator 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, including the placement of manufactured homes, and the location of such 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 new and substantially improved structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed.
- (3) A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of section 38-73(2).
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (5) A record of all such information in accordance with section 38-54(a) (1).”

ARTICLE 6. That **Section 38-52, Permit Procedures, part (b) (7)**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.”

ARTICLE 7. That **Section 38-54, Duties and responsibilities of the floodplain administrator, part (a)**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“(a) Duties and responsibilities of the floodplain administrator shall include but are not limited to the following:

- (1) Maintain and hold open for public inspection all records pertaining to this article.
- (2) Review permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by this article.
- (4) Review permits for proposed development to ensure 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 USC 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), make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the Arkansas Natural Resource Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data have not been provided in accordance with section 38-30 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 sections 38-72--38-76.

(9) When a regulatory floodway has not been designated, require that no new construction, substantial improvements or other development, including fill, shall be permitted within zones AE on the county'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 more than one foot at any point within the county.

(10) Obtain accreditation each year as required by A.C.A. §14-268-106 through the State Coordinating Agency, which is the Arkansas Natural Resources Commission.

(11) Evaluate proposed projects for conformance with No Adverse Impact principles.”

ARTICLE 8. That **Section 38-72, General Standards**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“In all areas of special flood hazards the following 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 located 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 floodwaters into the system;

- (6) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (7) Onsite waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.
- (8) For the purposes of this article, all mixed-use structures are subject to the more stringent requirements of residential structures.
- (9) A substantial improvement or substantial damage to an existing structure triggers a requirement to bring the entire structure into full compliance with the provisions of this article. The existing structure, as well as any reconstruction, rehabilitation, addition, or other improvement, must meet the standards of new construction in this article.
- (10) Any improvement to an existing structure that is less than a substantial improvement requires the improvement, but not the existing structure, to be in full compliance with the provisions of this article.
- (11) Construction of basement foundations in any Special Flood Hazard Area is prohibited.
- (12) The placement of a manufactured home in the floodway is prohibited.”

ARTICLE 9. That **Section 38-73, Specific Standards**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“In all areas of special flood hazards (Zones A and AE), except areas of shallow flooding, (Zones AO and AH) the following are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above an elevation 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 section 38-52(a) (1), 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 an elevation one foot 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 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 bottoms 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.

(4) *Manufactured homes.*

a. All manufactured homes placed within zone A on a county's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this subsection, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This is in addition to all applicable state and local anchoring requirements for resisting wind forces. Screw augers or expanding anchors will not satisfy the requirement of this provision.

b. Manufactured homes that are placed or substantially improved within zones AH and AE on the county's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above an elevation one foot above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

c. Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within zones AH and AE on the county's FIRM that are not subject to this subsection shall be elevated so that either:

1. The lowest floor of the manufactured home is at or above an elevation one foot above the base flood elevation; or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) *Recreational vehicles.* All recreational vehicles placed on sites within zones AH and AE on the county's FIRM shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of section 38-52(a) and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(6) In Zone A, the applicant or the applicant's agent must determine a base flood elevation prior to construction. The BFE will be based on a source or method approved by the local floodplain administrator."

ARTICLE 10. That **Section 38-74, Standards for subdivision proposals, part (c)** of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

“(c) Base flood elevation data shall be generated for subdivision proposals, site plan proposals, and other proposed developments, including the placement of manufactured home parks and subdivisions if not otherwise provided pursuant to section 38-30 or 38-54(a) (8) using accepted engineering methods.”

ARTICLE 11. Severability. If any court of competent jurisdiction finds that any section, clause, sentence, or phrase of this ordinance is invalid or unconstitutional, that finding in no way affects the validity of the remaining portions of this ordinance.

ARTICLE 12. Emergency Clause. It is hereby found and declared by Benton County that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; 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:

/s/ Gary D. Black
GARY D. BLACK, COUNTY JUDGE
DATE SIGNED: 10-26-07

ATTEST:

/s/ Mary L. Slinkard
MARY L. SLINKARD, COUNTY CLERK
SPONSOR: Environmental Committee
ADOPTED: October 25, 2007
Votes for: 12 Against: 0
Abstain: Present: Absent:

Planning
Subdivisions
Large Scale Developments
Building Permits/Inspections
Floodplain Management



905 NW 8th Street
Bentonville, AR 72712
Tel: 479.271.1003
Fax: 479.464.6170

April 30, 2012

Ms. Diana Herrera, CFM
National Hazards Program Specialist
DHS / FEMA Region 6 Mitigation Division
800 North Loop 288
Denton, TX 72609-3698

Dear Diana:

REVISIONS TO BENTON COUNTY FIS AND FIRM ACCEPTED BY COUNTY

Attached please find one original copy of Ordinance 2012-21 which was adopted on April 26, 2012; by the County Quorum Court. It was signed by Judge Robert Clinard, and filed in the court records at Book 8, Page 462 as of this date. The eleven maps and updated Index have become part of the documents used within our Flood Damage Prevention Program.

Let us know if you have any questions or comments regarding this action. Thank you for your work to help our residents understand the flood hazards in and around our county.

Sincerely,

A handwritten signature in black ink, appearing to read "R. McKeehan", written in a cursive style.

Richard McKeehan, PE CFM
Sr Planner, Floodplain Administrator

Cc: Elizabeth Bowen, Administrator
Mike Borengasser
Chris Ryan, Director
file

Planning
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Large Scale Developments
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Attached please find one original copy of Ordinance 2012-21 which was adopted on April 26, 2012; by the County Quorum Court. It was signed by Judge Robert Clinard, and filed in the court records at Book 8, Page 462 as of this date. The eleven maps and updated Index have become part of the documents used within our Flood Damage Prevention Program.

Let us know if you have any questions or comments regarding this action. Thank you for your work to help our residents understand the flood hazards in and around our county.

Sincerely,

Richard McKeehan, PE CFM
Sr Planner, Floodplain Administrator

Cc: Elizabeth Bowen, Administrator
Mike Borengasser
Chris Ryan, Director
file

ADOPTED

APR 26 2012

FILED

2012 APR 27 PM 4:42

ORDINANCE NO. O-2012-21

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED **TENA O'BRIEN**
CO & PROBATE CLERK
BENTON COUNTY AR

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 38 (FLOODS) OF THE *CODE OF ORDINANCES OF BENTON COUNTY, ARKANSAS* TO UPDATE THE FLOOD DAMAGE PREVENTION PROGRAM FOR BENTON COUNTY

WHEREAS, Benton County has been notified by the Federal Emergency Management Agency (FEMA) that certain Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) Volumes 1 and 2 for the county have been updated and would become effective on June 5, 2012; and

WHEREAS, said amendment is necessary to ensure Benton County's continued participation in the National Flood Insurance Program (NFIP).

NOW THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS:

ARTICLE 1. That **Section 38-30, Basis for establishing areas of special flood hazard**, of the *Code of Ordinances of Benton County, Arkansas* is hereby amended to read as follows:

"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 Benton County, Arkansas and Incorporated Areas" dated June 5, 2012 with accompanying flood insurance rate maps (FIRM), dated June 5, 2012 for the following maps are adopted by reference and declared to be part of this article.

MAP NUMBERS

05007C0095K

05007C0220K

05007C0245K

05007C0260K

05007C0270K

05007C0290K

MAP NUMBERS

05007C0115K

05007C0235K

05007C0255K

05007C0265K

05007C0280K

The areas of special flood hazard identified by FEMA for the remainder of FIRM maps dated September 28, 2007 and listed in the FIRM Map Index, Map Number 05007CIND0B, shall continue in use for flood hazard identification.

ANC

FILED

ARTICLE 11. Severability. If any court of competent jurisdiction finds that any section, clause, sentence, or phrase of this ordinance is invalid or unconstitutional finding in no way affects the validity of the remaining portions of this ordinance.

2012 APR 27 PM 4:42
TENA O'BRIEN
CO & PROBATE CLERK
BENTON COUNTY AR

APPROVED:

Robert D. Clinard
ROBERT D. CLINARD, COUNTY JUDGE
DATE SIGNED: April 27, 2012



ATTEST:

Tena O'Brien
TENA O'BRIEN, COUNTY CLERK
SPONSOR: JP Tom Allen
ADOPTED: April 26, 2012
Votes for: 11 Against: 1
Abstain: Present: ___ Absent: 1

STATE OF ARKANSAS)
COUNTY OF BENTON)
CERTIFICATE OF CLERK
I, TENA O'BRIEN, Clerk of the County and Probate Court
in and for the County and State aforesaid, do hereby certify
that this instrument of writing is a true and complete copy,
and the same appears of record in Quorum Court Record
Book B Page 462 being on file in my said office.
I have hereunto set my hand and official seal this 30th
day of April, 20 12
TENA O'BRIEN, Clerk
Benton County Arkansas
By Tena O'Brien