

TITLE 16 DRAINAGE REGULATIONS

Chapters

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CHAPTER 16.04

STORMWATER MANAGEMENT AND DRAINAGE MANUAL

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16.04.01 Adoption of Stormwater Management and Drainage Manual The city of Centerton Stormwater management and Drainage Manual – 2009 Edition, or most current edition, is made a part of this ordinance by reference and shall extend over and govern all development within the city of Centerton, Arkansas, and over its planning jurisdiction. (Ord. No. 2009-16, Sec.1.)

16.04.02 Applicability The provisions of this code and ordinances shall be applicable to any development in the city of Centerton, except development previously undertaken, without a specific act of the City Council of the city of Centerton, Arkansas. (Ord. No. 2009-16, Sec. 2.)

16.04.03 Waiver The City Council may, for just cause, specifically waive certain requirements of this code and ordinances after specific study, especially in those cases wherein code requirements could create undue or unfair hardships. (Ord. No. 2009-16, Sec. 3.)

16.04.04 Amendment, alteration, or repeal The City Council of the city of Centerton shall have the right to change, modify and repeal any part of this ordinance and codes in accordance with the laws of the state of Arkansas. (Ord. No. 2009-16, Sec. 4.)

16.04.05 Fees The City shall charge a fee for all inspections and other responsibilities required by this ordinance. The fees shall be charged according to Section 13.05 of this code titled Planning Fee Schedule. (Ord. No. 2016-03, Sec. 5.)

16.04.06 Violation Failure to perform any of the requirements within this ordinance constitutes a violation of this ordinance and shall result in a fine of Two Hundred Dollars (\$200.00), to be paid by developer. Each unfulfilled requirement shall be deemed a separate violation, and fines will be calculated accordingly. (Ord. No. 2009-16, Sec. 6.)

CHAPTER 16.08 FLOOD DAMAGE PREVENTION PROGRAM

Section:

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16.08.01 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 Centerton, Arkansas, does hereby ordain as follows:

16.08.02 FINDINGS OF FACT

- A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of the City of Centerton in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Benton County, Arkansas and Incorporated Areas," dated June 5, 2012, with an effective Flood Insurance Rate Map (FIRM) dated June 5, 2012; and Letter of Map Revision (LOMR) Case No. 12-062356P, with an effective date of December 6, 2012. (Ord.2012-16, Sec.
- 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.

16.08.03 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. 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.

16.08.04 LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Centerton, Arkansas.

16.08.05 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.

16.08.06 FLOOD DAMAGE PREVENTION CODE ADOPTED BY REFERENCE.

That the City Council of the City of Centerton, Arkansas hereby adopts by reference the “Flood Damage Prevention Code for Centerton, Arkansas,” dated June 5, 2012, attached hereto as Attachment “A”. A copy of the referenced code shall be filed in the office of the Centerton City Hall and shall be available for inspection and copying by any person during normal office hours. Further, Chapter 16.08 of the Centerton Municipal Code is here by deleted in its entirety and replaced with the Flood Damage Prevention Code of Centerton, Arkansas, dated June 5, 2012, attached hereto as Attachment“A”.

16.08.07 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.

16.08.08 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.

16.08.09 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.

16.08.10 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.

16.08.11 ENFORCEMENT AND PENALTY

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 noncompliant properties; and
- D. Take any other lawful action necessary to prevent or remedy any instance of noncompliance 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. (Ord. 2012-07, Chapter 16.08)

ATTACHEMENT “A”

FLOOD DAMAGE PREVENTION CODE FOR CENTERON, ARKANSAS, JUNE 5, 2012

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 Risk Zones” are special flood hazard areas where detailed studies have determined base flood elevations.

“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 “100-year flood” as the base flood.

“Base flood elevation” refers to the expected height of floodwaters during the peak of the base flood event.

“Basement” is any enclosed area that is below grade on all four walls.

“BFE” is the acronym for Base Flood Elevation.

“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” broadly means any manmade change in improved or unimproved real estate. It includes, but is not limited to, construction, reconstruction, or placement of a building, or any addition or substantial improvement to a building. “Development” also includes the installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 consecutive days. 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" does not include maintenance of existing buildings and facilities, maintenance of existing drainage ditches, resurfacing of roads, gardening, plowing, 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 maps

“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.

“Functionally dependent use” is a use that requires a location or construction contrary to the requirements of the Code. Shipyards and docks are the most common examples of “functionally dependant uses,” but in Arkansas, water and wastewater treatment facilities are often constructed on normally prohibited sites. Another example of a functionally dependant use might be an addition to a manufacturing facility with precision equipment which must align with existing equipment in a pre-existing, pre-FIRM building. Variances may be granted for functionally dependant uses.

“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 elevation of the lowest floor is the top of the first floor of the house. 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 house. For typical split-level constructions, the elevation of the lowest floor is the top of the first living area floor – the garage floor is not the lowest floor as long as there are no living areas in the garage and it is used solely for storage,

parking vehicles and entry to the house. The elevation of the lowest floor of a manufactured home, however, is the bottom surface of the lowest floor joist.

“Manufactured Homes” or Structures are modular in nature and are constructed elsewhere and transported to another site for placement, assembly, or reassembly.

“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.

“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 which is:

- (i) built on a single chassis;
- (ii) 400 square feet or less when measured at the largest horizontal projections;
- (iii) designed to be self-propelled or permanently towable by a light duty truck; and
- (iv) 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, 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, 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,” for the purposes of floodplain management, refers to any building with two or more rigid walls and a fully secured roof on a permanent site or to any gas or liquid storage tank that is principally above ground.

“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 Mayor of the City of Centerton, Arkansas, or his designee, 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 the exact location of the boundaries of Special Flood Hazard Areas whenever a mapped boundary appears to be different from actual field conditions. (The sole purpose of this interpretation is to determinate the applicability of the provisions of this Code to the proposed project.)

- (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 the City of Centerton, Arkansas the designated Appeal Board is the Planning Commission.

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

- (1) Applicants must submit petitions for variances directly to the Appeal Board (Section E).

- (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 the City of Centerton, Arkansas the Planning Commission 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 1, 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 the Centerton City Council.

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 and substantial 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
 - (b) 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
 - (c) 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, except as revised in Section E of this Article. 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 3 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:

1. All new commercial, industrial or other nonresidential structures must either:

- a. have the lowest floor (including basement) elevated 3 feet or more above the base flood level, or
 - b. be flood proofed 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 Flood proofing 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 flood proofed 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:

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 3 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 3 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) **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.

(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 3 feet or more above the published BFE, or 3 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 3 feet or more above the published BFE, or 3 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 flood proofed 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:
 - 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 3 feet or more above the published BFE, or 3 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 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 floodwaters 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 3 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 3 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 3 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 3 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) 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.

S-2014-Nov

CHAPTER 16.12

STORMWATER POLLUTION PREVENTION

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16.12.02 GENERAL PROVISIONS

A. Purposes

The purpose and objectives of this code are as follows:

1. To maintain and improve the quality of water impacted by the storm drainage system within the City of Centerton.
2. To prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Centerton.
3. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
5. To facilitate compliance with state and federal standards and permits by owners of construction sites within the City.
6. To enable the City to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for stormwater discharges.

B. Administration

Except as otherwise provided herein; the City Engineer or other designated representative shall administer, implement, and enforce the provisions of this Code.

C. Abbreviations

The following abbreviations when used in this Code shall have the designated meanings:

ADEQ – Arkansas Department of Environmental Quality
BMP - Best Management Practices
CFR - Code of Federal Regulations
EPA - U.S. Environmental Protection Agency
HHW - Household Hazardous Waste
MS4 - Municipal Separate Storm Sewer System
NPDES - National Pollutant Discharge Elimination System
SWP3 - Stormwater Pollution Prevention Plan

D. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases as used in this Code, shall have the meanings hereinafter designated.

Best Management Practices (BMP's) here refers to management practices and methods to control pollutants in stormwater. BMP's are of two types: "source controls" (nonstructural) and "treatment controls" (structural). Source controls are practices that prevent pollution by reducing potential pollutants at their source, before they come into contact with stormwater. Treatment controls remove pollutants from stormwater. The selection, application and maintenance of BMP's must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. Specific BMP's shall be imposed by the City and a list of appropriate BMP's can be obtained from the City.

City means the City of Centerton, Arkansas.

Clearing means the act of cutting, removing from the ground, burning, damaging or destroying trees, stumps, hedge, brush, roots, logs, or scalping existing vegetation.

Commercial means pertaining to any business, trade, industry, or other activity engaged in for profit.

Construction Site means any location where construction activity occurs.

Contaminated means containing harmful quantities of pollutants.

Contractor means any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

Discharge means any addition or release of any pollutant, stormwater or any other substance whatsoever into storm drainage system.

Discharger means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.

Domestic Sewage means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

Earthwork means the disturbance of soils on a site associated with clearing, grading, or excavation activities.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Facility means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

Garbage means putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

Grading means any land altering activity, including stripping top soil, excavating, cutting, filling or similar construction activity.

Groundwater means any water residing below the surface of the ground or percolating into or out of the ground.

Harmful Quantity means the amount of any substance that the City Engineer determines will cause an adverse impact to storm drainage system or will contribute to the failure of the City to meet the water quality based requirements of the NPDES permit for discharges from the MS4.

Hazardous Substance means any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

Household Hazardous Waste (HHW) means any material generated in a household (including single and multiple residences) that would be classified as hazardous.

Illegal Discharge see illicit discharge below.

Illicit Discharge means any discharge to the storm drainage system that is prohibited under this Article.

Illicit Connection means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.

Industrial Waste (or commercial waste) means any wastes produced as a byproduct of any industrial, institutional or commercial process or operation, other than domestic sewage.

Land Alteration means the process of grading, clearing, filling, excavating, quarrying, tunneling, trenching, construction or similar activities

Mechanical Fluid means any fluid used in the operation and maintenance of machinery, vehicles and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.

Mobile Commercial Cosmetic Cleaning (or mobile washing) means power washing, steam cleaning, and any other method of mobile cosmetic cleaning, of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

Municipal Separate Storm Sewer System (MS4) means the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage.

NPDES means the National Pollutant Discharge Elimination System.

NPDES Permit means a permit issued by EPA that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Notice of Violation means a written notice detailing any violations of this Code and any action expected of the violators.

Oil means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

Owner means the person who owns a facility, part of a facility, or land.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

Pesticide means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest.

Pet Waste (or Animal Waste) means excrement and other waste from domestic animals.

Petroleum Product means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

Pollutant means any substance attributable to water pollution, including but not limited to rubbish, garbage, solid waste, litter, debris, yard waste, pesticides, herbicides, fertilizers, pet waste, animal waste, domestic sewage, industrial waste, sanitary sewage, wastewater, septic tank waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste, soil and sediment.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Potable Water means water that has been treated to drinking water standards and is safe for human consumption.

Private Drainage System means all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

Qualified Person means a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements & generally accepted industry standards for such activity.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

Rubbish means non-putrescible solid waste, excluding ashes, that consist of: (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary Sewage means the domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Sanitary Sewer means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

Sediment means soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person.

Septic Tank Waste means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.

Shall means mandatory; **may** means discretionary.

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Solid Waste means any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

State means The State of Arkansas.

Storm Drainage System means all surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.

Stormwater means runoff resulting from precipitation.

Stormwater Pollution Prevention Plan (SWP3) means a document that describes the Best Management Practices to be implemented at a site, to prevent or reduce the discharge of pollutants.

Subdivision Development includes activities associated with the platting of any parcel of land into two or more lots and includes all construction activity taking place thereon.

Surface Water means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

Uncontaminated means not containing harmful quantities of pollutants.

Used Oil (or Used Motor Oil) means any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

Utility Agency means private utility companies, City departments or contractors working for private utility companies or City departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Water of the State (or water) means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Standard means the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or Federal regulatory standards to be necessary to protect those uses.

Waters of the United States means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “waters of the United States” at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard Waste means leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

16.12.02 PROHIBITIONS AND REQUIREMENTS

A. Prohibitions

1. No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated stormwater, except as allowed herein. Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, and wastewater, and oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
2. Any discharge shall be prohibited by this Section if the discharge in question has been determined by the City Council to be a source of pollutants to the storm drainage system.
3. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
4. No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.
5. No person shall maliciously destroy or interfere with BMP's implemented pursuant to this Article.

B. Exemptions

1. The following non-stormwater discharges are deemed acceptable and not a violation of this Section:
 - a. A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;
 - b. Uncontaminated waterline flushing and other infrequent discharges from potable water sources;
 - c. Infrequent uncontaminated discharge from landscape irrigation or lawn watering;
 - d. Discharge from the occasional non-commercial washing of vehicles on properties zoned A, R-1, R-2, R-3, R-MH, B-1, B-2 or I;
 - e. Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
 - f. Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs;

- g. Diverted stream flows and natural riparian habitat or wetland flows;
- h. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

C. Requirements Applicable to Certain Dischargers

1. **Private Drainage System Maintenance.** The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
2. **Minimization of Irrigation Runoff.** A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
3. **Cleaning of Paved Surfaces Required.** The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this Code. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. This section does not apply to pollutants discharged from construction activities.
4. **Maintenance of Equipment.** Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
5. **Materials Storage.** In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
6. **Pet Waste.** Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.
7. **Pesticides, Herbicides and Fertilizers.** Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
8. **Prohibition on Use of Pesticides and Fungicides Banned from Manufacture.** Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any Federal, State or City regulation is prohibited.
9. **Open Drainage Channel Maintenance.** Every person owning or occupying property through which an open drainage channel passes shall keep and maintain that part of the drainage channel within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately

owned structures adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.

D. Release Reporting and Cleanup

Any person responsible for a known or suspected release of materials which are resulting in or may result in illegal discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. In the event of such a release of non-hazardous materials, said person shall notify the City no later than 5:00 p.m. of the next business day.

E. Authorization to Adopt and Impose Best Management Practices

The City may adopt and impose requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMP's are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMP's at their own expense.

16.12.03 STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES.

A. General Requirements for Construction Sites

1. The owner of a site of construction activity shall be responsible for compliance with the requirements of this ordinance.
2. **Before construction can begin, the contractor is required to install the erosion control devices and BMPs required in the SWPPP that are necessary and able to be installed. Once this has been done, the contractor shall notify the City and an inspection will be completed by City or other authorized personnel. Upon acceptance of the erosion control device and BMP installation, a preconstruction conference will be scheduled. A pre-construction conference is not required for residential lots, Unless requested by authorized personnel. Construction may begin upon City approval following the pre-construction conference or approved grading permit.**
3. Waste Disposal. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of Best Management Practices. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash or otherwise be released from the site is prohibited.
4. Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall

- be contained on construction sites for proper disposal. Release of these materials is prohibited.
5. Erosion and Sediment Control. Best Management Practices shall be implemented to prevent the release of sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
 6. Erosion and Sediment Control. No construction of any development may proceed nor may a Developer receive a Building Permit nor may Final Plat approval be issued for a subdivision without an approved bond being posted for the cost of the site development work that would cause land disturbing activity unless the Developer has:
 - a. The approved drainage and/or detention facilities constructed and certified by the project Engineer of Record with "As-built" plans being submitted to the City.
 - b. If determined necessary by the City Engineer, an Erosion Control Plan must be submitted for approval.
 7. For purposes of this Code, "land disturbing activity" means any use of land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause to contribute to sedimentation, except for ordinary agricultural practices, City, County, State, or Federally funded and authorized construction and maintenance. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin. In determining the need for sedimentation or erosion control, the decision of the City Engineer or authorized personnel is final.
 8. Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this Code, in the course of maintenance, reconstruction or any other construction activity on the site.

B. Construction Sites Requiring an Approved SWP3

This section applies to all construction sites of greater than or equal to one (1) acre but less than five (5) acres of land where construction on a site will disturb soil or remove vegetation during the life of the construction project. A copy of the Stormwater Pollution Prevention Plan (SWP3) and Construction Site Notice for the project must be provided to the City by the construction site owner before construction begins.

This section applies to all construction sites of greater than or equal to five (5) acres of land where construction on a site will disturb soil or remove vegetation during the life of the construction project. A copy of the ADEQ approved Stormwater Pollution Prevention Plan (SWP3) and ADEQ stormwater permit for the project must be provided to the City by the construction site owner before construction begins.

The owner/developer bears the responsibility for implementation of the SWP3 and notification of all contractors and utility agencies on the site.

C. Subdivision Developments Requiring an Approved SWP3

Where construction of a subdivision development will disturb soil or remove vegetation on greater than or equal to one (1) but less than five (5) acres of land during the life of the development project, a copy of the Stormwater Pollution Prevention Plans (SWP3's) and a copy of the Construction Site Notice for the project must be provided. Where construction of a subdivision development will disturb soil or remove vegetation on five (5) or more acres of land during the life of the development project, a copy of the ADEQ approved Stormwater Pollution Prevention Plans (SWP3's) and a copy of the ADEQ stormwater permit for the project must be provided to the City. The SWP3 must be implemented by the subdivision owner/developer as follows:

1. The area disturbed shall be assumed to include the entire platted area, unless shown otherwise.
2. SWP3's must be provided by the subdivision owner/developer.
3. SWP3's must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading and the construction of individual homes. The subdivision owner/developer will not be required to provide an SWP3 for the activities of utility agencies within the subdivision.
4. The subdivision owner/developer shall provide a copy of the approved SWP3's to all utility agencies prior to their working within the subdivision.
5. The subdivision owner/developer bears the responsibility for implementation of the approved SWP3's for all construction activity within the development, excluding construction managed by utility agencies.
6. The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWP3's for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.

D. Stormwater Pollution Prevention Plans

Preparation and implementation of Stormwater Pollution Prevention Plans for construction activity shall comply with the following:

1. Preparation
 - a. The SWP3 shall be prepared under the direction of a qualified person.
 - b. The SWP3 shall follow all the current EPA and ADEQ guidelines set forth for the development of said plans.

- c. The SWP3 shall be prepared in accordance with the current City of Centerton drainage ordinance.
2. Implementation
 - a. BMP's shall be installed and maintained by qualified persons. The owner/developer or their representative shall maintain and be able to provide upon request a copy of the SWP3 on site and shall be prepared to respond to unforeseen maintenance of specific BMP's.
 - b. The owner/developer or their representative shall inspect all BMP's at least once per month and within 24 hours after a rainfall of one half of an inch or more as measured at the site.
 - c. Based on inspections performed by the owner/developer or by authorized City personnel, modifications to the SWP3 will be necessary if at any time the specified BMP's do not meet the objectives of this Code. In this case, the owner/developer or authorized representative shall meet with authorized City personnel or their authorized representative to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, except in circumstances necessitating more timely attention, and shall be recorded on the owner's copy of the SWP3.

E. Requirements for Utility Construction

1. Utility agencies shall be responsible for compliance with the requirements this ordinance.
2. Utility agencies shall develop and implement Best Management Practices (BMP's) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMP's on utility construction activity.
3. Utility agencies shall implement BMP's to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
4. Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWP3's for the project. Any disturbance to BMP's resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWP3.

16.12.04 GRADING

A. Findings

The city has experienced development activity causing the displacement of large amounts of earth and the removal of vegetative cover. Significant problems resulting from such development include flooding, soil erosion and sedimentation, unstable slopes, and impaired quality of life. These problems are a concern because of their negative effects on the safety and general welfare of the community and environment.

B. Purpose

The purposes of this chapter are to:

1. Prohibit the indiscriminate clearing of property.
2. Prevent excessive grading, clearing, filling, cutting, or similar activities.
3. Substantially reduce flooding, erosion and sediment damage within the city.
4. To safeguard the safety and welfare of citizens.
5. Establish reasonable standards and procedures for development, which prevent potential flooding, erosion and sediment damage.
6. Prevent the pollution of streams, ponds and other watercourses by sediment.
7. Minimize the danger of flood loss and property loss due to unstable slopes.
8. Preserve natural vegetation, which enhances the quality of life of the community.
9. To conceal hillside scars.

C. General requirements

1. Persons engaged in land alteration activities regulated by this chapter shall take measures to protect neighboring public and private properties from damage by such activities. The requirements of this chapter, however, are not intended to prevent the reasonable use of properties.
2. The responsible party shall be liable for all fines levied or remedial action required under this chapter. Each violation shall be considered a separate offense.
3. Any person, who engages in land alteration activities regulated by this chapter without obtaining a grading permit, shall be required to restore the land, to the maximum extent practicable to its original condition.
4. The permit applicant shall have on the project site at all times an agent who is a competent superintendent capable of reading and thoroughly understanding the plans, specifications and requirements for the type of work being performed. The superintendent shall have full authority to issue orders or direction to employees working on site, without delay and to promptly supply such materials, labor, equipment, tools, and incidentals as may be required to complete the work in a proper

manner. If no superintendent is on site, the city official may issue the notice of violation and stop work order to the person conducting the violation.

D. Grading Permit Required

1. Any person proposing to engage in clearing, filling, cutting, quarrying, construction or similar activities on any piece of disturbed land, shall apply to the City for a grading permit as specified in this chapter. A large scale development plan shall be obtained from the City before constructing or expanding a vehicular use area or when expanding or rehabilitating a building and landscaping is required. No land shall be altered or cleared to the extent regulated in this chapter unless approved by a permit.
2. No land alteration shall be permitted until all necessary city approval of all plans and permits, except building permit, have been issued and construction is imminent. In those cases where filling or cutting in areas with no trees is to be done, the area is to be graded suitable for mowing and shall be re-vegetated.
3. A grading permit is required for land alteration activities specified in this section. However, all construction work shall include appropriate drainage and erosion control measures to protect neighboring properties. All land alteration in properties within the designated 100 year floodplain or on a 20% or greater slope and any excavation from which fill will be exported or imported requires a grading permit without exception.
4. Prior to issuance of a grading permit, a grading and drainage plan shall be submitted and approved by the City. A drainage report shall be submitted to the city at the time new subdivisions and large scale developments are submitted for project approval. The drainage report shall comply with all current drainage Codes and must be certified by a registered professional engineer licensed in the State of Arkansas.
5. Utility organizations may obtain a one-time approval from the City for all routine tree trimming and installation, maintenance, replacement and repair of fence and sign posts, telephone poles and other kinds of posts or poles and overhead or underground electric, water, sewer, natural gas, telephone or cable facilities. The approval will include a utility organization and its contractors, agents or assigns and will be permanent in nature as long as the original approved procedures are followed. However, large-scale utility projects involving clearing of areas over twenty-five (25) feet in width shall not be authorized by one-time approval of all projects. In such cases, a separate grading permit must be obtained for each project.
6. One-time approval may be obtained by public or private entities for the stockpiling of construction spoil material at particular locations for a limited time period, not to exceed six (6) months. Grading and replanting of grassed areas is required upon removal of stockpile.

7. To obtain a residential grading permit you must attend the City of Centerton's meeting on Construction Stormwater Management or a signature of a certified stormwater inspector. (Proof must be provided) A grading permit must be obtained before any building permits will be issued (ORD 2018-15)

E. Exemptions

A grading permit shall not be required for:

1. Emergency work or repairs to protect health, safety and welfare of the public.
2. Cemetery graves.
3. Refuse disposal sites controlled by other regulations.

F. Contents of grading plans

The grading and drainage plan shall identify the following:

1. Acreage of the proposed project.
2. Designate all land areas to be disturbed and label acreage of disturbed areas.
3. Stages of grading showing the limits of sections to be graded.
4. The height and slope of cuts and fills.
5. Cross sections shall be required every one hundred (50) feet on property where the depth of excavation or fills exceeds five (5) feet, showing original and final grades. A grading plan showing existing and proposed contours with a maximum 2-foot contour interval for slopes less than 10% and a maximum 5-foot contour interval for slopes greater than 10% can be shown as an alternate to cross-sections every 50 feet.
6. Provisions for collecting and discharging surface water.
7. Erosion and sediment control measures, including structural and vegetative measures. Specification of measures to control runoff, erosion and sedimentation during the process of construction, noting those areas where control of runoff will be required during construction and indicating what will be used, such as sediment basins, silt dams, rock check dams, lateral hillside ditches, catch basins, etc.
8. Seal, Certificate of Authority and signature of a registered engineer qualified under state regulations to certify that the grading and drainage plan complies with this chapter.
9. A vicinity drawing showing location of property lines, location and names of all existing or platted streets or other public ways within or immediately adjacent to the tract on City of Centerton topographic mapping or approved equal.

10. Location of all known existing sewers, water mains, culverts and underground utilities within the tract and immediately adjacent thereto; location of existing permanent buildings on or immediately adjacent to the site if right of entry can be obtained to locate same.
11. Identification of rights-of-way or easements affecting the property.
12. A plan of the site at a minimum scale of one (1) inch equals one hundred (100) feet or less, i.e. 1" = 50' or 1" = 30', etc.
13. The grading plan shall include areas of tree protection, erosion and sediment control provisions meeting standards established by the City and ADEQ.

Such other information required by the City, including but not limited to:

1. The approximate location and width of existing and proposed streets.
2. The locations and dimensions of all proposed or existing lots.
3. The locations and dimensions of all parcels of land proposed to be set aside for parks, playgrounds, natural condition perimeters, public use, or for the use of property owners in proposed development.
4. Existing and proposed topography at a maximum of two-foot contour intervals unless approved otherwise by the City.
5. Identification of unusual material or soils in land areas to be disturbed. If any surface indications of unusual materials or soils that would cause street or lot instability, such as non-vertical tree growth, old slides, seepage, or depressions in the soil are visible before grading, they should be noted and accompanied by the engineer's recommendation for correcting such problem areas.
6. Identification of suitable material to be used for fills shall be accomplished before actual filling begins. If there are any surface indications that local material is not suitable for fills, those areas to be filled with outside material should be identified and the type and source of the fill noted.
7. Measures to protect neighboring built-up areas and city property during process of construction, noting work to be performed, such as cleaning existing ditches, storm culverts and catch basins or raising existing curbs in neighboring areas.
8. Provisions to stabilize soils and slopes after completion of streets, sewers and other improvements, noting on the grading plan when and where ground cover will be planted, also noting any other means to be used such as placement of stone embankments and riprap or construction of retaining walls.
9. All fill areas shall be compacted to 95% standard proctor density unless approved otherwise.

G. Issuance procedure

The following procedure shall be implemented for the issuance of a grading permit.

1. The City or its authorized representative shall approve, disapprove or recommend modification of the grading plan in writing within ten (10) working days after the date of submittal.
2. Upon approval of the final plan, the City shall issue a grading permit. A superintendent capable of understanding the plans and with the authority to issue orders to employees performing the land alteration shall properly supervise the land alteration work.

Groups of trees and individual trees that are not to be removed and required undisturbed buffer areas shall be protected during construction by protective fencing and shall not be used for material storage or for any other purpose. The fencing shall be placed and maintained by the owner until all exterior construction except landscaping has been completed. Individual trees to be preserved outside the protected area shall be fenced at the critical root zone and shall be flagged with bright orange vinyl tape wrapped around the main trunk at a height of four (4) feet or more such that the tape is clearly visible to workers on foot or operating equipment.

The City Engineer may allow minor modifications of the plan to alleviate particular problems during the process of construction. In reviewing request for modifications, the City Engineer may require from the applicant's engineer appropriate reports and data sufficient to make a decision on the request.

Major changes to plans previously approved shall only be permitted by the planning commission. Examples of major changes are those that substantially increase the height of cuts, the area of clearing or grading, or impact on neighboring properties. More than twenty percent (20%) increase in height, area or impact will normally be considered a major change. Examples of increased impact include reductions in buffer area, increased runoff onto adjacent properties and increased site area that is visible from adjacent properties or public streets.

H. Grading plan requirements

1. Preparation of grading and drainage plans shall be designed on the basis of the following considerations:
 - a. A maximum of thirty (30) vertical feet of fill or excavation [three, ten (10) feet vertical terraces or two, fifteen (15) feet vertical terraces] is permitted. However, additional development areas may be constructed a minimum of one-hundred fifty (150) feet in width and at a slope of no more than eight percent (8%). The maximum of thirty (30) feet of fill or excavation may again be utilized.
 - b. The depth of fill or excavation shall be measured from the finish grade elevation to the original ground line elevation.

- c. No more than two hundred (200) feet of terrace can be in a straight line and a minimum of a ten (10) foot curved section, jog, or offset is required for each additional 200 feet of terrace.
 - d. For excavations or fills constructed with slopes flatter than 3:1 (three horizontal to one vertical), terraces are not required nor is there a limit on the height of cut or fill. Planting requirements on these 3:1 slopes shall be the same as required for terraces and shall be spaced uniformly over the slope.
 - e. Cuts or fills shall be limited to ten (10) feet in height or to fifteen (15) feet if architectural stone is included to protect the vertical face. A series of smaller cuts or fills with terraces, preserving portions of natural vegetation and providing areas for planting, shall be used in situations where more than ten (10) feet of cut or fill is needed.
 - f. Terracing width shall be at a ratio of at least one (1) foot of horizontal terrace for every one (1) foot of vertical height, up to a maximum of ten (10) feet. Terraces shall be landscaped with dense evergreen plantings sufficient to screen the cut or fill slope.
 - g. If the slope of the cut or fill is faced with an architectural stone wall, the terrace plantings shall be a minimum of two (2) rows of trees four (4) feet between the rows, staggered not more than twenty (20) feet on centers.
2. Development shall be planned to fit topography, soils, geology, hydrology, and other existing site conditions.
 3. To the extent practical, lot boundaries shall be made to coincide with natural and preexisting man-made drainage ways within subdivisions.
 4. Provisions shall be made for safety against unstable slopes or slopes subject to erosion and deterioration.
 5. Grading shall complement natural landforms.
 6. Easements for drainage channel maintenance shall be in accordance with the current drainage ordinance.
 7. All developments or any lot containing or adjacent to a drainage channel or drainage structure must provide the minimum finish floor elevation for any proposed structure based on the 100 year flood elevation in the drainage structure. For subdivisions, this minimum elevation shall be shown on the Final Plat. For Large Scale Development Plans, this minimum elevation must be shown on the approved plans.
 8. After grading, all paving, seeding, sodding, or mulching shall be performed in accordance with a reasonable schedule approved by the City Engineer.
 9. Open areas not planned for immediate use shall be seeded or sodded. Soil which is exposed for more than twenty-one (21) days with no construction activity shall be

seeded, mulched or re-vegetated in accordance with this code. All restoration efforts must be to the satisfaction of the City.

10. Areas not well suited to development, as evidenced by existing incompetent soils, geology, hydrology investigations and reports, should be allocated to open space and recreational uses.
11. The potential for soil loss shall be minimized by retaining natural vegetation wherever possible.
12. Appropriate BMPs and other erosion and sediment control practices shall be used to accommodate stormwater runoff and control soil loss occasioned by changed soil and surface conditions during and after development, including the use of vegetation and limitations on soil exposure. If staff determines upon visual inspection that excessive silt from the construction has migrated offsite, additional measures to reduce erosion may be required.
13. Permanent improvements such as streets, storm sewers, curb and gutters and other features for control of storm runoff shall be scheduled as soon as economically and physically feasible before removing vegetation cover from the area, so that large areas are not left bare and exposed for long periods of time beyond the capacity of temporary control measures.
14. Private roads, parking lots, and access ways (excluding residential driveways), within developments shall utilize curb, gutter, and storm drain systems to provide adequate drainage. The use of swales and siding open side ditches are acceptable only upon written approval of the City Engineer. All utilities must be a minimum of 24" below the flow line of an open ditch unless approved in writing by the City Engineer and the respective utility company. Clearances may be reduced for paved ditches.
15. Persons engaged in land alteration activities regulated by this chapter shall take measures to protect public and private properties from damage by such activities.
16. A temporary or permanent sediment basin, debris basin, silt basin or silt trap shall be installed and maintained to substantially reduce sediment from water runoff. The volume of the sediment basin shall be three-thousand (3000) cubic feet per acre for property with average slope greater than five (5) percent, or fifteen-hundred (1500) cubic feet per acre for property with an average slope less than five (5) percent. A properly sized sediment basin is required for each separate drainage area within the property being developed.
17. Construction access shall be limited to locations as approved by the City. Construction access points shall be graveled for a minimum length of twenty percent (20%) of the lot depth or fifty (50) feet, whichever is greater, up to a maximum of one hundred (100) feet and of adequate thickness to minimize tracking onto the city street. Two (2) to three (3) inch crushed stone shall be used for the construction entrance.

18. Appropriate provisions shall be made to prevent excessive particulate matter from becoming airborne.
19. A perimeter buffer strip shall be temporarily maintained around disturbed areas for erosion control purposes and shall be kept undisturbed except for reasonable access for maintenance. The width of the strip shall be six percent (6%) of the lot width and depth. The minimum width shall be twenty-five (25) feet and the maximum shall be forty (40) feet. In no event shall these temporary strips be less than the width of the permanent buffers required for the development.
20. A minimum strip twenty-five (25) feet wide, undisturbed except for reasonable access, shall be provided along each side of streams having a peak ten-year storm flow rate of greater than one hundred fifty (150) cubic feet per second. The 25-foot strip shall be measured from the top of the bank. An exception to this requirement is allowed where the only work being done on the site is public street construction.
21. Care shall be exercised to minimize the risk of damage from or to pedestrian and vehicular traffic in the vicinity of a cut or fill by placement of handrails, guardrails, fencing or landscaping.

I. Unified plan and permit

One plan may be submitted incorporating all provisions for compliance with the applicable city zoning, drainage, stormwater detention, grading, clearing, filling, cutting, quarrying, and construction requirements.

J. Miscellaneous

1. Grading plans shall conform to the Phase II Stormwater Regulations as established by United States Environmental Protection Agency’s regulations, Region VI published in the July 6, 1998 Federal Register or its latest revisions.
2. A copy of the ADEQ NOI permit shall be required for all sites of one (1) acre or more.

K. Transition Period

Any construction or development project which has received a development or building permit under prior provisions of the Centerton Code shall come into full compliance with the requirements of this ordinance within thirty (30) days of its effective date.

L. Fees

A fee for each grading permit shall be paid to the city as follows:

<i>Total Project Area</i>	<i>Fee</i>
Less than 1 acre	\$100.00
1 acre but less than 5 acres	\$200.00

5 acres or greater \$300.00

16.12.05 ENFORCEMENT

A. Enforcement Personnel Authorized

The following personnel shall have the power to issue Notices of Violations and implement other enforcement actions under this ordinance as provided by the City of Centerton:

1. All inspectors employed by the City of Centerton.
2. The City Engineer or his authorized representatives.

B. Right of Entry and Sampling

1. Whenever the City Engineer has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this ordinance, the City Engineer or his authorized representative shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this ordinance. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.
2. The City shall have the right to set up on the property of any discharger to the storm drainage system such devices that are necessary to conduct sampling of discharges.

C. Enforcement Procedures

This policy establishes a formal enforcement procedure to be followed by the City of Centerton' City Engineer when enforcement action is necessary on sites that do not comply with the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance. Enforcement cases can be generated in any of three ways: (1) through the construction review process; (2) through complaints from individuals, groups, etc; and (3) through referrals from City/State agencies. Procedures to be followed for each of these methods are outlined below.

1. Construction Review

Every effort is made to use the Construction Review process to correct deficiencies in site compliance whenever possible. Should that process fail to achieve expected results or if the site reviewer feels that a violation is serious enough to warrant enforcement action, the following procedures shall be followed:

a. Issuance of Notice of Violation:

If site deficiencies are noted, the owner/developer or authorized agent shall be given a notice of violation. The notice of violation shall be specific as to the noted

violation, corrective measures to be taken, and time frame allowed to complete the work.

b. Compliance Review

At the end of the time period specified above, a follow-up site inspection shall take place to determine whether compliance has been achieved. Depending on that determination, the following actions may occur:

(1) Site Violations Corrected:

If all previous site violations have been corrected, the site reviewer shall issue an inspection report stating that fact and the site shall be returned to a normal Construction Review status.

(2) Previous Violations Not Corrected:

If previously noted violations have not been satisfactorily corrected, the further actions may be initiated as outlined in the following section.

2. Submissions from the General Public

Members of the General Public may submit information pertaining to this Code to the City of Centerton. The City Engineer will consider such submissions as they pertain to the implementation and enforcement of this Code and will provide written or verbal response to the person submitting the information.

3. Referrals from other agencies will be handled in the following manner:

a. Cases will be referred directly to the City Engineer. At this point the City Engineer will determine if enforcement actions are warranted and if proper documentation has been obtained. If the City Engineer determines that action is required, the enforcement process will be set into motion.

b. Cases received by the City Engineer will handled on a first come, first served basis. All enforcement actions will be initiated by a site inspection to verify site conditions that caused the case to be referred. If conditions have been corrected or do not exist as stated in the referral, the case will be returned to file for documentation and reporting purposes. If conditions exist as stated in the referral, enforcement actions will proceed. (See 3c)

c. Once site conditions have been verified and the site is determined to be in a state of non-compliance two avenues of enforcement can be pursued, one for the infrequent offender and one for the frequent offender.

(1) Infrequent Offender, if an individual or company is being reviewed by the City Engineer or City Personnel for the first time or it has been at least 3 years since the last violation (36 months has elapsed since last review), notice to comply will be issued to the owner/developer informing them they are not in

compliance with the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance, the steps needed to be taken to get into compliance, and that they have an established time frame to complete the work. At the end of the period the City Engineer will reinspect to check for compliance. If all work has been satisfactorily completed the case will be returned to file for documentation and reporting purposes. If the work has not been satisfactorily completed within the established time frame a citation (ticket) will be issued to the owner developer and follow up will be done until the site is brought into compliance.

- (2) Frequent Offender, if an individual or company has been reviewed by the City Engineer at any time in the preceding 36 months they will be considered repeat offenders. Repeat offenders will be issued a citation (ticket) by the City Engineer upon verification of non-compliance with the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance. Follow-up will continue until the site has been brought into compliance.

D. Enforcement Options for Failure to Comply

1. City of Centerton's City Engineer may issue a stop work order to any persons violating any provision of the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance by ordering that all site work stop except that necessary to comply with any administrative order.
2. City of Centerton's City Engineer may request that the City of Centerton refrain from issuing any further building or grading permits until outstanding violations have been remedied.
3. City of Centerton's City Engineer may initiate penalties as stipulated herein. Complete information concerning enforcement and penalties is described below.

E. Action without Prior Notice

Any person who violates a prohibition or fails to meet a requirement of this Code will be subject, without prior notice, to one or more of the enforcement actions, when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or threatened discharge which presents or may present imminent danger to the environment, or to the health or welfare of persons, or to the storm drainage system.

F. Enforcement Actions

1. Recovery of Costs. Within 30 days after abatement by City representatives, the City shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the City Council. The written protest must be received by the Mayor's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Council. The decision of the City Council shall be final. If the amount due is not paid within the protest period or within 10 days of the decision of the City

Council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

2. Termination of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the Mayor shall have the authority to order the disconnection of City water, sanitary sewer and/or sanitation services, upon a finding by the City Engineer that the disconnection of utility services will remove a violation of this Code that poses a public health hazard or environmental hazard.
3. Performance Bonds. Where necessary for the reasonable implementation of this Code, the Mayor may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City Engineer to be necessary to achieve consistent compliance with this Code. The City may deny approval of any building permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the City Council. The written protest must be received by the Mayor's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Council. The decision of the City Council shall be final.
4. Criminal Prosecution. Any person who violates or continues to violate a prohibition or requirement of this Code shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.

G. Criminal Penalties

The violation of any provision of this Code shall be deemed a municipal offense. Any person violating this Code shall, upon an adjudication of guilt or a plea of no contest, be fined according to the schedule of fines. Each separate day on which a violation is committed or continues shall constitute a separate offense.

1. Other Legal Action

Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this ordinance, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in any court of competent jurisdiction. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

2. Violations/Schedule of Fines

A violation of any of the foregoing provisions shall be punished in accord with the following schedule of fines. Fines may double if a body of water is directly contaminated or in imminent danger of being contaminated. Contaminants include, but not limited to, Physical, Chemical, Biological or Radiological:

<i><u>Offense</u></i>	<i><u>Fine (Per Offense)</u></i>
First	\$500.00
Second	\$1,000.00
Third	\$2,000.00
Fourth and subsequent offenses	\$4,000.00

(Ord. 2014-19, Sec. 1)