

**AGENDA**  
**Cleburne County Quorum Court**  
**Thursday, February 13, 2025**

**6:00 p.m.**

Cleburne County Court Building  
922 South 9<sup>th</sup> Street  
Heber Springs, AR 72543

1. **Call to Order, Roll Call:**
2. **Reading, Correction, and Disposition of Minutes:**
3. **Report of Treasurer:**
4. **Report of Committees:**
  - a. Emergency Services Oversight Committee-**JP Foust**
  - b. Budget Committee-**JP Evans**
  - c. Jail Committee-**JP Evans**
5. **Comments from the Public:**
6. **Unfinished Business:**
7. **New Business:**
  - a. Proposed Resolution No. 2025-Conduct Business with Logan Cabinets-**JP Fletcher**
  - b. Proposed Ordinance No. 2025-Entergy Grant-Sheriff's Office-**JP Evans**
  - c. Proposed Ordinance No. 2025-Arkansas Public Safety Grant-**JP Evans**
  - d. Proposed Ordinance No. 2025-Amend Ordinance 2024-43 Library Starting Salaries-**JP Evans**
  - e. Proposed Ordinance No. 2025-New Fee Schedule Transfer Station-**JP Evans**
  - f. Proposed Ordinance No. 2025-Update Ord. 2006-01-Flood Damage Prevention-**JP Foust**
8. **Comments from the Public:**
9. **Announcements:**
  - a. Next Regular Quorum Court Meeting is Thursday, March 13, 2025.
10. **Adjournment:**

# CLEBURNE COUNTY QUORUM COURT JOURNAL OF PROCEEDINGS

January 16, 2025

The Cleburne County Quorum Court met in regular session in the Cleburne Court Building, 922 South 9<sup>th</sup> Street, Heber Springs, Arkansas, having been delayed one week due to inclement weather. The meeting was called to order at 6:01 p.m. County Judge Eric Crosby presided.

PRESENT: Moorehead, Henegar, Beavers, Malone, Evans, Martin, Foust, Tamburo, McClung.

ABSENT: Fletcher, Baugh.

## READING, CORRECTION, AND DISPOSITION OF MINUTES:

Motion was made by JP Martin to approve the minutes of December 12, 2024, regular meeting, seconded by JP Moorehead. Voice vote, motion carried.

## REPORT OF TREASURER:

Motion was made by JP Moorehead to accept the Treasurer's report, seconded by JP Martin. Voice vote, motion carried.

## REPORT OF COMMITTEES:

**Emergency Services Oversight Committee:** JP Foust said they looked at the dispatch report and discussed the tornado sirens and radios. Discussion followed concerning the dispatch report and possibly including numbers from the new Hwy 92 station.

**Budget Committee:** JP Evans said the next meeting scheduled to be held on January 27, 2025, 9:00 a.m., will be at the old courthouse conference room due to conflict with the normal location at the County Judge's office.

**Jail Committee:** JP Evans reported the committee had met a week early due to a holiday falling on the next regularly scheduled meeting date. He stated three companies had sent in information, the committee will meet with each of them and then decide. The Jail Standards Review results were received, with 4 out of 86 items being out of compliance.

## UNFINISHED BUSINESS:

None

## NEW BUSINESS:

### Proposed Ordinance No. 2025-Procedural Ordinance

JP Foust introduced an Ordinance. **"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE ESTABLISHING THE TIME, DATE, AND PROCEDURAL RULES OF THE REGULAR MONTHLY MEETING OF THE CLEBURNE COUNTY QUORUM COURT."** JP Evans made a motion to change Section 3.b. first sentence to list email as an option of delivery of agenda, seconded by JP Malone. JP Malone made a motion to change the order of agenda listed in Section 4 to move item g. Comments from the Public, up to item e., before Unfinished Business, and leave it in current placement after New Business, seconded by JP Martin. Voice vote, motion carried. JP Foust made a motion to adopt the Ordinance, seconded by JP Malone. Roll call was taken. Ayes: Beavers, Evans, Foust, Henegar, Malone, Martin, McClung, Moorehead, Tamburo. Nays: None. Absent: Baugh, Fletcher. **Passed and adopted as Ordinance 2025-01.**

### Proposed Ordinance No. 2025- Amend Ordinance 2023- 038 Emergency 911

JP Evans introduced an Ordinance. **"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN APPROPRIATION ORDINANCE AMENDING ORDINANCE NO. 2023-038, WHICH ADOPTED THE BUDGET FOR THE CALENDAR YEAR 2024 AND/OR OTHER PURPOSES TO AMEND THE EMERGENCY 911 BUDGET."** JP Evans made a motion to adopt the Ordinance, seconded by JP Martin. Roll call was taken. Ayes: Beavers, Evans, Foust, Henegar, Malone, Martin, McClung, Moorehead, Tamburo. Nays: None. Absent: Baugh, Fletcher.

**Passed and adopted as Ordinance 2025-02.**



**Proposed Ordinance No. 2025- Amend 2025 Budget to move ARPA**

JP Evans introduced an Ordinance. **"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN APPROPRIATION ORDINANCE TO AMEND ORDINANCE NO. 2024-42, WHICH ADOPTED THE BUDGET FOR THE CALENDAR YEAR 2025 AND/OR OTHER PURPOSES TO MOVE THE ARPA FUND 1006 TO COUNTY GENERAL FUND 1000."** JP Evans made a motion to adopt the Ordinance, seconded by JP Malone. Roll call was taken. Ayes: Beavers, Evans, Foust, Henegar, Malone, Martin, McClung, Moorehead, Tamburo. Nays: None. Absent: Baugh, Fletcher.

**Passed and adopted as Ordinance 2025-03.**

JP Martin made a motion, seconded by JP Malone, to add Proposed Ordinance 2025-Conduct Business with Logan Cabinets. Voice vote, motion carried unanimously.

**Proposed Ordinance No. 2025- Conduct Business with Logan Cabinets**

JP Martin introduced an Ordinance. **"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE APPROVING THE COUNTY OF CLEBURNE TO CONDUCT BUSINESS DIRECTLY WITH LOGAN CABINETS"** JP Martin made a motion to suspend the rules and place the Ordinance on second reading by title only, seconded by JP Malone. Voice vote, motion carried. JP Martin read the Ordinance by title only. JP Martin made a motion to suspend the rules and place the Ordinance on third reading by title only, seconded by JP Malone. Voice vote, motion carried. JP Martin read the Ordinance by title only. Lengthy discussion followed. Mr. Haney stated that this Ordinance was not necessary, due to the relation being a part-time employee and not an owner of the business. It can be reintroduced as a Resolution. JP Martin withdrew the Ordinance.

**Ordinance Withdrawn.**

Quorum Court recessed at 7:51 p.m.

Quorum Court reconvened at 7:56 p.m.

JP Evans made a motion to add Proposed Ordinance No.2025-Amend Ordinance 2023-038 County General Jail and discussion concerning the District Judge contract labor share agreement to the agenda, seconded by JP Martin, Voice vote, motion carried.

**Proposed Ordinance No. 2025- Amend Ordinance 2023- 038 County General Jail**

JP Evans introduced an Ordinance. **"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN APPROPRIATION ORDINANCE AMENDING ORDINANCE NO. 2023-038, WHICH ADOPTED THE BUDGET FOR THE CALENDAR YEAR 2024 AND/OR OTHER PURPOSES"** JP Evans made a motion to adopt the Ordinance, seconded by JP Malone. Roll call was taken. Ayes: Beavers, Evans, Foust, Henegar, Malone, Martin, McClung, Moorehead, Tamburo. Nays: None. Absent: Baugh, Fletcher.

**Passed and adopted as Ordinance 2025-04.**

JP Evans brought into discussion, after previously being added to the agenda by unanimous voice vote, the District Court Judge's contract labor share agreement. Stone County and City of Mountain View will now be added to the agreement that has been with the Cities of Concord, Greers Ferry, Heber Springs, Quitman, and Cleburne County since 2009.

Judge Crosby announced the Disposal of County Property by Order 2024-20, 2024-27, 2024-28, and 2024-30.

**COMMENTS FROM THE PUBLIC:**

None.

**ANNOUNCEMENTS:**

- The next regular Quorum Court meeting will be held Thursday, February 13, 2025.

**ADJOURNMENT:**

JP Martin made the motion to adjourn, seconded by JP Malone. The meeting was adjourned at 8:10 p.m.

**ATTESTED:**

\_\_\_\_\_  
Sherry Logan, Cleburne County Clerk by Kim Wallace

Book \_\_\_\_\_ Page (s) \_\_\_\_\_



PROPOSED RESOLUTION 2025-CONDUCT BUSINESS WITH LOGAN CABINETS

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS A RESOLUTION ENTITLED: "A RESOLUTION APPROVING THE COUNTY OF CLEBURNE TO CONDUCT BUSINESS DIRECTLY WITH LOGAN CABINETS."

WHEREAS, the need arises for the County of Cleburne to install new cabinetry in the Cleburne County Clerk's Office; and

WHEREAS, Logan Cabinets is one of the cabinet companies in the local area who perform this type of work, which the husband of the Cleburne County Clerk, Sherry Logan, works part-time.

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

**Section 1.** Pursuant to *Ark. Code Annotated §14-14-1202(c)(2)(A)(i)* this Quorum Court finds that it is in the best interest of Cleburne County to purchase goods and/or services directly from Logan Cabinets, it shall follow the procedures as set forth in *Ark. Code. Annotated §14-14-1202* as required.

**Section 2.** The Quorum Court additionally determines that these purchases from Logan Cabinets are in the best interest of the County.

THEREFORE, the County shall be allowed to conduct its business relationship with Logan Cabinets, effective as of this date.

PASSED AND ADOPTED the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

ATTEST:

\_\_\_\_\_  
Sherry Logan, Cleburne County Clerk

\_\_\_\_\_  
Eric Crosby, Cleburne County Judge

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PROPOSED ORDINANCE NO. 2025-ENTERGY GRANT FOR SHERIFF'S OFFICE

BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED: AN APPROPRIATION ORDINANCE AMENDING ORDINANCE NO. 2024-42, WHICH ADOPTED THE BUDGET FOR THE CALENDAR YEAR 2025 AND/OR OTHER PURPOSES

WHEREAS, the Cleburne County Sheriff's Office was awarded a grant by Entergy to purchase some equipment (holsters);

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY:

Section 1. The following appropriation is hereby approved:

Drug Control Budget

LINE ITEM	FROM	TO	CHANGE
3015-0499-2002 Small Equipment	\$5,000.00	\$6,000.00	+\$1,000.00
<b>TOTAL INCREASE IN SHERIFF BUDGET</b>			<b>+\$1,000.00</b>

Section 2. In the event that any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications to this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND ADOPTED this 13<sup>th</sup> day of February, 2025

Eric Crosby, Cleburne County Judge

ATTEST:

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Sherry Logan, Cleburne County Clerk

PROPOSED ORDINANCE NO. 2025-ARKANSAS PUBLIC SAFETY GRANT

BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED: AN APPROPRIATION ORDINANCE AMENDING ORDINANCE NO. 2024-42, WHICH ADOPTED THE BUDGET FOR THE CALENDAR YEAR 2025 AND/OR OTHER PURPOSES

WHEREAS, the Cleburne County Sheriff's Office was awarded a grant to pay for mobile and handheld AWIN radios and other associated items through the Arkansas Public Safety Equipment Grant

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY:

Section 1. The following appropriation is hereby approved:

Fund-3519 Public Safety Grant, Department-400 Sheriff

LINE ITEM	FROM	TO	CHANGE
3519-0400-2002 Small Equipment	\$0	\$71,833.46	+\$71,833.46
<b>TOTAL INCREASE IN SHERIFF BUDGET</b>			<b>+\$71,833.46</b>

Fund-3519 Anticipated Revenue

Revenue Code	FROM	TO	CHANGE
3519-7010 Public Safety Equipment Grant	\$0	\$71,833.46	+\$71,833.46
<b>TOTAL INCREASE IN ANTICIPATED REVENUE</b>			<b>+\$71,833.46</b>

Section 2. In the event that any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications to this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND ADOPTED this 13<sup>th</sup> day of February 2025

Eric Crosby, Cleburne County Judge

ATTEST:

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Sherry Logan, Cleburne County Clerk



**PROPOSED ORDINANCE NO. 2025-AMEND ORDINANCE 2024-43 LIBRARY STARTING SALARIES**

**BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE AMENDING ORDINANCE 2024-43 WHICH ESTABLISHED THE 2025 NUMBER OF POSITIONS AND STARTING SALARIES FOR NON-ELECTED COUNTY POSITIONS FOR THE PURPOSE OF ADDING STIPEND IN COUNTY LIBRARY."**

**WHEREAS**, the Quorum Court sees a need to add a stipend to the County Library,

**NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY, ARKANSAS:**

**Section 1.** The following shall be the amended positions, number of positions, and starting salaries.

**COUNTY LIBRARY**

Librarian (1)	\$36,677.00
Deputy Clerk (6) (*included in the 6)	\$29,602.00
*Chief Deputy (1) Stipend	\$2,045.00

**Section 2.** In the event that any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications to this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

**Section 3.** All Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4. Emergency Clause.** The Quorum Court hereby determines an emergency to exist and that this Ordinance being necessary for the preservation of the public peace, health, and safety shall be in effect from and after its passage and approval.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of February 2025.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Sherry Logan, Cleburne County Clerk

\_\_\_\_\_  
Eric Crosby, Cleburne County Judge

Recorded: Book \_\_\_\_\_ Page(s) \_\_\_\_\_

**PROPOSED RESOLUTION NO. 2025-NEW FEE SCHEDULE FOR WASTE CONNECTION OF ARKANSAS, INC. TRANSFER STATION**

**A RESOLUTION AUTHORIZING A NEW FEE SCHEDULE WITH WASTE CONNECTIONS TRANSFER STATION**

**WHEREAS**, Cleburne County wishes to authorize a new fee schedule with Waste Connections Transfer Station.

**BE IT HEREBY RESOLVED** by the Quorum Court of Cleburne County, Arkansas, as follows:

**Section 1.** Waste Connections Transfer Station is requesting an increase in the transfer station rates as provided in their 2019 contract under section 10 & 11. The increase in the transfer station rates and the increase in cost per ton are equal, as required by the contract.

**Section 2.** the Cleburne County Quorum Court hereby approves the following waste disposal fee structure:

- Less than thirty-three (33) gallon trash bag \$1.59;
- Thirty-three (33) gallon bag \$2.53;
- Contractor bag \$4.43;
- Percentage of a ton(s) at \$92.96 per ton;
- \$111.55 per ton for shingles

**NOW, THEREFORE, IT IS RESOLVED** that the Quorum Court of Cleburne County, Arkansas, approves the new fee structure as described in this resolution.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of February 2025.

Approved:

\_\_\_\_\_  
Eric Crosby, Cleburne County Judge

Attest:

\_\_\_\_\_  
Sherry Logan, Cleburne County Clerk

**BE IT ENACTED BY THE QUORUM COURT OF CLEBURNE COUNTY, ARKANSAS, AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE UPDATING ORDINANCE 2006-001 WHICH ESTABLISHED THE FLOOD DAMAGE PREVENTION PROGRAM FOR CLEBURNE COUNTY AND FOR OTHER PURPOSES."**

**SECTION 1. STATUTORY AUTHORITY**

The Legislature of the State of Arkansas has in Ark. Code Ann. § 14-268-101 et seq., delegated the responsibility of local governmental units to adopt regulations to minimize flood losses. Therefore, the Quorum Court of Cleburne County, Arkansas, does hereby ordain as follows:

**SECTION 2. FINDINGS OF FACT**

- A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of Cleburne County in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Cleburne County, Arkansas And Incorporated Areas," dated February 16, 2006 with an effective Flood Insurance Rate Map (FIRM) dated February 16, 2006.
- B. These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- C. These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately floodproofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events.

**SECTION 3. STATEMENT OF PURPOSE**

The purpose of this ordinance is to promote public health, safety and general welfare, to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified Special Flood Hazard Areas. This ordinance advances the stated purpose through provisions designed to:

- A. Protect human life and health;
- B. Protect natural floodplains against unwise development;
- C. Eliminate adverse impacts of necessary floodplain development;
- D. Minimize expenditure of public monies on flood control projects;
- E. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- F. Minimize prolonged business interruptions due to flooding events;
- G. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;
- H. Maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- I. Provide for notice to potential buyers when property is in a Special Flood Hazard Area.



**SECTION 4. LANDS TO WHICH THIS ORDINANCE APPLIES**

The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Cleburne County.

**SECTION 5. METHODS OF REDUCING FLOOD LOSSES**

This ordinance uses the following methods to accomplish the stated purpose:

- A. This ordinance restricts or prohibits structures or uses in Special Flood Hazard Areas that adversely impact health, safety or property during flooding events;
- B. This ordinance requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred;
- C. This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
- D. This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
- E. This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands.

**SECTION 6. FLOOD DAMAGE PREVENTION CODE ADOPTED BY REFERENCE**

There is hereby adopted by reference a “**Flood Damage Prevention Code for Cleburne County, Arkansas,**” dated February 13<sup>th</sup>, 2025. The code shall include:

- ARTICLE 1 DEFINITIONS
- ARTICLE 2 ADMINISTRATION
- ARTICLE 3 PROVISIONS FOR FLOOD HAZARD REDUCTION

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.

**SECTION 7. ABROGATION AND GREATER RESTRICTIONS**

This ordinance 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.

**SECTION 8. INTERPRETATION**

In the interpretation and application of this ordinance, all provisions must:

- A. Be considered as minimum requirements;
- B. Be liberally construed in favor of the governing body; and
- C. Be deemed to neither limit nor repeal any other powers granted under State statutes.

**SECTION 9. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes. Documented scientific and engineering data form the basis for these requirements. On rare occasions, flooding events greater than those considered for this ordinance will occur. In addition, flood heights may increase over time due to man-made or natural causes. This ordinance does not imply that land outside Special Flood Hazard Areas will be free from flooding, nor that strict adherence to this ordinance protects uses permitted within Special Flood Hazard Areas from all flood damages. This ordinance specifically does not create liability on the part of the community, nor any official or employee of the community, for any flood damages that result while strictly following this ordinance, or from any lawful administrative decision made under the provisions of this ordinance.

**SECTION 10. COMPLIANCE**

Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of this ordinance requires full compliance with the provisions of this ordinance and all other applicable regulations.

**SECTION 11. ENFORCEMENT, PENALTIES, AND VIOLATIONS**

Any action or inaction which violates the provisions of this ordinance or permit shall be subject to the enforcement actions outlined herein. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

**A. Notice of Violation**

If the Floodplain Administrator determines that an applicant or other responsible person has failed to comply with the terms and conditions of a floodplain development permit or the provisions of this ordinance, he or she shall issue by certified mail a written notice of violation to such applicant or other responsible person.

Where the person is engaged in activity covered by this ordinance without having first secured an approved floodplain development permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) Date of inspection that revealed the violation;
- (4) Specific sections of the Flood Damage Prevention Code that are being violated;
- (5) A statement specifying the nature of the violation;
- (6) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
- (7) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;
- (8) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within thirty days after the notice of violation (except, that in the



event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

## **B. Penalties**

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the actions or penalties listed herein may be assessed against the person to whom the notice of violation was directed.

Before taking any of these actions or imposing any of the penalties, the Floodplain administrator shall first notify the applicant or other responsible person in writing of its intended action, and shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours' notice shall be sufficient) and no more than 45 days, to cure such violation.

In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Floodplain Administrator may take any one or more of the following actions or impose any one or more of the following penalties:

- (1) **Stop Work Order.** The Floodplain Administrator may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
- (2) **Termination of water service, Condemnation of Structure, and/or Withholding or Revocation of Certificate of Occupancy.** The Floodplain Administrator may terminate utilities, condemn the structure, and/or refuse to issue and/or revoke a certificate of occupancy for the building or other improvements and/or repairs conducted or being conducted on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein.
- (3) **Suspension, revocation, or modifications of permit.** The Floodplain Administrator may suspend, revoke, or modify the permit authorizing the development project. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the community may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (4) **Civil penalties.** Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor.
  - a. It is the responsibility of the Quorum Court of Cleburne County to define and impose the penalties set herein.



- b. Nothing herein contained shall prevent the Quorum Court of Cleburne County from taking such other lawful actions as are necessary to prevent or remedy any violation.
- c. Any person or business entity, whether as principal, agent, employee or otherwise, who violates any of the provisions of this ordinance shall be guilty of an infraction and upon conviction thereof shall be punishable by a fine not exceeding \$100.00 for a first violation, \$250.00 for a second violation within one year, and \$500.00 for each additional violation within one year.
- d. Such person or business entity shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed, continued or permitted by such person or business entity and shall be punishable as herein provided.
- e. In addition to the penalties imposed herein, the Quorum Court of Cleburne County shall impose restitution as part of its sentence for all costs associated with the community's abatement of a violation, restoration of the property, and enforcement of this ordinance, and any fines or penalties imposed on the city resulting from the violation.

**SECTION 12. 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.

**SECTION 13. EMERGENCY CLAUSE**

It is hereby found and declared by Cleburne 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.

ATTEST:

\_\_\_\_\_  
Sherry Logan, Cleburne County Clerk

\_\_\_\_\_  
Eric Crosby, Cleburne County Judge

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## **FLOOD DAMAGE PREVENTION CODE FOR Cleburne County, Arkansas**

### **ARTICLE 1 DEFINITIONS**

Unless specifically defined below, words or phrases used in this Code have their common usage meaning to give the most reasonable application to this Code.

Additional definitions for floodplain management terms can be found at Part §59.1 of 44 CFR.

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

**44 CFR § 65.12** – contains 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”** is 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.

**“500-year flood”** is any flood with a 0.2% chance of occurring in any given year. As with the 100-year flood, this term is also misleading, because of its statistical derivation. A “500-year flood” may occur many times in any given 500-year period, or it may not occur at all in 500 years.

**“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).

**“Adverse impact”** means any negative or harmful effect.

**“AE or A1-30 Risk Zones”** are special flood hazard areas where detailed studies have determined base flood elevations. AE has replaced A1-30 in newer flood maps.

**“AH Risk 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 Risk 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).

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

**“Appeal Board”** means a person or persons specifically designated to render decisions on variance applications and floodplain management complaints.

**“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”** is the flood profile used as the basis for the NFIP regulations. The Federal government has selected the 1% chance flood as the base flood.



**“Base level engineering”** are flood risk datasets that meet the technical mapping standards outlined in FIMA Policy 204-078-1 Standards for Flood Risk Analysis and Mapping and include estimated floodplain extents (10%, 1% and 0.2% annual chance events), water surface elevation grids (1% and 0.2% annual chance events), flood depth grids (1% and 0.2% annual chance events), and Hazardous Flood Risk Assessment.

**“Basement”** is any enclosed area that is below grade on all sides.

**“BFE”** is the acronym for Base Flood Elevation.

**“BLE”** is the acronym for Base Level Engineering.

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

**“Certificates of Compliance”** are formal documents issued by floodplain administrators certifying that completed projects comply with the requirements of the local Code.

**“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.

**“Clearing”** is the act of cutting timber or shrubs from an area

**“Commercial business park”** is typically an area of offices or light industrial usage, although retail, service, or industrial usage is sometimes included in supporting roles. For example, a commercial business park of office complexes may also include restaurants which service these offices.

**“Concrete Deadman anchors”** are heavy steel rods embedded in buried sections of concrete, used to secure items in place under tension.

**“Covenant”** is a clause in a contract that requires one party to do, or refrain from doing, certain things. A covenant frequently appears as a restriction that a lender imposes on a borrower.

**“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

**“Deed restriction”** refers to a clause in a deed that limits the future uses of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions, for example, they



may limit the density of buildings, dictate the types of structures that can be erected, prevent buildings from being used for specific purposes or even from being used at all.

**“Development”** means any man-made change to improved or unimproved real estate. It includes, but not limited to, construction, reconstruction, or placement of a building, or any addition or substantial improvements to a building. “Development” also includes the installation of a manufactured home on a site, preparing a site for a manufactured home, or installing/parking a travel trailer. 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” will normally not include maintenance of existing drainage ditches, gardening, plowing, planting, harvesting of crops, 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.

**“Easements”** are rights or permissions held by one person to make specific, limited use of land owned by another person.

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

**“Erosion”** is the process of soil removal by moving water.

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

**“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).

**“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 (See definition of floodway below.)



**“Flood Insurance Rate Map”** (or **“FIRM”**) refers to the official flood map of a community on which FEMA has categorized Special Flood Hazard Areas into risk premium zones.

**“Flood Insurance Study”** (or **“FIS”**) is the official report provided by FEMA. It contains flood profiles, floodway tables, engineering methods, and other descriptive and technical data.

**“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.

**“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 Code, floodplain refers to the land area susceptible to being inundated by the base flood.

**“Floodplain Administrator”** refers to the community official designated in the local Flood Damage Prevention Code as responsible for the Code’s administration.

**“Floodplain Development Permit”** is a permit issued by the local Floodplain Administrator and is required before beginning any development in an area designated as a Special Flood Hazard Area on the community’s FIRM.

**“Floodproofing”** is a combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate the risk of flood damage.

**“Floodproofing Certificate”** refers to FEMA form 81-65, which for the purposes of this Code must be properly completed by a Professional Engineer or Architect licensed to practice in the State of Arkansas.

**“Floodway” or “Regulatory Floodway”** refers to a stream channel and the land to either side of the stream channel that must remain undeveloped and open in order to allow floodwaters to pass without increasing the base flood elevation more than a designated height. For the purposes of this Code, the height is one foot (1 ft.). Severe restrictions or prohibitions are imposed on development within the floodway.

**“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.

**“Freeboard”** is an additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with federal, state, or community floodplain management regulations. Usually expressed in feet above BFE for purposes of floodplain management to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**“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.



**“Grade”** means the surface of the ground.

**“Grading”** means to smooth the surface of the ground, typically with heavy construction equipment.

**“Highest Adjacent Grade” (HAG)** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**“Historical Structure”** means any structure that is:

1. 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;
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 or 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.

**“Lacustrine Flooding”** is flooding associated with a lake.

**“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.

**“Lowest floor”** refers to the lowest floor of the lowest enclosed area (including Basement). For a typical **slab-on-grade construction**, the lowest floor is the top of the first floor of the structure. 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 structure. For a typical **split-level construction**, the elevation of the lowest floor is the top of the first living area floor. For a **manufactured home installation**, the elevation of the lowest floor will be the bottom of the lowest I-Beam. The **garage floor** and **crawlspaces** are not the lowest floor as long as there are no living areas in the garage and it is used solely for storage, parking vehicle and entry to the structure, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3 of the National Flood Insurance regulations.

**“Manufacture Homes” or Structures** 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 attached 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 subdivided into two or more manufactured home lots for rent or sale.



**“Mean Sea Level”** (MSL) means, for the purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s FIRM 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 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.

**“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.

**“Piers”** are columns of masonry or other structural material (commonly cement blocks stacked up to support a manufactured home), usually rectangular, used to support other structural members. For the purpose of this ordinance, piers must be permanent in nature.

**“Pilings”** are steel tubes driven to rock or a suitable soil bearing layer and connected to the foundation of a structure.

**“Ponding”** is a flooding effect where floodwaters accumulate in shallow depressions and linger until absorbed or evaporated.

**“Recreational vehicles”** means a vehicle that is:

1. built on a single chassis;
2. 400 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.

**“Risk Zones”** categorize special flood hazard areas into groupings by the specific risk of flooding. Zones A, AE or A1-30, AO, and AH are Special Flood Hazard Areas. See “X Risk Zones” in this section.

**“Riverine flooding”** is flooding associated with a river or stream channel.

**“RV”** is the acronym for recreational vehicle.



**“Screw augers”** are any type of anchor that twists into the soil, typically to a depth of 4 feet or more. They are not suitable for securing manufactured homes against floodwaters because saturated grounds often soften and fail to hold the anchor in place.

**“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.

**“Shallow flooding”** means a depth of less than 3 feet.

**“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 maps as being at-risk for flooding. The maps further categorize these areas into various flood risk zones A, AE or A1-30, AH, and AO.

**“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.

**“Stream channels”** are depressed natural pathways through which water of any quantity routinely flows.

**“Structural development”** is a development that includes the placement or construction of a structure.

**“Structure”** means for floodplain management purposes, 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”** 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”** is any reconstruction, remodeling, addition or improvement to a structure with a cost equaling or exceeding 50% of the market value of the structure before any

improvement. Improvements to correct identified violations of local health, sanitary or safety Codes are not substantial improvements, regardless of the cost, as long as they are the minimum improvement necessary to bring the structure up to Code. Alterations to historical structures are also exempted, as long as the improvement does not affect the structure's official status of "historical structure."

**"Uses vulnerable to floods"** are simply any land or structural uses that may be negatively affected by a flood.

**"Variance"** is a formal, written permission from the Appeals Board to construct or develop in a way that is inconsistent with the requirements of this Code. The variance only deals with this Code – the Appeals Board has no authority to waive any other governmental requirement, and has no say in the cost of flood insurance.

**"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 this Code is presumed to be in violation until such time as that documentation is provided.

**"Watercourse alteration"** refers to any change that occurs within the banks of a watercourse.

**"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 Risk 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 ADMINISTRATION

### SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The designee of the County Judge of Cleburne County Arkansas is hereby appointed the Floodplain Administrator.

### SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

It is the duty and responsibility of the Floodplain Administrator or his designee to:

1. **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**.
2. **Administer and implement the provisions of this Code** and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) as they pertain to floodplain management
3. **Review applications for Floodplain Development Permits** to:
  - (a) Evaluate proposed projects for reasonable safety from flooding;
  - (b) Evaluate proposed projects for conformance with No Adverse Impact principles;
  - (c) Ensure that all other permits necessary (including Section 404 Wetlands Permits as required by the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) for proposed projects are obtained from the appropriate government agency prior to issuing a Floodplain Development Permit; and
  - (d) Ensure that proposed projects conform to the applicable provisions of this Code.
4. **Approve or deny applications for Floodplain Development Permits** on the basis of:
  - (a) The proposed development's compliance or non-compliance with the provisions of this Code;
  - (b) The expected flood elevation, flood water velocity, flood duration, rate of rise and sediment transport of the floodwaters expected at the proposed development site;
  - (c) The proposed development's potential to adversely impact life and property by changing flooding patterns, changing erosion rates, or being swept onto other lands by flood waters;
  - (d) The proposed development's susceptibility to flood damage;
  - (e) The proposed development's compatibility with existing and planned community development;
  - (f) The proposed development's accessibility by ordinary and emergency vehicles during flooding events;
  - (g) The anticipated costs of providing governmental services to the proposed development during and after flooding events, including maintenance and repair of streets, bridges, facilities and public utilities such as sewer, gas, electrical and water systems;
  - (h) The proposed development's functionally dependent use;

- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed development; and
  - (j) The relationship of the proposed use to the comprehensive plan for that area.
5. **Interpret, where needed, the exact location of the boundaries of Special Flood Hazard Areas** floodplain boundaries, and floodway boundaries. (The sole purpose of this interpretation is to determinate the applicability of the provisions of this Code to the proposed project.) The following shall apply to the use and interpretation of FIRMs and data:
- (a) Where field surveyed topography indicates that ground elevations:
    - (1) Are below the base flood elevation, even in areas not delineated as A Special Flood Hazard Area on a FIRM, the area shall be considered as Special Flood Hazard Area and subject to the requirements of these regulations;
    - (2) Are above the base flood elevation, the area shall be regulated as Special Flood Hazard Area unless the applicant obtains a Letter of Map Change that removes the area from the Special Flood Hazard Area.
  - (b) Where Base Level Engineering is available:
    - (1) Base Level Engineering data shall be reviewed and reasonably used in FEMA-identified Special Flood Hazard Areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified Special Flood Hazard Areas.
    - (2) Base flood elevations and designated floodway boundaries on FIRMs and in Flood Insurance Studies shall take precedence over base flood elevations and floodway boundaries delineated by Base Level Engineering if such source shows reduced floodway widths and/or lower base flood elevations.
    - (3) Base Level Engineering data shall be reasonably used if such source shows increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in Flood Insurance Studies.
6. **Notify adjacent communities** and the State Coordinating Agency, which is the Arkansas Natural Resources Commission, a minimum of 60 days **prior to any alteration or relocation of a watercourse**, and submit evidence of all such notifications to FEMA.
7. **Ensure that the flood carrying capacity** within an altered or relocated portion of a watercourse is not diminished, and that the alteration or relocation does not adversely impact any other lands.
8. **Obtain, review and reasonably utilize**, whenever the current Flood Insurance Study or current Flood Insurance Rate Map does not provide **base flood elevation data, any base flood elevation data and floodway data** available from any Federal, State or other source. The Floodplain Administrator may obtain such data by requiring the applicant to submit it in conjunction with a Floodplain Development Permit application. (The sole use of this data is the administration of the provisions of this Code.)
9. **Inspect floodplain developments as necessary** to ensure construction is in accordance with the application data that formed the basis for the decision to issue the Floodplain Development Permit.
10. **Issue Certificates of Compliance.**



11. **Maintain all records and documents pertaining to this Code** for public inspection.

### **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A **Floodplain Development Permit is required** for all structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations or any other development **in a Special Flood Hazard Area to ensure conformance with the provisions of this Code.**

### **SECTION D. PERMIT PROCEDURES**

1. **Application** for a Floodplain 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.
2. The **documentation** required with each Application for a Floodplain Development Permit, and the specific provisions of this Code applicable to the proposed development, are dependent upon the type of development proposed and the Risk Zone of the proposed development site. Article 3, Section A contains standards for all developments in all Risk Zones. Article 3, Section B contains standards for specific development types in specific Risk Zones.
3. The decision of the Floodplain Administrator to **approve or deny** issuance of a Floodplain Development Permit is **subject to appeal** to the designated Appeal Board. Within Cleburne County, Arkansas the designated Appeal Board is the Quorum Court of Cleburne County.

### **SECTION E. PROCEDURES FOR VARIANCE FROM THE REQUIRMENTS OF THIS CODE**

1. Applicants must submit petitions for variances directly to the Appeal Board (Section F).
2. Variances may only be issued:
  - (a) if showing a good and sufficient cause;
  - (b) granting of the variance will not result in any adverse impact upon other lands;
  - (c) if granting of the variance will not result in any additional threats to public safety;
  - (d) if granting of the variance will not result in extraordinary public expense;
  - (e) if granting of the variance does not create a nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinances;
  - (f) if granting of the variance will not result in increased flood heights or an increase in expected flood velocities;

- (g) if the requested variance is the minimum necessary, considering the flood hazards, to afford the necessary relief; and
  - (h) upon determination that the requested variance is necessary to avoid an extraordinary hardship to the applicant.
3. Variances may not be issued for developments inside a regulatory floodway unless
- (a) all requirements of 44 CFR §65.12 are first met; or
  - (b) the following requirements are met:
    - (1) a No-Rise Certificate signed and sealed by a Professional Engineer licensed to practice in the State of Arkansas is submitted to document that no increase in the base flood elevation would result from granting a variance for the proposed development;
    - (2) protective measures are employed to minimize damages during flooding events; and
    - (3) the variance does not result in any adverse impact to other lands.
4. Examples of developments for which variance petitions may be appropriate include but are not limited to:
- (a) the new construction of, or substantial improvement to, a structure on a lot of 1/2 acre or less in size that is surrounded by contiguous lots with existing structures constructed below the base flood elevation;
  - (b) for the reconstruction, rehabilitation or restoration of an historical structure, provided that:
    - (1) the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure; and
    - (2) the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (c) the new construction of, substantial improvement to, or other development necessary to conduct a functionally dependent use, provided that:
    - (1) the criteria outlined in Article 2, Section E, (3) and (4) and Article 2, Section F are met, and
    - (2) 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.

#### **SECTION F. APPEAL BOARD**

1. Within Cleburne County, Arkansas, the Quorum Court is the designated Appeal Board.
2. The Appeal Board will consider an appeal only with allegations of an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Code.
3. Upon consideration of the factors noted in Article 2, Sections E and F, 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.



4. Appeal Board decisions are binding only upon the requirements of this Code, and have no bearing on the decision of any lending institution to require the purchase of flood insurance or on the rate determination of such insurance.
5. Any time the Appeal Board issues a variance, it must provide the applicant with a formal written warning of an increased risk of flood damage due to removal of restrictions designed to lessen such risks. The notice must also warn of a corresponding increase in the cost of flood insurance, since the cost of such insurance will be commensurate with the increased risk.
6. Aggrieved parties may appeal any decision of the Appeal Board to a court of competent jurisdiction.

## **ARTICLE 3 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **SECTION A. GENERAL STANDARDS**

The following standards apply to all developments in Special Flood Hazard Areas, regardless of the type of proposed development or the Risk Zone of the proposed site.

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 **critical facilities** constructed or substantially improved in Special Flood Hazard Areas (SFHA) must be constructed or modified to **exceed 500-year flood protection standards or located outside the SFHA.**
5. The placement or construction of all new structures must be in full compliance with the provisions of this Code
6. For the purposes of this Code, all mixed-use structures are subject to the more stringent requirements of residential structures.
7. **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 Code. The existing structure, as well as any reconstruction, rehabilitation, addition, or other improvement, must meet the standards of new construction in this Code.
8. 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 Code.
9. **All manufactured homes** to be placed within a Special Flood Hazard Area on a community's FIRM shall be **installed using methods and practices which minimize flood damage**. For the purposes 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. Screw augers or expanding anchors will not satisfy the requirement of this provision.
10. The design or location of **electrical, heating, ventilation, plumbing, and air conditioning equipment for new structures**, or for any improvements to an existing structure, must prevent water from entering or accumulating within the components during base flood events.
11. The design of **all new and replacement water supply systems** must minimize or eliminate infiltration of floodwaters into the system during base flood events.



12. The design of **all new and replacement sanitary sewage** systems must minimize or eliminate infiltration of floodwaters into the system during flooding events, and must prevent sewage discharge from the systems into floodwaters.
13. The placement of **on-site waste disposal systems** must avoid impairment to, or contamination from, the disposal system during base flood events.
14. Construction of basement foundations in any Special Flood Hazard Area is prohibited.
15. New construction and substantial improvements, with **fully enclosed areas (such as garages and crawlspaces)** 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 below the base flood elevation 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 on separate walls having a total net area of not less than 1 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 1 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.
16. The placement of **recreational vehicles (RV)** in Special Flood Hazard Areas must either
  - (a) be temporary, as demonstrated by the RV being fully licensed, being on wheels or a jacking system, attached to the site only by quick disconnect type utilities and security devices, having no permanently attached additions, and being immobile for no more than 180 consecutive days; or else
  - (b) meet all provisions of this Code applicable to manufactured home structures.
17. All proposals for the development of a residential subdivision, commercial business park or manufactured home park/subdivision must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
18. All proposals for the development of a **residential subdivision, commercial business park or a manufactured home park/subdivision** must include an adequate **drainage plan** to reduce exposure to flood hazards.
19. All proposals for the development of a **commercial business park or a manufactured home park/subdivision** must include an adequate **evacuation plan** for the escape of citizens from affected nonresidential structures during flooding events.

## **SECTION B. RISK ZONE SPECIFIC STANDARDS**

In addition to the General Standards, the following standards apply to specific development types in specific Risk Zones. Risk Zones listed in this Code that do not appear on the current FIRM are not applicable.

**1. In AE or A1-30 Risk Zones:**  
**Special Flood Hazard Areas with base floods determined**

**(a) For Residential Structures in Zone AE or A1-30:**

- (1) For all new residential structures, the top surface of the lowest floor must have an elevation 2 feet or more above the published BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
- (2) For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.
- (3) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.

**(b) For Nonresidential Structures in Zone AE or A1-30:**

- (1) All new commercial, industrial or other nonresidential structures must either:
  - a) have the lowest floor (including basement) elevated 2 feet or more above the base flood level or
  - b) be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of 3 feet above 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.
  - c) A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate 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.
- (2) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
- (3) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

**(c) For Manufactured Homes in Zone AE or A1-30:**

- (1) All manufactured homes that are placed or substantially improved on sites:
  - a) outside of a manufactured home park or subdivision,



- b) in a new manufactured home park or subdivision,
  - c) in an expansion to an existing manufactured home park or subdivision, or
  - d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (2) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of paragraph (1.) of this section be elevated so that either:
- a) the lowest floor of the manufactured home is 2 feet or more above the base flood elevation, or
  - b) 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (3) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
- (4) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- (d) **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.

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## **2. Floodways:**

### **High risk areas of stream channel and adjacent floodplain**

- (a) **Developments** in regulatory floodways are **prohibited, unless**
- (1) A **No-Rise Certificate**, signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, is submitted to demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels within the community during the occurrence of a base flood event; or
  - (2) All requirements of 44 CFR §65.12 are first met.

- (b) **No Manufactured Home may be placed in a regulatory floodway**, regardless of elevation height, anchoring methods, or No-Rise Certification.
- 

**3. In AH or AO Risk Zones:**  
**Special Flood Hazard Areas of shallow flooding**

**(a) For Residential Structures in Zones AH or AO:**

- (1) All new residential structures must be constructed with the top surface of the lowest floor elevated 2 feet or more above the published BFE, or 2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
- (2) For all substantial improvements or substantial damage to existing residential structures the entire structure becomes subject to the requirements of a new residential structure.
- (3) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure

**(b) For Nonresidential Structures in Zones AH or AO:**

- (1) All new commercial, industrial or other nonresidential structure must either:
  - a) have the top surface of the lowest floor elevated 2 feet or more above the published BFE, or 2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM, with documentation on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas; or
  - b) be floodproofed such that the structure, together with attendant utility and sanitary facilities be designed so that below 3 feet or more above the published BFE in Zone AH, or 3 feet or more above the base specified flood depth in an AO Zone, 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 of effects of buoyancy.
- (2) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
- (3) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

**(c) For Manufactured Homes in Zones AH or AO:**



- (1) All manufactured homes that are placed or substantially improved on sites:
    - 1) outside of a manufactured home park or subdivision,
    - 2) in a new manufactured home park or subdivision,
    - 3) in an expansion to an existing manufactured home park or subdivision, or
    - 4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the published BFE, or 2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (2) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of paragraph 1. of this section be elevated so that either:
    - a) the lowest floor of the manufactured home meets the elevation standard of paragraph 1., or
    - b) 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (3) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
  - (4) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
  - (d) **Where FEMA has not established a regulatory floodway in Zone in Zones AH or AO,** no Floodplain Development Permit may be issued unless a detailed engineering analysis is submitted along with the application that demonstrates the increase in base floodwater elevation due to the proposed development and all cumulative developments since the publication of the current FIRM will be less than 1 foot.
  - (e) **Require adequate drainage paths** around structures on slopes, to guide flood waters around and away from proposed structures.
- 

**4. In "A" Risk Zones:**  
**Special Flood Hazard Areas with no base flood elevations determined**

- (a) **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.

**(b) For Residential Structures in Zone A:**

- (1) For all new residential structures, the top surface of the lowest floor must have an elevation 2 feet or more above the BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
- (2) For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.
- (3) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.

**(c) For Nonresidential Structures in Zone A:**

- (1) All new commercial, industrial or other nonresidential structures must either:
  - a) have the lowest floor (including basement) elevated 2 feet or more above the base flood level or
  - b) be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of 3 feet above 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.
  - c) A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate 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.
- (2) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
- (3) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

**(d) For Manufactured Homes in Zone A:**

- (1) All manufactured homes that are placed or substantially improved on sites:
  - a) outside of a manufactured home park or subdivision,
  - b) in a new manufactured home park or subdivision,
  - c) in an expansion to an existing manufactured home park or subdivision, or
  - d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a



permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (2) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of paragraph (1.) of this section be elevated so that either:
  - a) the lowest floor of the manufactured home is 2 feet or more above the base flood elevation, or
  - b) 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (3) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
- (4) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- (e) **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:**
  - (1) Generate base flood elevation data and a regulatory floodway, utilizing accepted engineering practices, if not otherwise provided.
  - (2) For all residential structures included within the proposed development, comply with the requirements outlined in Section B.4.(b) of this Code.
  - (3) For all non-residential structures included within the proposed development, comply with the requirements outlined in Section B.4.(c) of this Code.
  - (4) For all manufactured homes included within the proposed development, comply with the requirements outlined in Section B.4.(d) of this Code.



# NONCONVERSION AGREEMENT For Arkansas NFIP Communities

OFFICE USE ONLY	
Date Received:	_____
File Number:	_____

Whereas, Permit # \_\_\_\_\_ has been issued to construct, improve, or repair the property at \_\_\_\_\_ in \_\_\_\_\_ Arkansas, and

Whereas, the permitted building has the lowest floor elevated above the base flood elevation at \_\_\_\_\_ ft., and the design and construction of the building meets current building code and flood damage prevention ordinance requirements, and

Whereas, as a condition of a Certificate of Occupancy, the owner must agree to not alter the building at a later date so as to violate the building code or flood damage prevention ordinance requirements,

Now, therefore, the undersigned owner of said property hereby agrees to the following:

1. That the enclosed area below the lowest floor shall be used solely for parking of vehicles, limited storage, or the access to the building and will never be used for human habitation without first becoming fully compliant with flood damage prevention ordinance in effect at the time of conversion.
2. That all interior walls, ceilings, and floors below \_\_\_\_\_ feet in elevation shall be unfinished or constructed of flood-resistant materials
3. That mechanical, electrical, or plumbing devices that service the building shall not be installed below \_\_\_\_\_ feet in elevation.
4. That the openings in the walls of the enclosed area below the lowest floor shall not be blocked, obstructed, or otherwise altered to reduce the size of the openings or restrict the automatic entry and exit of floodwater.
5. That any variation in construction beyond what is permitted shall constitute a violation of this agreement and Section \_\_\_\_\_ of Ordinance # \_\_\_\_\_.
6. That the owner and subsequent owners understand that \_\_\_\_\_ has a right to inspect inside the premises at any time to verify compliance with this agreement.
7. That this Agreement shall be recorded with the deed to the above property so that subsequent owners are made aware of these restrictions.

\_\_\_\_\_  
*Signature of Property Owner*

\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Printed name*

\_\_\_\_\_  
*Printed name*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*



# CLEBURNE COUNTY FLOODPLAIN DEVELOPMENT PERMIT

## Terms and Conditions

**Permit Required:** As required by the Federal Emergency Management Agency (FEMA) Code of Federal Regulations, National Flood Insurance Program, (NFIP) 44 CFR Part 60.3(a)(1), no work of any kind may begin in the Special Flood Hazard Area (SFHA) until a Floodplain Development Permit is issued. The permit shall be for all structures and for all development, including fill and other activities, as set forth in the Floodplain Ordinance. Examples of such activities include but are not limited to new construction, reconstruction, rebuilding, placement of manufactured homes, placement of small outbuildings, fences, walls, clearing of trees and other vegetation, placement of driveway culverts or bridges, long term storage of equipment and materials or any man-made change to improved or unimproved real estate such as dredging, drilling, excavation, filling, grading, logging, mining, or paving. The floodplain development permit requirement is intended to allow the County to monitor activities located in the SFHA to ensure the following:

- Base flood elevations do not significantly change as a result of development
- Buildings in floodways and floodplains are constructed and maintained properly
- Substantially damaged/improved buildings are brought into compliance with current floodplain regulations.

**Application for Permit:** Application for a Floodplain Development Permit shall be made on forms furnished by the County. If a change of ownership of the affected property occurs following the issuance of a permit and prior to the issuance of a Certificate of Compliance, the new owner(s) shall submit an application within 15 days of the date of ownership change. If a new application is not submitted within 15 days, all work must cease immediately. No deviation from the original application is allowed except the change of ownership. By signing and submitting this application the Applicant certifies that all statements contained in the application, and in any additional attachments, are true and accurate. All applications shall include the following:

- A. Plans in duplicate, drawn to scale, showing:
  - The nature, location, dimensions and elevations of the area in question, including the location of the property with reference to river and stream channels, floodplain and floodway, and the location of permanent or temporary reference marks
  - Existing and proposed structures and/or development
  - Fill and excavation details
  - Storage of materials
  - Location of drainage facilities
  - Elevation (in relation to mean sea level) of the bottom floor of all structures (including basements or crawl spaces)
  - Engineering details and description of the extent to which any watercourse will be altered or relocated as a result of proposed development
  - If applicable, elevation (in relation to mean sea level) to which any structure will be flood proofed and certification by a registered professional engineer that flood proofing methods for any structure meet the flood proofing criteria established in the Floodplain Ordinance
  - Extent of foundation walls and footings below finished grade
  - Size and location of all flood openings/vents
  - Elevations of all mechanical, electrical, plumbing, and ducting
- B. For structures, an Elevation Certificate based on construction drawings from a registered engineer or licensed surveyor. A finished construction Elevation Certificate will be required upon completion of the structure before the Certificate of Compliance is issued.
- C. Copies of environmental permits from federal or state agencies, if applicable, and evidence of notification of the adjacent communities and FEMA of any alteration or relocation of watercourses.
- D. Any additional information required by the Floodplain Administrator.



**Note: Application for a Floodplain Development Permit (FDP) is a SEPARATE Process from the Building Permit application process. The FDP is a prerequisite for application to the Building Department for all development in the Special Flood Hazard Area.**

**Field Information:** The applicant's engineer or surveyor shall establish two temporary Base Flood Elevation marks within 50 feet of the proposed development and the floodway boundary shall be marked every 50 feet across the property. The Entire Base floodway boundary shall be established using the Base Flood Elevation by means of Flood Insurance Rate Map, Flood Boundary viewer and Floodway Map.

**Review:** Upon receipt of a completed Floodplain Development Permit Application the Floodplain Administrator shall review the application and grant or deny the requested development permit, in accordance with the provisions of the County Floodplain Ordinance and current FEMA NFIP rules and regulations.

**Notice To Applicant, Issuance Of Permit:** After a decision has been rendered, the Floodplain Administrator shall return one copy of the application and decision, including any special permit conditions that apply, after having marked such copy either as approved or denied and attested to the same by signing such copy. One copy of the completed application, decision and special conditions shall be retained by the Floodplain Administrator. The Floodplain Administrator shall issue a placard to be posted in a conspicuous place on the affected property, and the placard shall remain posted until a Certificate of Compliance is issued, attesting to the fact that the use or alteration is in compliance with the provisions of the Floodplain Ordinance.

**Certificate of Compliance:** The development may not be used or occupied until a Certificate of Compliance is issued. By signing and submitting this application the Applicant gives consent to the Floodplain Administrator or a designee to make reasonable inspections prior to the issuance of a Certificate of Compliance.

**Non-Conversion Declaration:** Residential structures with enclosed areas below the Base Flood Elevation will require a Non-Conversion Declaration to be signed and recorded before the Certificate of Compliance is issued.

**Expiration and Revocation of Floodplain Development Permit:** A Floodplain Development Permit shall be subject to expiration and/or revocation by the Floodplain Administrator under the following circumstances:

- Upon change of ownership, the new owner does not submit an application within 15 days of the change of ownership.
- The owner deviates from the original application in any way other than change of ownership.
- Work has not started within 180 days of permit approval or if work is suspended for 180 days. (Extensions may be granted by the Floodplain Administrator but must be obtained within one year of the date of issue.)

**Appeals:** Any person aggrieved by a decision of the Floodplain Administrator in the grant or denial of a Floodplain Development Permit may appeal such decision to the Quorum Court by filing a notice of appeal stating the nature of the appeal within thirty (30) days of the return of the Floodplain Administrator's decision to the Applicant. The Quorum Court shall schedule and hold a public hearing in accordance with the local ordinance to further consider the application. Following the public hearing, the Quorum Court shall, within fifteen (15) days of the hearing affirm or reverse the decision of the Floodplain Administrator. The decision of the Quorum Court shall be in writing with findings of fact and conclusions of law that explain the criteria and standards considered relevant, state the facts relied upon, and explain the justification for the decision.

**Document retention:** In accordance with NFIP regulations, State Building Code and the Floodplain Ordinance, documentation related to this application must be retained. Specifically, all records including but not limited to Floodplain Development Permits, elevation certificates, engineering certificates, Non-Conversion Declarations, Certificates of Compliance and plot maps must be permanently retained by the County for public inspection at the Emergency Management office.



Date Received: \_\_\_\_\_ Permit Number: \_\_\_\_\_ Date of Decision: \_\_\_\_\_ By: \_\_\_\_\_

**Cleburne County  
Floodplain Development Permit Application**

OFFICE USE ONLY

PCEC    FWA    FCEC    NCD    Attachments

Approved    Denied    Special Conditions

**Property information**

Address:	Map and Taxlot #:
	FIRM Panel:
Zone: <input type="checkbox"/> Floodway   BFE:	Min. Elev. of Lowest Floor:

**Applicant information (property owner on current deed of record)**

Last name:	First name:
Street address:	Mailing address:
Phone:	Mobile phone:

**Project information**

Project description (please be specific, attach pages if necessary):

**Section A: Structural development (check all that apply)**

Type of structure	Type of structural activity
<input type="checkbox"/> Residential (1 to 4 families)	<input type="checkbox"/> New structure
<input type="checkbox"/> Residential (more than 4 families)	<input type="checkbox"/> Demolition of existing structure
<input type="checkbox"/> Combined use (Residential and Non-residential)	<input type="checkbox"/> Replacement of existing structure
<input type="checkbox"/> Non-residential <input type="checkbox"/> Elevated <input type="checkbox"/> Floodproofed (attach certification)	<input type="checkbox"/> Relocation of existing structure <sup>1</sup>
	<input type="checkbox"/> Addition to existing structure <sup>1</sup>
	<input type="checkbox"/> Alteration to existing structure <sup>1</sup>
<input type="checkbox"/> Manufactured Home <input type="checkbox"/> Located on individual lot <input type="checkbox"/> Located in manufactured home park	Other:

**Section B: Other development activities (Check all that apply)**

<input type="checkbox"/> Clearing of trees, vegetation or debris	<input type="checkbox"/> Grading
<input type="checkbox"/> Connection to public utilities or services	<input type="checkbox"/> Mining
<input type="checkbox"/> Drainage improvement (including culvert work)	<input type="checkbox"/> Paving
<input type="checkbox"/> Dredging	<input type="checkbox"/> Placement of fill material
<input type="checkbox"/> Drilling	<input type="checkbox"/> Roadway or bridge construction
<input type="checkbox"/> Fence or wall construction	<input type="checkbox"/> Watercourse alteration (attach description)
<input type="checkbox"/> Excavation (not related to a structured development listed in Section A)	
<input type="checkbox"/> Other development not listed (specify)	

**Signature**

*By signing below I agree to the terms and conditions of this permit and certify to the best of my knowledge the information contained in this application is true and accurate<sup>2</sup>.*

_____ (PRINTED name)	_____ (SIGNED name)	_____ (Date)
_____ (PRINTED name)	_____ (SIGNED name)	_____ (Date)

<sup>1</sup>If the value of an addition or alteration to a structure equals or exceeds 50% of the value of the structure before the addition or alteration, the entire structure must be treated as a substantially improved structure. A relocated structure must be treated as new construction.

<sup>2</sup>Attach forms if there are additional property owners. This permit application will not be accepted without the signature of all property owners on the current deed of record.