

CITY OF DYER, ARKANSAS

ORDINANCE 2018-06-26-3

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DYER, ARKANSAS, AN ORDINANCE TO BE ENTITLED: **“AN ORDINANCE AMENDING THE FLOOD DAMAGE PREVENTION CODE FOR DYER, ARKANSAS, MARCH 16, 2009 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 City Council of Dyer, Arkansas, does hereby ordain as follows:

SECTION 2. FINDINGS OF FACT

- A. The City Council of Dyer, Arkansas, previously adopted the Flood Damage Prevention Code for Dyer, Arkansas March 16, 2009 with “freeboard” of two feet beyond the minimum required for compliance. Since adoption, this freeboard has caused significant hardship for the property owners and citizens of Dyer, Arkansas by increasing the costs for them to utilize the property in Dyer, Arkansas.

SECTION 3. STATEMENT OF PURPOSE

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 while balancing those purposes with reasonable and practicable use and development of the property within Dyer, Arkansas.

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.

- (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 Risk Zones: Special Flood Hazard Areas with base floods determined

a) For Residential Structures in Zone AE:

1. For all new residential structures, the top surface of the lowest floor must have an elevation 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:

1. All new commercial, industrial or other nonresidential structures must either:
 - a. have the lowest floor (including basement) elevated above the base flood level or
 - b. be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - 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.
1. 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.
2. 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:

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 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 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) Where FEMA has not established a regulatory floodway in Zone AE, 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.**
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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.
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(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 above the published BFE, or 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 above the published BFE, or 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 above the published BFE in Zone AH, or 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:
 - 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 above the published BFE, 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.
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(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 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 above the base flood level or

- b. be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - 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:

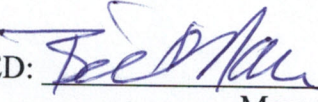
- 1. All manufactured homes that are placed or substantially improved on sites:
 - a. outside of a manufactured home park or subdivision,
 - b. in a new manufactured home park or subdivision,
 - c. in an expansion to an existing manufactured home park or subdivision, or
 - d. in an existing manufactured 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 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 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) **Base flood elevation data and a regulatory floodway**, utilizing accepted engineering practices, shall be generated 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**, if not otherwise provided.

A copy of the referenced code shall be filed in the office of the Floodplain Administrator and the office of the Mayor and shall be available for inspection and copying by any person during normal office hours.

SECTION 5. 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.

APPROVED: 
Mayor

PASSED: 6-26-18
(Date)

ATTEST:

Simon Hubbard
Recorder/Treasurer

CERTIFICATION

I, the undersigned, _____, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City Council of Dyer, Arkansas, at a regular meeting duly convened on June 26, 2018.

Recorder/Treasurer