

60.3(d)  
(As revised January 1986)

FLOOD DAMAGE PREVENTION ORDINANCE

OUTLINE

*Ord. #145*

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Ref.  
NFIP  
Regulations

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## ORDINANCE #145

## FLOOD DAMAGE PREVENTION ORDINANCE

## ARTICLE I

## STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

**SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Arkansas (state) has in Ar. St. 21-1902(1977Supp.) (statutes) delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of Clinton (governing body) of Clinton (local unit), Arkansas (state), does ordain as follows:

**SECTION B. FINDINGS OF FACT**

(1) The flood hazard areas of Clinton 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 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 highways 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.

**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.

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

**AREA OF SHALLOW FLOODING** - means a designated AO, AH, or V0 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 flow may be evident. Such flooding is characterized by ponding or sheet flow.

**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, AH, AO, AI-99, V0 or VI-30.

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

**DEVELOPMENT** - means any man-made change in improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the adoption of floodplain management regulations.

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

**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, A, MA and/or AF.

**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).

**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.

**HABITABLE FLOOR** - means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor."

**HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement).

**MEAN SEA LEVEL** - means the average height of the sea for all stages of the tide.

**MOBILE HOME** - means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

**NEW MOBILE HOME PARK OR MOBILE HOME SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

**START OF CONSTRUCTION** - means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assemble of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivision, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, the installation of utilities) is completed.

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

**ARTICLE 3**  
**GENERAL PROVISIONS**

**SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of City of Clinton, Ar.  
(local unit)

**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 City of Clinton", dated March 20, 1986, 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 be a 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 plicable regulations.

**SECTION E. ABROGATION AND GREATER RESTRICTIONS**

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

**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.

**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.



ARTICLE 4  
ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Mayor of Clinton is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance.

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, approve or deny all applications for development permits required by adoption of this ordinance.

(3) 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.

(4) 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.

(5) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Soil & Water Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(6) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(7) 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 available from Federal, State or other source, in order to administer the provisions of Article 5.

(8) 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 A1-30 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.

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, 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 proposed 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.
- (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 judgment 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.
- (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) Generally, 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 attached 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.

ARTICLE 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required;

- (1) All new construction or substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (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 and utility equipment resistant to flood damage;
- (4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (5) 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,
- (6) 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 (f) Article 3, Section B, (ff) Article 4, Section B(7), or (fff) Article 5, Section C(3), 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 level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed 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) Mobile Homes -

a. Require that all mobile homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, mobile 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. Require that an evacuation plan indicating alternate vehicular access and escape routes be filed with appropriate Disaster Preparedness Authorities for mobile home parks and mobile home subdivisions located within Zone A.

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

d. Require within Zones A1-30 and AE for new mobile home parks and mobile home subdivisions, in expansions to existing mobile home parks and mobile home subdivision, and in existing mobile home parks and mobile home subdivision where the repair, reconstruction or improvement of streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvements has commenced, have the lowest floor of the mobile home elevated to or above the base flood level.

e. Require that all mobile homes to be placed within Zone A1-30 and AE, which are not to be placed into a mobile home park or mobile home subdivision, have the lowest floor of the mobile home elevated to or above the base flood level.

**SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

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

(2) All proposals for the development of 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 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 (7) of this ordinance.

(4) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.