

AN ORDINANCE AMENDING CHAPTER 6 (FLOODS – A FLOOD DAMAGE PREVENTION PROGRAM) OF THE NORTH LITTLE ROCK MUNICIPAL CODE TO ADD SECTION 3 UNDER ARTICLE THREE ON COMPLIANCE, GREATER RESTRICTIONS AND LIABILITY DISCLAIMER; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Chapter 6 Floods – A Flood Damage Prevention Program, also referred to as “NLRMC Chapter 6” or “Floods Chapter”, was adopted as part of the North Little Rock Municipal Code (“NLRMC”) pursuant to Ordinance No. 8733 on May 11, 2015; and

WHEREAS, employees of the Federal Emergency Management Agency (“FEMA”) approved the form and content of NLRMC Chapter 6 prior to adoption, but after adoption have determined that amendments were required; and

WHEREAS, Chapter 6 of the NLRMC needs to be amended to add Section 3 under Article Three on compliance, greater restrictions and liability disclaimer.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That **Article Three of Chapter 6, Floods – A Flood Damage Prevention Program**, of the North Little Rock Municipal Code, is hereby amended to *add* Section 3 as follows:

**ARTICLE THREE
ADMINISTRATION**

**Section 3
COMPLIANCE, GREATER RESTRICTIONS
AND LIABILITY DISCLAIMER**

3.3.1 Compliance. Constructing, locating, substantially altering or changing the use of any structure or land after the adoption of this chapter requires full compliance with the provisions of this chapter and all other applicable regulations.

3.3.2 Penalty for Non-Compliance. Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this chapter

discourages non-compliance and is a recognized mechanism for flood hazard reduction.

The Floodplain Administrator must enforce the provisions of this chapter and is authorized to:

- A. Issue cease and desist orders on non-compliant floodplain development projects;
- B. Issue citations for non-compliance;
- C. Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and
- D. Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this chapter.
 - (1) It is a misdemeanor to violate or fail to comply with any provision of this chapter.
 - (2) Any person found, in a court of competent jurisdiction, guilty of violating this chapter 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.

3.3.3 Abrogation and Greater Restrictions. This chapter does not repeal, abrogate or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this chapter and another code chapter, ordinance, easement, covenant or deed restriction, the instrument with the more stringent restrictions applies.

3.3.4 Warning and Disclaimer of Liability. The degree of flood protection required by this chapter 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 chapter will occur. In addition, flood heights may increase over time due to man-made or natural causes. This chapter does not imply that land outside Special Flood Hazard Areas will be free from flooding, nor that strict adherence to this chapter protects uses permitted within Special Flood Hazard Areas from all flood damages. This chapter 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 chapter, or from any lawful administrative decision made under the provisions of this chapter.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3: That the provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 4: It is hereby found and determined that severe flooding has previously occurred in the City of North Little Rock and is likely to happen in the future resulting in substantial personal injury and/or destruction of property; that there is a need to adopt minimum standards for coverage under the National Flood Insurance Program; that the subject amendment has been requested by FEMA and is immediately necessary for the preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

ATTEST:

Joe A. Smith
Mayor Joe A. Smith *by Dan*

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter
C. Jason Carter, City Attorney *by Dan*

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED _____ A.M. _____ P.M.
By _____
DATE _____
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas
RECEIVED BY _____