

ORDINANCE NO. 2019-863

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, RELATED TO REGULATION OF SPECIAL FLOOD HAZARD AREAS WITHIN THE TOWN AND LANDS DETERMINED BY THE TOWN ENGINEER TO BE LOCATED IN FLOOD-PRONE AREAS; DECLARING THE DOCUMENT ENTITLED "TOWN OF CHINO VALLEY CHAPTER 152 FLOOD DAMAGE PREVENTION ORDINANCE DATED JANUARY 8, 2019" AS A PUBLIC RECORD; ADOPTING THE "TOWN OF CHINO VALLEY CHAPTER 152 FLOOD DAMAGE PREVENTION ORDINANCE DATED JANUARY 8, 2019" BY REFERENCE; AMENDING THE TOWN OF CHINO VALLEY TOWN CODE BY REPEALING CHAPTER 152 (FLOOD DAMAGE PREVENTION) AND REPLACING IT WITH A NEW CHAPTER 152 (FLOOD DAMAGE PREVENTION) CONSISTING OF THE "TOWN OF CHINO VALLEY CHAPTER 152 FLOOD DAMAGE PREVENTION ORDINANCE DATED JANUARY 8, 2019"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, pursuant to ARIZ. REV. STAT. § 48-3610, the Town of Chino Valley (the "Town") has assumed the powers and duties for floodplain management within its corporate limits; and

WHEREAS, the Mayor and Common Council of the Town of Chino Valley desire to update the Town's Flood Prevention Ordinance to comply with federal and state law and requirements.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The document entitled "Town of Chino Valley Chapter 152 Flood Damage Prevention Ordinance dated January 8, 2019" (the "2019 Flood Prevention Ordinance"), of which one paper copy and one electric copy maintained in compliance with ARIZ. REV. STAT. § 44-7041 are on file in the office of the Town Clerk and open for public inspection during normal business hours, is hereby declared to be a public record, and said copies are hereby ordered to remain on file with the Town Clerk.

Section 2. The 2019 Flood Prevention Ordinance is hereby adopted by reference pursuant to ARIZ. REV. STAT. § 9-802.

Section 3. The Town Code of the Town of Chino Valley, Arizona, is hereby amended by repealing existing Chapter 152 (Flood Damage Prevention) in its entirety and by replacing it with the 2019 Flood Prevention Ordinance.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the code amendment adopted herein by reference, are hereby repealed.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the 2019 Flood Prevention Ordinance adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such

decision shall not affect the validity of the remaining portions of this Ordinance and the 2019 Flood Prevention Ordinance.

Section 6. Any person found responsible for violating any provision of this Ordinance shall be subject to the civil sanctions and habitual offender provisions set forth in Sections 10.99(A), (B) and (D) of the Town Code of the Town of Chino Valley, Arizona.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 8th day of January, 2019.


Darryl L. Croft, Mayor

ATTEST:


Jami Lewis, Town Clerk

APPROVED AS TO FORM:


Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

I hereby certify the above foregoing Ordinance No. 2019-863 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on January 8, 2019, and that quorum was present, and that the vote thereon was 7 ayes and 0 nays and 0 abstentions. 0 Council members were absent or excused.


Jami C. Lewis, Town Clerk

CHAPTER 152: FLOOD DAMAGE PREVENTION ORDINANCE

DATED JANUARY 8, 2019

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GENERAL PROVISIONS

§ 152.001 STATUTORY AUTHORIZATION.

The legislature of the State of Arizona has, in A.R.S. § 48-3610, enabled the town TOWN OF CHINO VALLEY to adopt regulations in conformance with A.R.S. § 48-3603 48-3609 designed to promote the public health, safety and general welfare of its citizenry.

§ 152.002 FINDINGS OF FACT.

(A) The flood hazard areas of the town-TOWN OF CHINO VALLEY 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 are MAY BE caused by the cumulative effect of obstructions in areas-of-special-flood-hazards-SPECIAL FLOOD HAZARD AREAS, which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 152.003 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 and 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~~ SPECIAL FLOOD HAZARD AREAS;

(F) To help maintain a stable tax base by providing for the use and development of areas of special flood hazard so as to minimize future flood blight areas;

~~(G) To insure that potential buyers are notified that property is in an area of special flood hazard;~~

~~(H) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions; and~~

(IG) To PARTICIPATE AND maintain eligibility for state and federal disaster relief.

§ 152.004 METHODS OF REDUCING FLOOD LOSSES.

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

(A) 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 or in flood heights or velocities;

(B) Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards in other areas.

§ 152.005 DEFINITIONS.

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

ACCESSORY STRUCTURE. A STRUCTURE THAT IS ON THE SAME PARCEL OF PROPERTY AS A PRINCIPAL STRUCTURE, THE USE OF WHICH IS INCIDENTAL TO THE USE OF THE PRINCIPAL STRUCTURE.

ACCESSORY USE. A use that is incidental and subordinate to the principal use of the parcel of land on which it is located.

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.

~~**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. This area is designated as Zone A, AO, AH and A1-30 on the FIRM and other areas determined by the criteria adopted by the Director of Water Resources.~~

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

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 (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 design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building supporting foundation system.~~

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

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

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 that may impede or alter the flow capacity of a floodplain.

EROSION. The process of the GRADUAL wearing away of a land mass LANDMASS. THIS PERIL IS NOT, PER SE, COVERED BY THE NATIONAL FLOOD INSURANCE PROGRAM.

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 flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

~~**FLOOD ELEVATION.** A determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a 1% or greater chance of occurrence in any given year.~~

~~**FLOOD ELEVATION STUDY.** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.~~

~~**FLOOD HAZARD BOUNDARY MAP or FHBM.** An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M and/or E.~~

~~**FLOOD INSURANCE RATE MAP or FIRM.** The official map OF A COMMUNITY on which the Federal Insurance Administration FEMA has delineated both areas of special flood hazards SPECIAL FLOOD HAZARD AREAS and the risk premium zones applicable to the community.~~

~~**FLOOD INSURANCE STUDY.** The official report provided by the Federal Insurance Administration FEMA that includes flood profiles, the FIRM, the Flood Boundary Floodway Map and the water surface elevation of the base flood.~~

~~**FLOOD-PROOFED.** Any combination of structural and non-structural additions, changes or adjustments to NONRESIDENTIAL structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents BY MEANS OTHER THAN ELEVATION.~~

~~**FLOODPLAIN or FLOOD-PRONE AREA.** ANY LAND AREA SUSCEPTIBLE TO BEING INUNDATED BY WATER FROM ANY SOURCE (SEE DEFINITION OF "FLOODING").The areas adjoining the channel of a watercourse including areas where drainage is or may be restricted by man-made structures that have been or may be covered partially or wholly by floodwater from the 100-year flood.~~

~~**FLOODPLAIN ADMINISTRATOR.** The designated Administrator of the Flood Control Ordinance 466 of the Town of Chino Valley, which Administrator is hereby authorized by the Town Council to administer and implement the provisions of this chapter. THE TOWN MANAGER OR HIS OR HER DESIGNEE, WHO IS THE COMMUNITY~~

OFFICIAL DESIGNATED TO ADMINISTER AND ENFORCE THE FLOODPLAIN MANAGEMENT REGULATIONS ~~shall be the administrator.~~

FLOODPLAIN BOARD. The Town Council 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.~~ THE OPERATION OF AN OVERALL PROGRAM OF CORRECTIVE AND PREVENTIVE MEASURES FOR REDUCING FLOOD DAMAGE AND PRESERVING AND ENHANCING, WHERE POSSIBLE, NATURAL RESOURCES IN THE FLOODPLAIN, INCLUDING BUT NOT LIMITED TO EMERGENCY PREPAREDNESS PLANS, FLOOD CONTROL WORKS, FLOODPLAIN MANAGEMENT REGULATIONS, AND OPEN SPACE PLANS.

FLOODPLAIN MANAGEMENT REGULATIONS. THE ORDINANCE AND OTHER ZONING ORDINANCES, SUBDIVISION REGULATIONS, BUILDING CODES, HEALTH REGULATIONS, SPECIAL PURPOSE ORDINANCES (SUCH AS GRADING AND EROSION CONTROL), AND OTHER APPLICATION 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.

FLOOD PROOFED PROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to NONRESIDENTIAL structures that WHICH reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents BY MEANS OTHER THAN ELEVATION.

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 channel of a river or other watercourse and the adjacent land areas necessary in order to discharge the 100-year flood without cumulatively increasing the water surface elevation MORE THAN A DESIGNATED HEIGHT. ALSO REFERRED TO A "REGULATORY FLOODWAY."

FLOODWAY FRINGE. That area of the floodplain on either side of the **REGULATORY FLOODWAY** where encroachment may be permitted.

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, AND 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 §§152.065 THROUGH 152.068, MEANING THE EXCEPTIONAL HARDSHIP THAT WOULD RESULT FROM A FAILURE TO GRANT THE REQUESTED VARIANCE. THE COUNCIL 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 the 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.

LEVEE. A man-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.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in ONE 4 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached 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 2 or more manufactured home lots for sale or rent.

MARKET VALUE. Determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the Floodplain Administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

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.

~~**ONE HUNDRED YEAR FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year (see **BASE FLOOD**).~~

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

NEW CONSTRUCTION. For floodplain management purposes, structures for which the **START OF CONSTRUCTION** commenced on or after December 14, 1984 JUNE 18, 1975. 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. Includes, but is 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. THE FLOOD HAVING A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR (SEE **BASE FLOOD**).

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

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure, less land value, is above ground.

RECREATIONAL VEHICLE. A vehicle that is:

- (1) Built on a single chassis;
- (2) 319 400 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 a temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOOD ELEVATION. An elevation 1 foot above the base flood elevation.

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 FEDERAL, 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 chapter or otherwise

detering future similar violations, or reducing federal financial exposure with regard to the structure or other development.

REPETITIVE LOSS STRUCTURE. A structure, covered by a contract for flood insurance issued pursuant to the National Flood Insurance Act of 1968, being 42 U.S.C. §§ 4001 *et seq.*, that has incurred flood-related damage on 2 occasions during any 10 year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each flood event.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream or brook, among other similar water channels.

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

SPECIAL FLOOD HAZARD AREA. An area IN THE FLOODPLAIN SUBJECT TO A 1% OR GREATER CHANCE OF FLOODING IN ANY GIVEN YEAR. ~~having special flood or flood-related erosion hazards, and shown~~ IT IS SHOWN ON A FHBM or FIRM as Zone A, AQ, AO, A1-30, AE, AH or A99. ~~or AH.~~

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 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. ~~Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement. 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 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.** The result of arranging materials and parts together and attached to a lot (such as buildings, tanks and fences), but not including tents or vehicles. A WALLED AND ROOFED BUILDING THAT IS PRINCIPALLY ABOVE GROUND; THIS INCLUDES A GAS OR LIQUID STORAGE TANK OR 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 TOTAL cost of which equals or exceeds 50% of the market value of the structure before the **START OF CONSTRUCTION** of the improvement. The value of all improvements made after December 14, 1981, shall be considered. This term includes structures that have incurred **SUBSTANTIAL DAMAGE**, regardless of the actual repair work performed. The term does not, however, include either:~~

~~(4A) Any project for improvement of a structure to correct existing violations of 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~~

~~(2B) Any alteration of a **HISTORIC STRUCTURE**, provided that the alteration will not preclude the structure's continued designation as a **HISTORIC STRUCTURE**.~~

~~**VARIANCE.** MEANS A GRANT OF RELIEF BY A COMMUNITY FROM THE TERMS OF A FLOODPLAIN MANAGEMENT REGULATION. A grant of relief from the requirements of this chapter that 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, where specified), of floods of various magnitudes and frequencies in the floodplains of 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.

ZONE A. NO BASE FLOOD ELEVATIONS DETERMINED.

ZONE AE. BASE FLOOD ELEVATIONS DETERMINED.

ZONE AH. FLOOD DEPTHS OF 1 TO 3 FEET (USUALLY AREAS OF PONDING); BASE FLOOD ELEVATIONS DETERMINED.

ZONE AO. FLOOD DEPTHS OF 1 TO 3 FEET (USUALLY SHEET FLOW ON SLOPING TERRAIN); AVERAGE DEPTHS DETERMINED. FOR AREAS OF ALLUVIAL FAN FLOODING, VELOCITIES ALSO DETERMINED.

ZONE A99. AREA TO BE PROTECTED FROM 1% ANNUAL CHANCE FLOOD BY A FEDERAL FLOOD PROTECTION SYSTEM UNDER CONSTRUCTION; NO BASE FLOOD ELEVATIONS DETERMINED.

§ 152.006 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all ~~areas of special flood hazards~~ SPECIAL FLOOD HAZARD AREAS within the boundaries of the ~~town~~ TOWN OF CHINO VALLEY AND ALL LANDS DETERMINED BY THE TOWN ENGINEER TO BE LOCATED IN FLOOD-PRONE AREAS.

§ 152.007 BASIS OF ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

(A) ~~The areas of special flood hazard~~ SPECIAL FLOOD HAZARD AREAS identified by ~~the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled "Flood Insurance Study for YAVAPAI COUNTY, ARIZONA, AND INCORPORATED AREAS," the Town of Chino Valley,~~ dated August 19, 1985 SEPTEMBER 3, 2010 with accompanying Flood Insurance Rate Maps DATED SEPTEMBER 3, 2010 and Flood Boundary and Floodway Maps, and all new and subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. These Flood Insurance Studies are on file at the town's community development department and public library. The Flood Insurance Study and attendant 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.

(B) 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. THE FIS AND FIRM PANELS ARE ON FILE AT 1982 VOSS DRIVE, CHINO VALLEY, ARIZONA 86323.

~~The town, within its area of jurisdiction shall delineate, or may by rule, require developers of land to delineate floodplains for areas where development is ongoing or imminent and thereafter as development becomes imminent, consistent with the criteria developed by the Federal Emergency Management Agency and the Director of Water Resources.~~

§ 152.008 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.

§ 152.009 ABROGATION AND GREATER RESTRICTIONS.

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.

§ 152.010 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.

§ 152.011 WARNING AND DISCLAIMER OF LIABILITY.

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 man-made or natural causes. This chapter does not imply that land outside the ~~areas of special flood hazards~~ SPECIAL FLOOD HAZARD AREAS or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the ~~town~~ TOWN OF CHINO VALLEY, any officer or employee thereof, THE STATE OF ARIZONA or the Federal ~~Insurance~~ EMERGENCY MANAGEMENT Administration AGENCY, for any flood damages that result from reliance on the chapter or any administrative decision lawfully made thereunder.

§ 152.012 STATUTORY EXEMPTIONS.

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

(1) EXISTING legal uses of property existing prior to ~~December 14, 1981~~ or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for ~~6~~ 12 months or destroyed to the extent of 50% of its MARKET value, as determined by a competent appraiser, any further use shall comply with this article and regulations of the Flood Control District TOWN OF CHINO VALLEY.

(2) Reasonable repair or alteration of property for the purposes for which the property was legally used on ~~December 14, 1981~~ AUGUST 3, 1984, 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 flood-proofed or elevated to or above the regulatory flood elevation.

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

(4) Facilities constructed or installed pursuant to a Certificate of Environmental Compatibility issued pursuant to A.R.S. § ~~A.R.S. 40-360 et seq.~~ (Title 40, Chapter 2, Article 6.2) AND

(B) In accordance with A.R.S. § 48-3613, written authorization shall not be required, nor shall the Floodplain Administrator 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 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 which will divert, retard or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the Board pursuant to regulations adopted by the Board under this chapter.

(4) Other construction if it is determined by the Administrator that written authorization is unnecessary.

(5) Any flood control district, county, city, town or other political subdivision from exercising powers granted to it under ~~this chapter~~ A.R.S. ARIZONA REVISED STATUTES, TITLE 48, CHAPTER 21, ARTICLE 1.

(6) The construction of streams, waterways, lakes and other auxiliary facilities in conjunction with development of public parks and recreation facilities by a public agency or political subdivision.

(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) Before any construction authorized by ~~division~~ A.R.S. § 48-3613(B) above may begin, the responsible person must submit plans for the construction to the Administrator for review and comment PURSUANT TO A.R.S. § 48-3613(C)

(D) IN ACCORDANCE WITH A.R.S. § 48-3613(D), in addition to other penalties or remedies otherwise provided by law, ~~the~~ 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 chapter~~ A.R.S. § TITLE 48, CHAPTER 21, ARTICLE 1. 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 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.

§ 152.013 DECLARATION OF PUBLIC NUISANCE.

~~Every new structure, building, fill, excavation or~~ ALL development located or maintained within any ~~area of special flood hazard~~ SPECIAL FLOOD HAZARD AREA 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.

§ 152.014 ABATEMENT OF VIOLATIONS.

(A) After discovery of a violation of this chapter, the Floodplain Administrator shall take such steps as he or she deems necessary to abate the violation as provided by this chapter and state law. The Floodplain Administrator shall give first priority to those violations which he or she deems pose the greatest potential for loss of life and property, or as directed by the Town Manager upon consultation with the Town Engineer.

(B) In the event the Floodplain Administrator is unable to promptly cure a violation, a declaration for denial for insurance shall be submitted to the Administrator of Federal Insurance pursuant to § 1316 of the National Flood Insurance Act of 1968, being 42 U.S.C. § 4023, as amended.

§ 152.015 UNLAWFUL ACTS.

(A) It is unlawful for any person to ENGAGE IN ANY DEVELOPMENT OR TO divert, retard or obstruct the flow of waters in any watercourse ~~whenever such diversion, retardation or obstruction~~ 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 ~~excavate or build any structure~~ affecting the flow of waters without securing written authorization of the Floodplain Administrator.

(B) Any person FOUND GUILTY OF violating the provisions of this CHAPTER section shall be guilty of a Class 2 Misdemeanor.

§ 152.016 SEVERABILITY.

(A) THIS ORDINANCE 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.

ADMINISTRATION

§ 152.030 DEVELOPMENT PERMIT.

(A) A development permit shall be obtained before construction or development, including placement of manufactured homes, ~~begins within any area of special flood hazard~~ SPECIAL FLOOD HAZARD AREA. Each application for a development permit or extension of a development permit shall be made on forms furnished by the Floodplain Administrator.

(B) The Floodplain Administrator may require at a minimum, the applicant to submit:

(1) Engineered plans, in duplicate, drawn to scale, showing the nature and location of the area, regulatory flood elevations, dimensions and contours or key elevations, watercourses, and the locations of existing and proposed structures, fill, storage of materials, and drainage facilities. All elevations or vertical distances must reference an established datum or base elevation.

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

(3) When structures are involved:

(a) Structures shall be designed and constructed so as to offer the minimum obstruction to the flow of flood waters. Foundation systems shall be designed and certified by a registered professional engineer.

(b) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures, plus elevation of existing grade, in relation to mean sea level, all elevations shall be certified by a registered civil engineer or a registered land surveyor, registered in the State of Arizona.

(c) Proposed elevation in relation to mean sea level to which each NON-RESIDENTIAL structure shall be flood-proofed.

(d) Certification by a registered professional engineer or architect that the flood-proofing methods for each NON-RESIDENTIAL structure meet the flood-proofing criteria in § 152.045(C)(3).

(e) BASE FLOOD ELEVATION DATA FOR SUBDIVISION PROPOSALS OR OTHER DEVELOPMENT GREATER THAN 50 LOTS OR 5 ACRES, WHICHEVER IS THE LESSER; AND

(f) DESCRIPTION OF THE EXTENT TO WHICH ANY WATERCOURSE WILL BE ALTERED OR RELOCATED AS A RESULT OF PROPOSED DEVELOPMENT.

(4) More extensive submissions if the proposed development is in a designated floodway or in an area that will act as a floodway during a major flood. Developers in these areas, including gravel and sand excavators, shall submit a plan, a time schedule and a report, all signed by a registered civil engineer. The plan, in duplicate, shall be to a scale of 1 inch equals 100 feet or greater and shall contain contours with a contour interval of 2 feet or less.

(C) In the case of gravel and sand excavation, the plan shall indicate the locations and depths of excavations, and the locations of trees and banks and how they will be protected or disposed of, and the time schedule shall indicate approximate volumes to be removed on a quarterly basis up to the end of the operation. The report shall deal with the hydrology, hydraulics and sediment aspects of the development, shall demonstrate that no increase in flood levels during the occurrence of the base flood discharge would occur, shall address concerns over loss of life and property damage, shall treat bank erosion and channel aggradation and degradation, and shall contain water surface profile studies and quantitative or semi-quantitative sediment analyses if required to support the conclusions in the report. A registered civil engineer may make a written request to waive certain of the items, accompanied by explanations. It is stressed that encroachments in floodways are prohibited, as per § 152.050, and that only in rare cases would exceptions be made.

§ 152.031 FLOODPLAIN ADMINISTRATOR. Duties of the Floodplain Administrator shall include, but not be limited to:

(A) Review all development permits to determine that:

(1) The permit requirements of this chapter have been satisfied.

(2) ALL REQUIRED STATE AND FEDERAL PERMITS HAVE BEEN OBTAINED.

(23) The site is reasonably safe from flooding.

(4) In areas where a floodway has not been designated, the proposed development does not adversely affect the carrying capacity of areas where Base Flood Elevations have been determined.

(35) The proposed development does not adversely affect the water and sediment carrying capacity of the floodway. For purposes of this chapter, “adversely affects” means that the cumulative effect of the proposed development, and all other existing and anticipated developments shall not increase the water surface elevation of the base flood more than 1 foot at any point, and shall not risk aggravating bed and bank scour which could directly or indirectly endanger human life or cause property damage.

(B) REVIEW ALL DEVELOPMENT PERMITS FOR IMPROVEMENTS AND/OR DAMAGES TO EXISTING STRUCTURES TO DETERMINE IF THE APPLICATION OF THE SUBSTANTIAL IMPROVEMENT RULES APPLY, INCLUDING ESTABLISHING A DEFINITION OF MARKET VALUE DETERMINATION AND VERIFYING THAT THE ESTIMATED IMPROVEMENT AND/OR REPAIR COSTS ARE LESS THAN 50% OF THE MARKET VALUE OF THE STRUCTURE.

(BC) When base flood elevation data has not been provided in accordance with § 152.007, 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 §§ 152.045 *et seq.* Any such information shall be consistent with the requirements of the Federal Emergency Management Agency and the Director of Water Resources AND MAY BE SUBMITTED TO THE BOARD FOR ADOPTION.

(GD) Obtain and maintain for public inspection and make available as needed for flood insurance policies:

(1) The CERTIFICATION OF ~~certified~~ elevation required in § 152.045(C)(1) AND 152.049(A)(1),(2);

~~(2) The certification required in § 152.045(C)(2);~~

(23) The CERTIFICATION OF flood-proofing ~~certification~~ required in § 152.045(C)(3);

(34) The CERTIFICATION OF elevation required in § 152.048 (A)(2); and

(45) Permit records for repair of flood-related damage to structures on a cumulative basis FOR REPETITIVE LOSS STRUCTURE PURPOSES over the life of the structure.

(5) CERTIFICATION OF ELEVATION REQUIRED BY SUBSECTIONSECTION 152.031 (DE)(1).

(6) CERTIFICATION REQUIRED BY SECTION 153.045(B)(4)

(7) RECORDS OF ALL VARIANCE ACTIONS, INCLUDING JUSTIFICATION FOR THEIR ISSUANCE.

(DE) NOTIFICATION REQUIREMENTS

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

(4a) Notify adjacent communities and the Arizona Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence

of the notification to the ~~Federal Insurance Administration~~ FEMA through appropriate notification means;

(2b) ~~Require~~ ASSURE 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.

(E**b**) Within 120 days after completion of construction of any flood control protective works which changes the rate of flow during the BASE 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 Water Resources.

(3) THE FEDERAL EMERGENCY MANAGEMENT AGENCY OF ACQUISITION BY MEANS OF ANNEXATION, INCORPORATION OR OTHERWISE, OF ADDITIONAL AREAS OF JURISDICTION.

(F) Advise in writing and provide a copy of any development plan, to any neighboring city, town or county Floodplain Administrator having assumed jurisdiction over its floodplains in accordance with A.R.S. § 48-3610, of any application for a floodplain use permit (development permit) or variance to develop land in a floodplain or floodway within 1 mile of the corporate limits of such city or town or unincorporated village or urbanized area. The town Floodplain Administrator shall also advise such city or town and county Floodplain Administrator in writing and provide a copy of any development plan of any major development proposed within a floodplain or floodway which could affect floodplains, floodways, or watercourses within such county, city or town area of jurisdiction. Written notice and a copy of the plan of development shall be sent to such county, city or town no later than 3 working days after having been received by the town Floodplain Administrator.

(G) Make interpretations where needed, as to the exact location of the boundaries of the ~~areas of special flood hazards~~ SPECIAL FLOOD HAZARD AREAS (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 §§ 152.065 *et seq.*

(H) Take actions on violations of this chapter as required in § 152.014.

(I) Establish a reasonable fee schedule, including higher fees for late compliance, all fee structures to be approved by the Town Council.

FLOOD HAZARD REDUCTION

§ 152.045 STANDARDS OF CONSTRUCTION.

In all areas of special flood hazards SPECIAL FLOOD HAZARD AREAS 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 LOADS AND HYDROSTATIC LOADS INCLUDING THE EFFECTS OF BUOYANCY. A foundation design and certification by a registered professional engineer may be required to ensure the standards of this division.

(2) All manufactured homes shall meet the anchoring standards of § 152.049(B).

(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) All new construction, 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.

(4) Require within Zones AH or AO that adequate drainage paths around structures on slopes guide floodwaters around and away from proposed or existing structures.

(C) *Elevation and flood-proofing.*

(1) New construction and substantial improvement of any RESIDENTIAL structure shall have the lowest floor, including basement, elevated to or above the regulatory flood elevation. ~~Nonresidential structures may meet the standards in § 152.045(C)(3).~~ 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 provided to the Floodplain Administrator.

(2) New construction and substantial improvement of any RESIDENTIAL structure in Zone AO shall have the lowest floor, including basement, higher than the highest adjacent grade at least 1 foot higher than the depth number on the FIRM, or at least 2 feet if no depth number is specified. ~~Nonresidential structures may meet the standards in § 152.045(C).~~ 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 PROVIDED shall certify to the Floodplain Administrator that the elevation of the structure meets this standard.

(3) Nonresidential construction AND NEW AND SUBSTANTIAL IMPROVEMENT shall either be elevated in conformance with § 152.045(C)(1) or (2) or together with attendant utility and sanitary facilities:

(a) Be flood-proofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water; NONRESIDENTIAL STRUCTURES MAY MEET THE STANDARDS IN § 152.045(C)(3).

(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 subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.

(4) Require for all new construction and substantial improvements of non-residential structures, OR that fully enclosed areas below the lowest floor, that are useable solely for parking of vehicles, building access or storage in an area other than a basement 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 floodwaters. Designs for meeting this requirement must either be DESIGNED OR certified by a registered professional engineer or architect OR to meet or exceed the following minimum criteria.

(a) A minimum of 2 openings 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, AS CERTIFIED BY THE OWNER'S ENGINEER.

(5) Manufactured homes shall meet the above standards and also the standards in § ~~152.050~~ 152.049.

(6) Fill, if used to elevate structures, must meet all of the following standards.

(a) The top of such fill shall be at no point lower than the Regulatory Flood Elevation.

(b) The fill shall extend at least 15 feet beyond the walls or supporting frame of the structure.

(c) Fill must be placed and compacted in accordance with the ~~Uniform Building Code~~ INTERNATIONAL BUILDING CODE, 2012 EDITION.

(d) Fill shall not interfere with local drainage or tributary flow to the channel of any watercourse.

(e) Fill proposed in excess of the volume and extent required herein must be shown to have no detrimental effect and the amount of fill cannot be greater than is necessary to achieve the purpose for which it is intended as demonstrated by a plan submitted by the applicant indicating the uses to which the filled land will be put and the final dimensions and extent of the proposed fill. Fill shall not include junk, trash, wood or other buoyant or hazardous material and shall be protected as needed against scour and erosion by riprap or other protective measures as approved by the Floodplain Administrator.

§ 152.046 STANDARDS FOR 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.

§ 152.047 STANDARDS FOR UTILITIES FOR WATER SUPPLY AND WASTE DISPOSAL SYSTEMS.

(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.

(C) Waste disposal systems shall not be installed WHOLLY OR PARTIALLY in a regulatory floodway.

§ 152.048 STANDARDS FOR SUBDIVISIONS.

(A) All ~~preliminary~~ NEW subdivision proposals AND OTHER PROPOSED DEVELOPMENT (INCLUDING PROPOSALS FOR MOBILE HOME PARKS OR SUBDIVISIONS) GREATER THAN FIFTY LOTS OR FIVE ACRES, WHICHEVER IS THE LESSER, shall

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

(B2) ~~If flood hazard areas exist,~~ FOR all final subdivision plans and plats, will provide the elevation(s) of proposed structure(s) and pads. If the site is filled above the base flood, the final lowest floor and pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(CB) All subdivision proposals AND OTHER PROPOSED DEVELOPMENT shall be consistent with the need to minimize flood damage.

(D) 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.

(E) All subdivisions AND OTHER PROPOSED DEVELOPMENT shall provide adequate drainage to reduce exposure to flood hazards, including easements dimensioned to facilitate construction and maintenance of drainage facilities, and shall not concentrate or increase flows without providing remedial works.

(F) All subdivision plan AND OTHER PROPOSED DEVELOPMENT submittals shall include the information, and shall be in the form required by the Floodplain Administrator.

§ 152.049 STANDARDS FOR MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

(A) All new and replacement manufactured homes, AND additions to manufactured homes ~~and recreational vehicles which are left on site for more than 180 days or are not licensed and ready for highway use~~ shall:

(A1) 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

(B2) Be securely anchored to an adequately anchored foundation system designed by a registered professional engineer, 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.

(B) ALL RECREATIONAL VEHICLES PLACED ON SITE SHALL:

(1) BE ON SITE FOR FEWER THAN 180 CONSECUTIVE DAYS,

(2) 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

(3) MEET THE PERMIT REQUIREMENTS OF SECTION 152.030 AND THE ELEVATION AND ANCHORING REQUIREMENTS FOR MANUFACTURED HOMES IN PARAGRAPH (A)(2) OF THIS SECTION.

§ 152.050 FLOODWAYS.

(A) Located within SPECIAL FLOOD HAZARD AREAS established in § 152.007 are areas designated as floodways.

(B) 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:

(1) (a) Encroachments in floodways are prohibited, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels and that the structural integrity of the development is not susceptible to the base flood velocities, bed scour and other physical mechanisms during the occurrence of the base flood discharge.

(b) The certified demonstration must meet the procedures as set forth in § 152.030, and if approved by the Floodplain Administrator a development permit may be obtained.

(2) (a) The minimum setback from the edge of a floodway, or from the edge of a bank of a watercourse if no floodway is to be defined, shall be 20 feet.

(b) Along reaches of streams or watercourses where hazards from eroding banks and/or channel meandering are considered by the district administrator to be severe, special engineering studies shall be made by the property owner or developer and requirements for setbacks from banks of streams or watercourses and/or other protection measures shall be established in accordance with findings that are concurred with by the Floodplain Administrator.

(3) No activity is permitted within a floodway that might cause lateral migration of waters at high or low stages or channel bed degradation or aggradation without a development permit.

(4) If § 152.050 is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of §§ 152.045*et seq.*

VARIANCE PROCEDURE

§ 152.065 NATURE OF VARIANCES

(A) THE VARIANCE CRITERIA SET FORTH IN §§~~152.065~~6 THROUGH 152.068 ARE BASED ON THE GENERAL PRINCIPLE OF ZONING 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 ORDINANCE-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 TO HELP PROTECT ITS CITIZENS FROM FLOODING. THIS NEED IS SO COMPELLING AND THE IMPLICATIONS OF THE COST OF INSURING A STRUCTURE BUILT BELOW THE REGULATORY FLOOD ELEVATION ARE SO SERIOUS THAT VARIANCES FROM THE FLOOD ELEVATION OR FROM OTHER REQUIREMENTS IN THE FLOOD ORDINANCE 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 ORDINANCE 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.

§ 152.065 152.066 APPEAL BOARD.

(A) The Board of Adjustment (Floodplain Board) of the town shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) The Floodplain Board 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~~ CONSIDERING SUCH applications, the Floodplain Board shall consider all technical evaluations, including an opinion of the Town Engineer, 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 such 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) 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 level, providing items § 152.065(C)(1) through (11) 152.030 AND § 152.045 OF THIS CHAPTER have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.

(E) Upon consideration of the factors of §§ 152.065 *et seq.* and the purposes of this chapter, the Floodplain Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(F) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

§ ~~152.066~~ 152.067 CONDITIONS FOR VARIANCES.

(A) 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 structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(B) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result in a high risk of loss of life or property damage.

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

(D) 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; and

(3) 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.

(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) The construction below the base-REGULATORY flood level ELEVATION increases risks to life and property.

(F) The notification shall be maintained with a record of all variance actions as required in § 152.065(E). The notice will also state that the land upon which the variance is granted shall be ineligible for exchange of land pursuant to any flood relocation and land exchange program. A copy of the notice shall be recorded by the Floodplain Board in the office of the Yavapai County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

§ ~~152.067~~ 152.068 MINOR VARIANCES.

The Floodplain Board may identify uses which are not allowed by this chapter but which are minor in nature. The Floodplain Board may adopt written policies detailing specific conditions in addition to the conditions listed in § 152.066 under which minor variances may be granted. The Floodplain Administrator may grant minor variances if all necessary conditions have been satisfied. The denial of a minor variance may be appealed to the Floodplain Board.

AMENDMENTS

§ 152.080 MAP AMENDMENTS.

(A) The Town Council may direct the Floodplain Administrator to study areas of special flood hazard that may be in error either because of changed conditions or engineering error. Any person may submit engineering reports consistent with criteria developed by the Director of the Arizona Department of Water Resources to demonstrate error. The Floodplain Administrator may submit any proposed changes to the Arizona Department of Water Resources and the Federal Insurance Administration, including supporting engineering.

(B) Where areas of special flood hazard have not been delineated and development is ongoing or imminent, the planning and zoning commission shall direct the Floodplain Administrator or developers of land to prepare and submit reports to the Floodplain

Administrator. If it appears that the report(s) are consistent with the criteria developed by the Director of the Arizona Department of Water Resources, they shall be adopted and submitted to the Arizona Department of Water Resources and the Federal Insurance Administration.

§ 152.081 ORDINANCE AMENDMENTS.

Amendments to this chapter may be adopted after a public hearing at which any person has an opportunity to be heard. At least 30 days before the hearing, a notice of the time and place of hearing shall be published in a newspaper of general circulation within the county. A notice of the hearing and the proposed ordinance changes shall be submitted to the Director of the Arizona Division of Emergency Management (DEM) at least 30 days prior to the hearing. A copy of any adopted ordinance change shall be filed within 5 days from adoption with the Director of the Arizona Division of Emergency Management (DEM) and with each neighboring political subdivision, County Floodplain Administrator and municipal corporation within 1 mile of the boundary of the town.