

**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