

ORDINANCE # 372

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GREENLAND, ARKANSAS, AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF A FLOOD DAMAGE PREVENTION PROGRAM FOR THE CITY OF GREENLAND 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 the City of Greenland, 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 Greenland in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Washington County, Arkansas," dated January 25, 2024 with an effective Flood Insurance Rate Map (FIRM) dated January 25, 2024.
- 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 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. 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 the City of Greenland.

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 the City of Greenland, Arkansas," dated October 9, 2023. 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 Recorder/Treasurer 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 City Council of the City of Greenland, Arkansas to define and impose the penalties set herein.
 - b. Nothing herein contained shall prevent the City Council of the City of Greenland 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 may be guilty of an infraction and upon conviction thereof may be punishable by a fine not exceeding ~~\$50.00~~ for a first violation, ~~\$100.00~~ for a second violation within one year, and ~~\$250.00~~ 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 City Council of the City of Greenland 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.

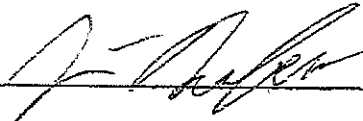
SECTION 12. SEVERABILITY

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 the City of Greenland, Arkansas 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.

APPROVED:  JIM RENFROW
Mayor

PASSED: 11-13-2023
(Date)

ATTEST: 
Recorder/Treasurer

CERTIFICATION:

I, the undersigned, Misty McCard, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City Council of the City of Greenland at a regular meeting duly convened on: 11-13-2023
(Date)


Recorder/Treasurer