

ORDINANCE NO. _____

BE IT ENACTED BY THE QUORUM COURT OF GARLAND COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

“AN ORDINANCE TO ESTABLISH A SUBDIVISION AND DEVELOPMENT CODE OF GARLAND COUNTY, AND FOR OTHER PURPOSES.”

WHEREAS, the Garland County Judge and Quorum Court have recognized a need to promote effective disclosure of important information regarding the maintenance of public and private roads, and the effective disclosure of other important information related to the subdividing and development of Garland County real estate; and,

WHEREAS, the Subdivision and Development Code of Garland County is attached and marked as Exhibit “A”; which prescribes means for the effective disclosure of public and private road maintenance and other information related to subdividing and developing real estate; and,

WHEREAS, the Public Health, Welfare and Safety Committee has previously met and approved the request;

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF GARLAND COUNTY, ARKANSAS:

SECTION 1. The Subdivision and Development Code of Garland County is hereby approved as written (attached and marked as Exhibit “A”).

SECTION 2. **SEVERABILITY.** If any provisions of this Ordinance or the application thereto to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall be codified in the Garland County Code of Ordinance and the sections may be renumbered and re-lettered to accomplish such intention

ATTEST: _____
Sarah Smith
Garland County Clerk

APPROVED: _____
Rick Davis
Garland County Judge

SPONSOR: _____
Larry Griffin
Justice of the Peace

SPONSOR: _____
Matt McKee
Justice of the Peace

DATE: _____

**Subdivision & Development Code
Of
Garland County
INFORMATION VERSION**



Garland County Planning and Development
Garland County Court House
County Judge's Office
501 Ouachita Avenue, Room 210
Hot Springs, Arkansas 71901
501-622-3600
Fax 501-622-3799

Acknowledgements

County Judge

Rick Davis

Quorum Court

David Reagan – JP 1
Thomas Anderson – JP 2
Denise Marion – JP 3
Mary Bournival – JP 4
Rebecca Arguello – JP 5
Ray Owen Jr. – JP 6
John Faulkner – JP 7
Ellen Varhalla – JP 8
Matt McKee - JP 9
Drew Hudgens – JP 10
Larry Griffin – JP 11
Darryl Mahoney – JP 12
Larry Raney – JP 13

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Chapter 1: General Provisions

Section 1.1 Title

The code herein shall be officially known, cited, and referred to as the Subdivision and Development Code of Garland County, Arkansas.

Section 1.2 Authority

The code herein is adopted pursuant to the authority granted in Arkansas Code Annotated (A.C.A.) §§14-17-201, et. Seq.

Section 1.3 Purpose

The purposes of the code are consistent with Arkansas Code Annotated (A.C.A.) §14-17-206, and are intended to:

- A. Provide an effective means of disclosing to the public important information regarding county roads, private roads, road maintenance responsibility, and other important information related to the subdividing and development of real estate in Garland County.
- B. Encourage the use of the County provided information (website and published brochure) by the Hot Springs and Hot Springs Village Boards of REALTORS®, title companies, lawyers who execute real estate closings, county offices that deal with real estate matters, and the general public.

Section 1.4 Jurisdiction

- A. This code shall apply to the entirety of Garland County, Arkansas.
- B. Nothing in this code abrogates the jurisdiction of any city planning commission within the boundaries of Garland County, Arkansas.

Section 1.5 Administration

- A. Garland County shall administer this Subdivision and Development Code.

Section 1.6 Enactment

- A. In order that important information related to the subdividing and development of real estate may be effectively communicated to the public, this code is hereby adopted and made effective as of _____.

Section 1.7 Interpretation, Conflict, and Severability

- A. In the interpretation and application of the provisions of this code, the requirements shall be held to the minimum requirements to for the promotion of the public health, safety, and general welfare.
- B. This Code is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, code, or other provision of law as provided in this code. Where any provision of this code or any other ordinance, rule or regulations, code, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
- C. If any section, clause, part, or provision of this code shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, part, or provision of this code.

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Chapter 2: Definitions

Section 2.1 Usage

- A. For the purpose of this code, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth in Section 2.2.
- B. As used in this code, words in the present tense include the future; words in the singular include the plural number and words in the plural include the singular; the word “building” includes the word “structure”; the word “shall” is mandatory.

Section 2.2 Definitions

Allodial – The type of ownership applicable to all lands in the State of Arkansas by decree of the Arkansas State Constitution, Article 2, Section 28; Free; not holden of any lord or superior; owned without vassalage or fealty; the opposite of feudal (Black’s Law Dictionary - Sixth Edition).

County – The Garland County Government.

County Judge – The chief executive officer of Garland County, Arkansas.

Develop – To subdivide land and/or to make improvements upon land.

Developer – The owner or representative of land proposed to be subdivided/developed.

Development – Land that has been subdivided or that has had improvements made upon it.

Easement – A grant of one or more property rights by a property owner to and/or for use by the public, a corporation, or any other person or entity.

Landlocked Parcel – A lot or parcel of land without any means of ingress or egress, whether public or private.

Lot – A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development.

Master Road Plan – The long-range transportation plan of Garland County prepared and adopted by the Quorum Court, pursuant to state law and including any amendment to such plan, or part thereof.

Owner – An individual, firm, association, syndicate partnership, or corporation having sufficient property interest to seek development of land.

Professional Surveyor – A land surveyor properly licensed and registered in the State of Arkansas.

Property Rights - The rights of people to freely acquire, use, and dispose of property (Cato Institute). The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which in no way depends on another man's courtesy (Black's Law Dictionary - Sixth Edition).

Right-of-Way – A strip of land acquired by negotiations, reservation, dedication, prescription, or condemnation and intended to be occupied by a street, railroad, electric transmission lines, gas pipe lines, water lines, sanitary or storm sewer, or other similar uses.

Sale or Lease – Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot block description.

Subdivide – To split an existing parcel of land into two or more parcels. The act or process of creating a subdivision.

Subdivision - Every separately described parcel of land in Garland County is a subdivision of a larger mass of land. Splitting land described by an existing legal description further subdivides the land and creates new subdivisions.

Tract – The term “tract” is used interchangeably with the term “lot”, or “parcel” particularly in the context of a subdivision, where a “tract” is subdivided into multiple lot sites, units, plots, condominiums, tracts, or interest.

Chapter 3: Disclosure Provisions

Section 3.1 “Important Real Estate Disclosure – BUYER BEWARE”

The County Judge shall cause to be published on the County’s official website, a brochure that can be readily accessed by the public online. A prominently visible link on the website’s home page shall point to the document, and a PDF version of the brochure shall be readily available on the website for download and printing by the public. The disclosure document may be titled, designed formatted, and the exact content determined at the discretion of the County Judge, provided that the document shall contain a clearly expressed “Buyer Beware” advisory to the public regarding maintenance of private roads, and other important real estate issues, with links to related information as deemed appropriate.

Section 3.2 Disclosure Content

The disclosure document shall contain important information about public and private road maintenance, and other important information related to subdividing and developing real estate in Garland County. For the convenience of users, the disclosure document shall include clickable links to maps and other tools and information resources about the real estate-related topics addressed.

In addition to the topic of public and private road maintenance, other topics addressed may include (but may not be limited to) septic systems, surveys, 100 year flood plain, and municipal extra-territorial jurisdictions (ETJ’s). The website content shall be updated from time to time as deemed appropriate by the County Judge.

Section 3.3 Trifold Brochure:

In addition to the website document, a trifold brochure version of the disclosure shall be published and supplies made available to the Hot Springs and Hot Springs Village Boards of REALTORS®, title companies, lawyers who execute real estate closings and county offices that deal with real estate matters. The brochure shall contain a statement that refers readers to the official county website for the most up-to-date version of the disclosure available, containing links to maps and other tools, as well as other information about the real estate-related matters addressed. The trifold brochure shall be updated and reprinted as often as deemed appropriate, and in whatever quantities are deemed appropriate by the County Judge.

Chapter 4: Future Amendment or Replacement Provisions

Section 4.2 Property Rights

Proposed amendments to or replacement of this ordinance that may be considered by the Quorum Court in the future, which would impinge upon the real property rights of Garland County citizens in any way, shall be evaluated by members of the Quorum Court for the purpose of assuring that no provision of any such legislation will violate the Declaration of Rights of the Arkansas Constitution.

Section 22 of Article 2 Declaration of Rights states: "The right of property is before and higher than any constitutional sanction ..."

Section 28 of Article 2 Tenure of lands. All lands in this State are declared to be allodial; and feudal tenures of every description, with all their incidents, are prohibited.

Section 29 of Article 2 concludes the Arkansas Constitutions' Declaration of Rights as follows: "... This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government; and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void."

Section 4.2 Regarding Amendment , Replacement, or Repeal

Prior to any vote by the Quorum Court to approve a future ordinance that would replace or repeal this ordinance, or to approve proposed amendments to this code that would impinge upon the real property rights of Garland County citizens in any way:

1. The local press shall be notified that the Quorum Court is considering the proposed measures and shall be provided copies of the ordinance draft or alternative drafts under consideration.
2. The Quorum Court shall host a public hearing (or hearings should the Quorum Court deem multiple public hearings appropriate for the circumstances) for the purpose of informing the public of the changes being considered, and to provide opportunity for concerned citizens to ask questions, to provide feedback, and to express their views in person to their elected representatives in the County Legislature.