

## CHAPTER 151: FLOOD DAMAGE PREVENTION

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### **PURPOSE AND METHODS**

#### **§ 151.01 STATUTORY AUTHORIZATION.**

The Legislature of the State of Arizona has in A.R.S. § 48-3610 enabled the Town of Colorado City to assume the powers and duties for floodplain management and adopt regulations in conformance with A.R.S. § 48-3609 designed to promote the

does ordain as follows.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

## **§ 151.02 FINDINGS OF FACT.**

(A) The flood hazard areas of the Town of Colorado City are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

## **§ 151.03 STATEMENT OF PURPOSE.**

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (A) To protect human life and health;
- (B) To minimize expenditure of public money for costly flood control projects;
- (C) To minimize the need for rescue and relief efforts associated with flooding generally undertaken at the expense of the general public;
- (D) To minimize prolonged business interruptions;
- (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;
- (F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (G) Notify that potential buyers that the property is in an area of special flood hazard;
- (H) Notify those who occupy special flood hazard areas that they assume responsibility for their actions; and
- (I) Participate in and maintain eligibility for flood insurance and disaster relief.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

## **§ 151.04 METHODS OF REDUCING FLOOD LOSSES.**

(A) In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(B) These regulations take precedence over any less restrictive conflicting local laws, ordinances and codes.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

## **§ 151.05 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**“A” ZONE.** See **SPECIAL FLOOD HAZARD AREA.**

**ACCESSORY STRUCTURE.** A structure that is on the same parcel of property as a primary structure, the use of which is incidental to the use of the primary structure.

**APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING.** A designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain within a community subject to a% or greater chance of flooding in any given year. This area is designated as Zone A, AE, AO, AH and A1-30 on the FIRM and other areas determined by the criteria adopted by the Director of the Arizona Department of Water Resources. See "Special flood hazard area")

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year (also called the "100 year flood").

**BASE FLOOD ELEVATION (BFE).** The computed elevation to which floodwater is anticipated to rise during the base flood.

**BASEMENT.** Any area of the building having its floor sub-grade - i.e., below ground - level on all sides.

**BREAKAWAY WALL.** A wall that is not part of the structural support of the building and is intended through its construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of building supporting foundation system.

**BUILDING.** See **STRUCTURE**.

**COMMUNITY.** Any state, area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**DEVELOPMENT.** Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, storage of equipment or materials or drilling operations located within the area of special flood hazard.

**ELEVATION CERTIFICATE.** An administrative tool of the National Flood Insurance Program (NFIP) that is used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

**ENCROACHMENT.** The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**EROSION.** The process of the gradual wearing away of landmasses. This peril is not, per se, covered under the Program.

**FINANCIAL ASSISTANCE.** Any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance, other than general or special revenue sharing or formula grants made to states.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of flood waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; and/or
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined by this definition.

**FLOOD INSURANCE RATE MAP (FIRM).** The official map on which FEMA the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS).** The official report provided by the Federal Emergency Management Agency that includes flood profiles, Flood Insurance Rate Maps (FIRM), and the water surface elevation of the base flood.

**FLOOD PROTECTION SYSTEM.** Those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOODPLAIN or FLOOD-PRONE AREA.** Any land area susceptible to being inundated by water from any source (see

**FLOODPLAIN ADMINISTRATOR.** The community official designated by the Town of Colorado City who is hereby authorized to administer and enforce the floodplain management regulations of this chapter.

**FLOODPLAIN BOARD.** The Town Council of the Town of Colorado City at such times as they are engaged in the enforcement of this chapter.

**FLOODPLAIN MANAGEMENT.** 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.

**FLOODPLAIN MANAGEMENT REGULATIONS.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading ordinance and erosion control ordinance) and other applications of police power which control development in flood prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**FLOODPROOFING.** Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOOD-RELATED EROSION.** The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**FLOODWAY.** The area of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base (100-year) flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

**FUNCTIONALLY DEPENDENT USE.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**GOVERNING BODY.** The local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

**HARDSHIP.** As related to variances, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Town Council of Colorado City requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE.** 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 Interior; or
- (4) Individually listed on a local inventory of 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.

**LEEVE.** A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**LEEVE SYSTEM.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area including the basement. See **BASEMENT.** An unfinished

structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a “recreational vehicle”.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

**MARKET VALUE.** Defined in the substantial damage and substantial improvement procedures.

**MEAN SEA LEVEL.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION.** For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**OBSTRUCTION.** Including, but not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**ONE-HUNDRED -YEAR FLOOD or 100 YEAR FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year. See **BASE FLOOD**.

**PERSON.** An individual or his or her agent, a firm, partnership, association or corporation, or an agent of the aforementioned groups, or this state or its agencies or political subdivisions.

**PROGRAM.** The National Flood Insurance Program authorized by 42 U.S.C. §§ 4001 through 4128.

**PROGRAM DEFICIENCY.** A defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOOD ELEVATION (RFE).** An elevation one foot above the base flood elevation for a watercourse for which the base flood elevation has been determined and shall be determined by the criteria developed by the Director of the Arizona Department of Water Resources for all other watercourses.

**REGULATORY FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**REMEDY A VIOLATION.** To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

**RIVERINE.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc and the like.

**SHEET FLOW AREA.** See **AREA OF SHALLOW FLOODING**.

**SPECIAL FLOOD HAZARD AREA (SFHA).** An area in the floodplain subject to a 1% or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map as Zone A, AO, A1 A30, AE, A99, or, AH.

**START OF CONSTRUCTION.** Includes substantial improvement and other proposed new development, 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 from the date of the permit. 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

include the installation of streets and/or walkways; nor does it include excavation for a 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.

**STRUCTURE.** A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

**VARIANCE.** A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

**VIOLATION.** 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 chapter is presumed to be in **VIOLATION** until such time as that documentation is provided.

**WATER SURFACE ELEVATION.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**WATERCOURSE.** A lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

## GENERAL PROVISIONS

### § 151.20 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Town of Colorado City.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

### § 151.21 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(A) The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Mohave County and Incorporated Areas” dated November 18, 2009,” with accompanying Flood Insurance Rate Maps (FIRMs) dated November 18, 2009, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. The FIS and FIRM panels are on file at the Town Hall, 25 South Central Street, Colorado City, Arizona 86021.

(B) The flood insurance study and attached mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the Floodplain Board by the Floodplain Administrator. The Floodplain Board, within its area of jurisdiction, shall delineate (or may, by rule, require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

### § 151.22 COMPLIANCE.

All development of land, construction of residential, commercial or industrial structures, or future development within delineated floodplain areas is subject to the terms of this chapter and other applicable regulations.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018) Penalty, see §151.99



This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.24 INTERPRETATION.**

In the interpretation and application of this chapter, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.25 WARNING AND DISCLAIMER OF LIABILITY.**

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes.

(B) This chapter does not imply that land outside the areas of special flood hazards or uses permitted within those areas will be free from flooding or flood damages.

(C) This chapter shall not create liability on the part of the Town of Colorado City, any officer or employee thereof, the State of Arizona or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.26 STATUTORY EXCEPTIONS.**

(A) In accordance with A.R.S. § 48-3609(H), unless expressly provided, this and any regulation adopted pursuant to this article do not affect:

(1) Existing uses of property or the right to continuation of such legal use under conditions which existed on the effective date of this chapter. However, if a nonconforming use of land or a building or structure is discontinued for twelve months, or destroyed to the extent of 50% of its value as determined by a competent appraiser, any further use shall comply with this article and regulations of the Town Council of Colorado City;

(2) Reasonable repair or alteration of property for the purposes for which the property was used on the effective date of this chapter; or any regulations affecting such property takes effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by 50% or more shall be either floodproofed or elevated to or above the regulatory flood elevation; or

(3) Reasonable repair of structures constructed with written authorization required by A.R.S. § 48-3613; and

(4) Facilities constructed or installed pursuant to a Certificate of Environmental Compatibility issued pursuant to A.R.S. Title 40, Chapter 2, Article 6.2.

(B) Before any authorized construction begins for the exceptions listed below, the responsible person must submit plans for the construction to the Town for review and comment. In accordance with A.R.S. § 48-3613, written authorization shall not be required, nor shall the Floodplain Board prohibit:

(1) The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse;

(2) The construction of storage dams for watering livestock or wildlife, structures on banks of a creek, stream, river, wash, arroyo or other watercourse to prevent erosion of or damage to adjoining land if the structure will not divert, retard or obstruct the natural channel of the watercourse, or dams for the conservation of floodwaters as permitted by A.R.S. Title 45, Chapter 6;

(3) Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations that will divert, retard or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the Floodplain Board pursuant to regulations adopted by the Floodplain Board under this article; or

(4) Other construction upon determination by the Floodplain Board that written authorization is unnecessary;

(5) Any flood control district, county, city, town or other political subdivision, from exercising powers granted to it under A.R.S. Title 48, Chapter 21, Article 1;

(7) The construction and erection of poles, towers, foundations, support structures, guy wires and other facilities related to power transmission as constructed by any utility whether a public service corporation or a political subdivision.

(C) In addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this section or regulations adopted pursuant to this article. If a person is found to be in violation of this Section, the court shall require the violator to either comply with this Section if authorized by the Floodplain Board or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.27 DECLARATION OF PUBLIC NUISANCE.**

All development located or maintained within any area of special flood hazard after August 8, 1973 in violation of this chapter is a public nuisance per se and may be abated, prevented or restrained by action of this political subdivision.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018) Penalty, see § 151.99

#### **§ 151.28 ABATEMENT OF VIOLATIONS.**

(A) Within 30 days of discovery of a violation of this chapter, the Floodplain Administrator shall submit a report to the Floodplain Board which shall include all information available to the Floodplain Administrator which is pertinent to the violation.

(B) Within 30 days of receipt of the report, the Floodplain Board shall either:

(1) Take any necessary action to effect the abatement of the violation;

(2) Recommend that the property owner apply for a variance to the Hearing Officer in accordance with the provisions of §§ 151.60 through 151.62;

(3) Order the owner of the property upon which the violation exists to provide whatever additional information may be required, for determination. The information must be provided to the Floodplain Administrator within 30 days of the order, and he or she shall submit an amended report to the Floodplain Board within 20 days. At their next regularly scheduled public meeting, the Floodplain Board shall either order the abatement of the violation or they shall recommend that the property owner apply for a variance in accordance with the provisions of §§ 151.60 through 151.62; or

(4) Submit to the Administrator of Federal Insurance Administration a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to Section 1316 of the National Flood Insurance Act of 1968, being U.S.C. §§ 4001 *et seq.*, as amended.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2017-03, passed 11-13-2017; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.29 SEVERABILITY.**

This chapter and the various parts thereof are hereby declared to be severable. Should any Section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.30 UNLAWFUL ACTS.**

(A) It is unlawful for a person to engage in any development or to divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property without securing the written authorization required by A.R.S. § 48-3613. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.

(B) Any person violating the provisions of this chapter shall be guilty of a Class 2 misdemeanor. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018) Penalty, see §151.99

### **ADMINISTRATION; FLOOD HAZARD REDUCTION**

#### **§ 151.40 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.**

The Public Works Director or The Town Council Designated Floodplain Administrator is hereby appointed to administer, implement and enforce this ordinance by granting or denying development permits in accordance with its provisions.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)



Duties of the Floodplain Administrator shall include, but not be limited to:

(A) *Permit review.* Review all development permits to determine that:

- (1) The permit requirements of this code have been satisfied;
- (2) All other required state and federal permits have been obtained;
- (3) The site is reasonably safe from flooding; and

(4) The proposed development does not adversely affect the carrying capacity of the areas where BFE's have been determined but a floodway has not been designated. For purposes of this code, **ADVERSELY AFFECTS** means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.

(B) *Substantial improvement and substantial damage procedures.*

(1) Develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."

(2) Assure procedures are coordinated with other departments and divisions and implemented by community staff

(C) *Use of other flood data.* When base flood elevation data has not been provided in accordance with §151.21 above, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer §§ 151.42 through 151.49 below. Any such information shall be consistent with the requirements of the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources and shall be submitted to the Floodplain Board for adoption;

(D) *Obtain and maintain for public inspection.*

- (1) The certified regulatory flood elevation required in § 151.43(C)(1) below, and § 151.43(C)(4);
- (2) The floodproofing certification required in § 151.43(C)(2) below;
- (3) The flood vent certification required in § 151.43(C)(3) below;
- (4) The elevation certification required for additional development standards, including subdivisions, in §151.46 below;
- (5) The floodway encroachment certification required in §151.49(A);
- (6) Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency;
- (7) Obtain and maintain improvement calculations.

(E) *Notification of other entities.*

(1) Whenever a watercourse is to be altered or relocated:

(a) Notify adjacent communities and the Arizona Department of Water Resources prior to the alteration or relocation of a watercourse, and submit evidence of the notification to the Federal Emergency Management Agency through appropriate notification means; and

(b) Require that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained.

(2) Base flood elevation and rate of flow due to physical alterations:

(a) Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

(b) Within 120 days after completion of construction of any flood control protective works which changes the rate of flow during the flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the Director of the Arizona Department of Water Resources.

(3) Notify the Federal Emergency Management Agency of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

(F) *Map determinations.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in §§ 151.60, 151.61 and 151.62 below; and

(G) Take actions on violations of this code as required in §151.28 above.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.42 ESTABLISHMENT OF DEVELOPMENT PERMIT.**

(A) A development permit shall be obtained before construction or development begins, including the placement of manufactured homes, within any area of special flood hazard established in § 151.21 above.

(B) Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

(C) Specifically, the following information is required:

(1) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO, elevation of existing highest adjacent natural grade and proposed elevation of lowest floor of all structures;

(2) Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 151.43(C)(3) below; and

(4) Base flood elevation data for subdivision proposals or other development greater than 50 lots or 5 acres, whichever is less; and

(5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.43 STANDARDS OF CONSTRUCTION.**

In all areas of special flood hazards the following standards are required.

(A) *Anchoring.*

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and.

(2) All manufactured homes shall meet the anchoring standards of §151.47 below.

(B) *Construction materials and methods.*

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) New construction and substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

(4) Within Zones AH or AO, adequate drainage paths shall be constructed around structures on slopes to guide floodwaters around and away from proposed structures.

(C) *Elevation and floodproofing.*

(1) *Residential construction.*

(a) Residential construction, new or substantial improvement, shall have the lowest floor, including basement:

1. In an AO Zone, elevated to or above the regulatory flood elevation, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

2. In an A Zone where a BFE has not been determined, elevated to or above the regulatory flood elevation or be elevated in accordance with the criteria developed by the Director of the Arizona Department of Water Resources.

3. In Zones AE, AH and A1-30, elevated to or above the regulatory flood elevation.

4. A garage attached to a residential structure, constructed with the garage floor slab below the Regulatory Flood Elevation, must be designed to allow for the automatic entry and exit of flood waters.

(b) Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community's building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

conformance with § 151.43 (C)(1) and (2) above, or together with attendant utility and sanitary facilities:

- (a) Be floodproofed below the elevation recommended under § 151.43 (C)(1) so that the structure is watertight with walls substantially impermeable to the passage of water;
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (c) Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certification shall be provided to the Floodplain Administrator.

(3) *Flood openings.* All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must meet or exceed the following criteria:

- (a) Must have a minimum of two openings, on different sides of each enclosed area, having a total net area of not less than one 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 one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or
- (c) Alternatively, a registered engineer or architect may design and certify the openings.

(4) *Manufactured homes.* Manufactured homes shall meet the standards in § 151.47.

(5) *Garages and accessory structures.*

(a) A garage attached to a residential structure, constructed with the garage floor slab below the regulatory flood elevation, must be designed to allow for the automatic entry of flood waters. See § 151.43 (C)(3). Areas of the garage below the regulatory flood elevation must be constructed with flood resistant materials. See § 151.43 (B).

(b) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed.

(c) "Accessory structure" used solely for parking or storage, as defined in § 151.05, may be constructed such that its floor is below the regulatory flood elevation, provided the structure is designed and constructed in accordance with the following requirements:

1. Use of the accessory structure must be limited to parking or limited storage;
2. The portions of the accessory structure located below the regulatory flood elevation must be built using flood-resistant materials;
3. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
4. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the regulatory flood elevation;
5. The accessory structure must comply with floodway encroachment provisions in § 151.49; and
6. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with § 151.43 (C)(3).

(d) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all other applicable standards in § 151.43.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018) Penalty, see § 151.99

#### **§ 151.44 STORAGE OF MATERIALS AND EQUIPMENT.**

(A) The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

(B) Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018) Penalty, see § 151.99

#### **§ 151.45 STANDARDS FOR UTILITIES.**

(A) All new or replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

(B) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018) Penalty, see §151.99

#### **§ 151.46 ADDITIONAL DEVELOPMENT STANDARDS, INCLUDING SUBDIVISIONS.**

(A) All new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions), greater than 50 lots or 5 acres, whichever is the lesser, shall:

(1) Identify the area of the special flood hazard and the elevation of the base flood.

(2) All final plans will provide the elevation(s) of the proposed structure(s) and pads. If the site is filled above the base flood elevation, the final lowest floor and grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(B) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage. All subdivision proposals and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.47 STANDARDS FOR MANUFACTURED HOMES.**

All manufactured homes that are placed on site or substantially improved shall:

(A) Be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation; and

(B) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be 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.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.48 STANDARDS FOR RECREATIONAL VEHICLES.**

All recreational vehicles placed on site shall:

(A) Be on site for fewer than 180 consecutive days,

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(C) Meet the permit requirements of the Administrative Section of this ordinance and the elevation and anchoring requirements for manufactured homes in § 151.47.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.49 FLOODWAYS.**

Located within areas of special flood hazard established in §151.21 above are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and

(B) If division (A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 151.43 through 151.49.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

### **VARIANCE PROCEDURE**

#### **§ 151.60 NATURE OF VARIANCES.**

(A) The variance criteria set forth in this section of the chapter are based on the general principle of law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

(B) It is the duty of the Town Council of Colorado City to help protect its citizens from flooding. This need is so

that variances from the flood elevation or from other requirements in the flood chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.61 APPEALS.**

(A) The Hearing Officer of Colorado City shall hear and decide appeals and requests for variances from the requirements of this chapter as outlined in Town Code Chapter 153.

(B) The Hearing Officer shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(C) In passing upon the applications, the Hearing Officer, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger of life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges.

(D) Upon consideration of the factors of division (C) above and the purposes of this chapter, the Hearing Officer may attach the conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(E) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- (2) Such construction below the base flood level increases risks to life and property; and
- (3) The land upon which the variance is granted shall be ineligible for exchange of state land pursuant to any flood relocation and land exchange program. A copy of the notice shall be recorded in the office of the Mohave County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(F) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance and report such variances issued in its biennial report submitted to Federal Emergency Management Agency.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2017-03, passed 11-13-2017; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.62 CONDITIONS FOR VARIANCES.**

(A) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing §§ 151.40 through 151.49 above have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.

(B) Variances may be issued for the repair, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(E) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(3) Showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in § 151.05 of this chapter in the definition of **FUNCTIONALLY DEPENDENT USE**; and

(4) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)

#### **§ 151.99 PENALTY.**

Any person found guilty of violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed \$1,000 or by imprisonment for a period not to exceed six months, or by both the fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein above described.

(Ord. 2009-05, passed 10-5-2009; Am. Ord. 2018-01, passed 1-17-2018)