

ADOPTED

OCT 26 2023

FILED
2023 OCT 27 AM 11:52

BETSY HARRELL
CO & PROBATE CLERK
BENTON COUNTY, AR

ORDINANCE NO. 0-2023-71

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

AN ORDINANCE ADOPTING THE ARKANSAS FIRE PREVENTION CODE, 2021 EDITION
(THREE VOLUMES, FIRE, BUILDING & RESIDENTIAL) BY REFERENCE, AND
REPEALING THE 2012 EDITION OF THE SAME CODE

WHEREAS, a substantial revision of the Arkansas Fire Prevention Code has been completed by the Arkansas State Fire Marshal, assisted by a team of Fire and Public Safety Officers and Officials from throughout the State of Arkansas, and the Director of the Division of the Arkansas State Police has ordered and promulgated Arkansas Fire Prevention Code, 2021 Edition (“Code”) which includes Volume I Fire, Volume II Building, and Volume III Residential, which replaces the 2012 Edition of the Arkansas Fire Prevention Code; and

WHEREAS, the Benton County Fire Marshal and the officials of the Benton County Community Risk Reduction Division have reviewed the Code and have determined that it is in the best interest of the health and safety of the citizens of unincorporated areas of Benton County that the 2012 Code should be repealed and that Benton County should adopt the 2021 Code; and

WHEREAS, the new Code has been considered and discussed by the Planning and Building Code Subcommittee of the Benton County Quorum Court where it has been the subject of public meetings and the Subcommittee has received and considered the comments of citizens and stakeholders on the subject of safety inspections and the 2021 Fire Prevention Code; and

WHEREAS, through the work of the Benton County Public Safety officials and the members of the Planning and Building Code Subcommittee, it has been determined that the tradition that agricultural building projects in the unincorporated areas of Benton County are not required to obtain building permits, can be preserved by taking advantage of the options available with the adoption of the new Code; and

WHEREAS, in accordance with state law, notice of the intent to adopt the compilation by reference was published after the second reading of this ordinance and prior to its final adoption; and

WHEREAS, at least one (1) copy of the Code, which is to be hereby adopted by reference, has been kept on file with the County Clerk since the day of the first reading of this ordinance for public use, inspection, and examination.

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

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ARTICLE 1. The combined volumes comprising and entitled the “Arkansas Fire Prevention Code, 2021 Edition” including Volume I Fire, Volume II Building, and Volume III Residential is hereby adopted by reference for the unincorporated areas of Benton County, Arkansas. None of the appendices of Volume II, nor any other optional appendices contained in the Code, are adopted hereby, which specifically avoids the adoption of regulations on “U-Buildings” as defined in the Code.

ARTICLE 2. All previous versions of the Arkansas State Fire Prevention Code are hereby repealed, in their entirety, and any permit applications which have been made under codes which have been in effect prior to being repealed hereby shall be administered with no additional fees.

ARTICLE 3. In accordance with the Code adopted hereby, the Benton County Judge, and the existing code officials, along with such code enforcement officers as the County Judge shall appoint, shall be responsible for enforcement of the Code and nothing herein or contained in the Code adopted hereby shall extend the code enforcement authority of the County Judge or the County Judge’s designees beyond that contained in state law, the ordinances of Benton County and the codes adopted by this Quorum Court.

ARTICLE 4. Nothing in the Code adopted hereby shall in any way or to any extent waive the tort immunity enjoyed by this County and its officials and employees. Immunity which is not waived includes, but is not necessarily limited to, sovereign immunity, legislative immunity, and Arkansas statutory immunity. Any responsibility to defend any building official found in this Code, specifically but not limited to sections 104.8 and 104.8.1, likewise shall not waive the immunity of this County, as set forth herein, nor shall it supersede any policy or ordinance of this County which would conflict with these or other similar provisions of the Code.

ARTICLE 5. Violations of the Arkansas Fire Prevention Code, 2021 Edition, including Volume I Fire, Volume II Building, and Volume III Residential, are addressed within the Code and may also be addressed in accordance with § 1-9 of the Code of Ordinances of Benton County.

ARTICLE 6. The Code adopted hereby contains a specific requirement for appeals from a finding of any code enforcement official or inspector empowered to interpret and administer the Code. That requirement, found at section 113 of the Code, anticipates the formation of a board of appeals, appointed by this Quorum Court, to be comprised of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. At a reasonable time after the adoption of this ordinance, the County Judge shall present a slate of qualified members for the Quorum Court to review and upon due consideration, the Quorum Court shall confirm and appoint this board.

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ARTICLE 7. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

ARTICLE 8. Nothing contained in this Ordinance, or the Code adopted hereby, shall in any way alter or modify the "employment at will" status of all employees of Benton County, including any and all employees who will apply and administer these codes.

APPROVED:



BARRY MOEHRING, COUNTY JUDGE

DATE SIGNED: 10-26-2023

ATTEST:

Betsy Harrell
BETSY HARRELL, COUNTY CLERK

SPONSOR: JP Susan Anglin

DATE ADOPTED: October 26, 2023

Votes for: 9 Against: 5

Abstain: Present: Absent: 1