

ORDINANCE #2012- 14

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF SEARCY, ARKANSAS; PROVIDING FOR A FLOOD PLAIN ORDINANCE AND PROSCRIBING MATTERS THERETO; AND FOR OTHER PURPOSES

The Searcy City Council, sitting in regular session, considered the following:

WHEREAS, The Legislature of the State of Arkansas has in Arkansas Code Annotated §14-268-101 delegated the responsibility of local governmental units to adopt regulations to minimize flood losses. Therefore, the Searcy City Council makes the following findings of fact:

- A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas (SFHA) of Searcy, White County, Arkansas, in the current scientific and engineering report titled *The Flood Insurance Study (FIS) for Searcy, White County, Arkansas*, , with an effective Flood Insurance Rate Map (FIRM).
- 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 that cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately flood proofed 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.

WHEREAS, The purpose of this ordinance is to promote the 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 (SFHA). 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 (SFHA);
- H. Minimize future flood blight areas to help maintain a stable tax base; and
- I. Provide for notice to potential buyers when property is in a Special Flood Hazard Area.

WHEREAS, The ordinance shall apply to all Special Flood Hazard Areas (SFHA) within the jurisdiction of Searcy, White County, Arkansas.

NOW, THEREFORE, BE IT ORDAINED by the Searcy City Council:

Section 1. The Searcy Code of Ordinances is hereby amended to include Chapter 36 – Flood Damage Prevention, which Chapter shall read as follows:

“Section 36-1.. Adoption of Code. There is hereby adopted by reference a *Flood Damage Prevention Code for Searcy, White County, Arkansas*. The code shall include:

- Definitions
- Administration
- Provisions for Flood Hazard Reduction

Three (3) copies of the referenced code shall be filed in the office of the Searcy City Clerk-Treasurer and shall be available for inspection and copying by any person during normal office hours.

Section 36-2. -- 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 36-3. 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 36-4. – 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 (SFHA) 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.

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 36-5. – Penalty for Non-compliance. Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this ordinance discourages non-compliance and is a recognized mechanism for flood hazard reduction.

The floodplain administrator must enforce the provisions of this ordinance and is authorized to:

- A. Issue cease and desist orders on non-compliant floodplain development projects;
- B. Issue citations for non-compliance;
- C. Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and
- D. Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this ordinance.
 - 1) It is a misdemeanor to violate or fail to comply with any provision of this ordinance.
 - 2) Any person found, in a court of competent jurisdiction, guilty of violating this ordinance is subject to fines of not more than \$500 per day for each violation; in addition the defendant is subject to payment of all associated court costs and costs involved in the case.”

Section 2. – 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.

Adopted this 13th day of March, 2012.

/s/ David Morris
Mayor

Attest:

/s/ Margaret Meads
City Clerk-Treasurer

PUBLISH BY ONE INSERTION