

# FLOODPLAIN REGULATIONS FOR YUMA COUNTY, ARIZONA



## YUMA COUNTY FLOOD CONTROL DISTRICT

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Department of Development Services

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## **SECTION 1.0** **AUTHORITY AND PURPOSE**

### **1.1 STATUTORY AUTHORIZATION**

In A.R.S. § 48-3601 et seq., the Arizona State Legislature has delegated the responsibility to each county flood control district to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Board of Directors of the Flood Control District of Yuma County, Arizona, does ordain as follows:

### **1.2 FINDINGS OF FACT**

- A.** The special flood hazard areas of the Yuma County 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.

### **1.3 STATEMENT OF PURPOSE**

It is the purpose of this regulation 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 to:

- A.** Protect human life and health;
- B.** Minimize expenditure of public money for costly flood control projects;
- C.** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D.** Minimize prolonged business interruptions;
- E.** Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F.** Help maintain a stable tax base by providing for the sound use and development of areas of

special flood hazard so as to minimize blight areas caused by flooding;

- G. Take reasonable action so that potential buyers are notified that property is in an area of special flood hazard;
- H. Take reasonable action so that those who occupy the areas of special flood hazard assume responsibility for their actions;
- I. Maintain eligibility for State and Federal disaster relief; and
- J. Protect the natural and beneficial function of the floodplain including water conveyance.

#### **1.4 METHODS OF REDUCING FLOOD LOSSES**

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

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Control filling, grading, dredging, and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

## **SECTION 2.0**

### **DEFINITIONS AND ACRONYMS**

Unless specifically defined below, words or phrases used in this regulation shall be interpreted so as to give them the meaning they have in common usage and to give this regulation the most reasonable application.

**A Zone.** See "Special flood hazard area".

**Accessory Structure, Low-Cost and Small.** A structure that is:

1. Solely for the parking of no more than 2 cars, limited storage (small, low cost sheds), and building access; and
2. Less than 400 sq. ft. in area and \$20,000 in value.

**Accessory Use.** A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

**Adversely Affect.** The direct or indirect affect of cumulative floodplain development resulting in the increase of water surface elevation of the base flood more than one foot at any point or other measurable, negative impact to proposed and existing development or the floodplain.

**Alluvial Fan.** A geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

**Apex.** A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

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

**Appliance.** Any element that functions as a part of the structure, such as furnace, hot water heater, air conditioner, duct work, conduits, pipes, structural members, wiring, fuel and water tanks, etc.

**Architect.** An Arizona-registered Professional Architect.

**Area of Jurisdiction.** The incorporated and unincorporated areas of the county, including public lands, excluding those incorporated areas of cities or towns which have elected to assume floodplain management powers and duties pursuant to ARS §48-3610.

**Area of Shallow Flooding.** A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard.** See "Special Flood Hazard Area".

**Base Flood.** A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

**Base Flood Elevation (BFE).** The water surface elevation resulting from the base flood in relation to mean sea level as shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30, other Board-approved studies and reports, or as calculated from other means.

**Basement.** Any area of the building having its floor sub-grade (i.e., below ground level) on all sides (See 44 CFR §59.1).

**Board.** Board of Directors of the Yuma County Flood Control District at such times as they are engaged in the enforcement of this regulation. The Yuma County Board of Supervisors is the Board of Directors of the District. (Board as defined in A.R.S. §48-3601, et. seq.)

**Board of Review.** Flood Control Advisory Board at such times as they are engaged in the receipt and review of complaints concerning District substantive policy statements, practices, or actions alleged to violate this regulation.

**Breakaway Walls.** Any type of walls, whether solid or lattice, regardless of material, which are not part of the structural support of the building and so designed to break away during the base flood without damage to the structural integrity of the building on which they are used or any structures to which they might be carried by flood waters.

**Building.** See "Structure."

**Clarification of Interpretation.** A written explanation of the District's interpretation or application of a statute, ordinance, regulation, executive order, delegation agreement or authorized substantive policy statement affecting the procurement of a permit prepared by the Floodplain Administrator in accordance with ARS§48-3649.

**Colorado River Base Flood Elevation.** The flood elevation associated with the Colorado River having a one percent chance of being equaled or exceeded in any given year or a flow of forty thousand cubic feet per second (40,000 cfs), whichever is greater.

**Colorado River Floodplain.** The combined area of the Colorado River Floodway and the Colorado River Floodway Fringe.

**Colorado River Floodway.** The channel of the Colorado River and that part of the floodplain that is necessary to safely convey the floodway flow of either a one in one hundred year flow consisting of

controlled releases and tributary inflow, or a flow of forty thousand cubic feet per second (cfs), whichever is greater.

**Colorado River Floodway Protection Act.** An official document being the Final Report of the Secretary of the Interior to the Congress of the United States on the Colorado River Floodway Protection Act (October 1986; Public Law 99-450, October 1992; United States Department of the Interior including the Colorado River Floodway Maps).

**Colorado River Floodway Fringe.** That area subject to inundation by floods of varying magnitudes, up to and including the floodway flow, but which is not required for the safe conveyance of the floodway flow and is not included in the computation of the Colorado River Floodway base flood elevation.

**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.

**Complaint.** A written allegation against the District concerning this regulation, ordinances, substantive policy statements or District practices alleged to violate ARS 48-3642, et. seq.

**Conditional Letter of Map Amendment (CLOMA).** FEMA's comment on whether a proposed project would be excluded from the Special Flood Hazard Area (SFHA) as shown on the effective FIRM. This letter does not revise an effective FIRM, it indicates whether the project, if built as proposed, would or would not be removed from the SFHA by FEMA if later submitted as a request for a Letter of Map Amendment.

**Conditional Letter of Map Revision (CLOMR).** FEMA's comment on whether a proposed project would affect the hydrologic and /or hydraulic characteristics of a flooding source and thus result in the modification of the existing floodway or effective Base Flood Elevations. This letter does not revise an effective FIRM, it indicates whether the project, if built as proposed, would or would not modify the floodplain boundary or base flood elevation by FEMA if later submitted as a request for a Letter of Map Amendment.

**Conditional Letter of Map Revision based on Fill (CLOMR-F).** FEMA's comment on whether a proposed project involving the placement of fill would exclude a structure or area from the Special Flood Hazard Area (SFHA) as shown on the effective FIRM. This letter does not revise an effective FIRM, it indicates whether the project, if built as proposed, would or would not be removed from the SFHA by FEMA if later submitted as a request for a Letter of Map Amendment.

**Contiguous Fill.** Fill placed in a continuous manner. Its coverage is measured in a linear fashion from the top of one end of the fill to the other end perpendicular to the flow of the floodplain.

**Conveyance.** The ability of the floodplain to pass the base flood flow.

**County.** Yuma County, Arizona.

**Density Floodway.** A conceptual floodplain that encompasses the entire special flood hazard area of

the Gila River between Highway 95 and Avenue 20 E which permits island development throughout the floodplain without cumulatively increasing the base flood elevation by more than one foot. It is a method of regulating the development density of the floodplain to allow equitable development rights throughout the entire special flood hazard area.

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**District.** Yuma County Flood Control District.

**District-Dependent Community.** A community that has entered an agreement with the District to share some or all of the floodplain management powers and duties.

**Effective Date.** The date that this current regulation is adopted by the County Board of Supervisors.

**Elevation Certificate (EC).** The official FEMA Elevation Certificate from prepared and sealed by an engineer or surveyor certifying the elevation of a property, structure, or other location in reference to the base flood elevation or regulatory flood elevation.

**Encroachment.** The advance or infringements 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.

**Engineer.** An Arizona-registered Professional Civil Engineer.

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

**Existing Manufactured Home Park or Manufactured Home Subdivision.** A parcel or contiguous parcels of land divided into two or more spaces or lots for rent or sale for which the construction of facilities for servicing the lot or space on which two or more manufactured homes or recreational vehicles are affixed and in place before the effective date of this regulation.

**Expansion to an Existing Manufactured Home Park or Manufactured Home Subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

**Fill.** Any structure, facility, embankment or earthen material that is placed above the natural grade elevation primarily to raise the site elevation.

**Flood, Flooding, or Floodwaters.** A general and temporary condition of partial or complete inundation of normally dry land areas 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:

1. the overflow of floodwaters;
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.

**Flood Boundary and Floodway Map (FBFM).** The official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated both the areas of special flood hazards and the floodway.

**Flood Insurance Rate Map (FIRM).** The official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) 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, Flood Boundary and Floodway Maps and the water surface elevation of the base flood.

**Flood Openings.** Openings of adequate size and number, either with or without screening, louvers, valves, or other coverings, that equalize hydrostatic flood forces on exterior walls by automatically allowing for the entry and exit of floodwater.

**Floodplain or Flood-Prone Area.** Any land area susceptible to being inundated by water from any source during the base flood. It is the combined area of the Floodway and Floodway Fringe.

**Floodplain Administrator.** The community official, or their duly authorized representative, designated by title to administer and enforce the floodplain management regulations. The floodplain administrator also functions as the chief engineer of the District.

**Floodplain Management.** 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 Regulations.** This regulation and other regulations, zoning ordinance, 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.

**Floodplain Use Permit (FPU Permit).** Official document which authorizes specific activity within a defined area of the floodplain.

**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 associated with flooding.

**Flood-Related Erosion Area or Flood-Related Erosion-Prone Area** A land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**Floodway.** The area 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. Also referred to as "Regulatory Floodway."

**Floodway Fringe.** The area of a floodplain on either side of the 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 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.

**Grade, Grading.** The operation of clearing, excavating, shaping, hauling and spreading of earthen material.

**Hardship.** As related to variances, is the exceptional, unusual, and peculiar hardship to a property that would result from a failure to grant the requested variance. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, disabilities, 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 (HAG).** 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.

**Letter of Map Amendment (LOMA).** An official FEMA amendment, by letter, to an effective FIRM. A LOMA establishes a property's or structure's location in relation to the Special Flood Hazard Area (SFHA).

**Letter of Map Change (LOMC).** Any FEMA comment, amendment or revision to the FIRM including a CLOMA, CLOMR, CLOMR-F, LOMA, LOMR, or LOMR-F.

**Letter of Map Revision (LOMR).** An official FEMA revision, by letter, to an effective FIRM. A LOMR may change flood insurance risk zones, floodplain and/or floodway delineations, planimetric features, and/or Base Flood Elevations.

**Letter of Map Revision based on Fill (LOMR-F).** An official FEMA revision, by letter, to an effective FIRM. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill at or above the Base Flood Elevation and excluded from the Special Flood Hazard Area.

**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 Adjacent Grade (LAG).** The lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Lowest Floor.** The lowest floor of the lowest enclosed area, including the basement. See "Basement." An unfinished, flood vented, 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 such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this regulation.

**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 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 or more manufactured home lots for rent or sale.

**Market Value.** Market value is the value of a structure or improvement in the open market as appraised. In the absence of a current appraisal, the full cash value of improvements as listed in the County Assessor's records is presumed to be the fair market value of the structure or improvements.

**Mean Sea Level (MSL).** 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 on August 3, 1983, 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.

**New Manufactured Home Park or Manufactured Home Subdivision.** A parcel or contiguous parcels of land divided into two or more spaces or lots for rent or sale for which the start of construction or development of facilities servicing the lot or spaces commenced on or after the effective date of this regulation. Also applies to recreational vehicle parks and subdivisions.

**Non-Residential Construction.** Structures and other development that is not intended for use as or in support of a dwelling or dwellings.

**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.** See "Base Flood."

**Other Flood Areas or Other Areas.** Areas defined by the FIRM as:

1. Other Flood Areas (Zone X shaded) – Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood; and/or
2. Other Areas (Zone X & D) – Areas determined to be outside the 0.2% annual chance floodplain and areas in which flood hazards are undetermined, but possible.

**Person.** An individual or the individual's agent, a firm, partnership, association or corporation, or an agent of the aforementioned groups, or this state or its agencies or political subdivisions.

**Plan of Development.** A written description with or without plans describing the methods and schedule of development for a project or to reach compliance.

**Program Deficiency.** A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

**Public Safety and Nuisance.** As related to Section 6, means that the granting of a variance must not

result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Reasonable Repair or Alteration.** A repair or alteration valued less than a substantial improvement.

**Recreational Vehicle (RV).** A vehicle which is:

1. Built on a single chassis;
2. 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 recreation, camping, travel, or seasonal use.

**Regulatory Bill of Rights.** ARS§48-3642, et. seq.

**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 regulation or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

**Residential Construction.** Structure or other development used as or in support of a dwelling or dwellings.

**Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Sheet Flow Area.** See "Area of shallow flooding."

**Special Flood Hazard Area (SFHA).** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. These areas are 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")

**Start of Construction.** Related to substantial improvement and new development, 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 issuance. The actual start means:

1. For new development - 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; and
2. For substantial improvement - 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, manufactured home, storage tank, or other enclosed space that is principally above ground.

**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 percent of the market value of the structure before the damage occurred.

**Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent 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."

**Substantial Progress.** Diligent construction toward the permitted use as indicated by:

1. Having submitted plans for construction;
2. Building permit issued and fees paid;
3. Having installed utilities such as electric, sewer, water and/or gas lines on the site;
4. Having foundation or footings inspected and finished floor for at least the first floor of a building poured and laid; and
5. That no lapse of construction has occurred for more than sixty days from any time point of Items 1-4 above.

**Surveyor.** An Arizona-registered professional surveyor.

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

**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 regulation is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation (WSE).** 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.

## ACRONYMS

**A, AO, AE, AH, X, XS, D** – FIRM Zone Designations (See FIRM Legend for Descriptions)

**ARS** – Arizona Revised Statutes

**ADWR** – Arizona Department of Water Resources

**BFE** – Base Flood Elevation

**CFR** – Code of Federal Regulations

**CLOMA** – Conditional Letter of Map Amendment

**CLOMC** – Conditional Letter of Map Correction

**CLOMR** – Conditional Letter of Map Revision

**CLOMR-F** – Conditional Letter of Map Revision based on Fill

**DHS** – Department of Homeland Security

**EC** – Elevation Certificate

**FBFM** – Flood Boundary and Floodway Map

**FEMA** – Federal Emergency Management Agency

**FIRM** – Flood Insurance Rate Map

**FIS** – Flood Insurance Study

**FPU PERMIT** – Floodplain Use Permit

**HAG** – Highest Adjacent Grade

**LAG** – Lowest Adjacent Grade

**LOMA** – Letter of Map Amendment

**LOMC** – Letter of Map Correction

**LOMR** – Letter of Map Revision

**LOMR-F** – Letter of Map Revision based on Fill

**MSL** – Mean Sea Level

**NFIP** – National Flood Insurance Program

**PMR** – Physical Map Revision

**RFE** – Regulatory Flood Elevation

**RV** – Recreational Vehicle

**SFHA** – Special Flood Hazard Area

**USACE** – United States Army Corps of Engineers

**USBR** – United States Bureau of Reclamation

**WSE** – Water Surface Elevation

## **SECTION 3.0**

### **GENERAL PROVISIONS**

#### **3.1 LANDS TO WHICH THIS REGULATION APPLIES**

- A. This regulation shall apply to all areas of special flood hazards within the Area of Jurisdiction of Yuma County as defined herein. This regulation also applies to District-dependent communities as defined by specific agreement between the District and those communities.
- B. If a city or town assuming the floodplain management and regulation function, including those dependent upon the District, declares by resolution that it no longer wishes the powers and duties, then the powers and duties shall be assumed by the District. The District does not assume the ownership derived from, responsibility for, or liability of actions taken by the city or town while it administered floodplain management.

#### **3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS**

- A. The following scientific and engineering reports are hereby adopted by reference and declared to be part of this regulation for the purpose of identifying SFHA and floodways in order of preference:
  - 1. Special flood hazard areas subject to inundation by the 1% annual chance flood or floodway areas identified by Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Yuma County, Arizona and Incorporated Areas, dated September 28, 2008" with accompanying Flood Insurance Rate Maps (FIRM) dated September 28, 2008 and all subsequent FEMA-issued amendments and/or revisions;
  - 2. The Floodway and Floodway Fringe areas along the Colorado River mapped by the U.S. Department of the Interior, Bureau of Reclamation and subject to provisions of Public Law 99-450, Colorado River Floodway Act, and all subsequent USBR-issued amendments and/or revisions;
  - 3. The Density Floodway, a conceptual floodplain that encompasses the entire SFHA of the Gila River between Highway 95 and Avenue 20 E which permits island development throughout the floodplain without cumulatively increasing the base flood elevation by more than one foot. It is a method of regulating the development density of the floodplain to allow equitable development rights throughout the entire special flood hazard area;
  - 4. The limits of 100-year floodplains and/or floodways as shown in Board-adopted floodplain reports, studies, amendments, revisions and mapping in areas where flood hazards are identified as "Other Flood Areas or Other Areas" as identified by the FIS and FIRM; and

5. An area extending to each side of a watercourse, draining at least 1 square mile, a distance equal to three (3) times the width of the channel measured from the top of banks in areas where flood hazards are “Other Areas” as identified by the FIS and FIRM and no Board-adopted floodplain report, studies, amendments, revisions or mapping are available.
- B. The FIS, FIRM, and USBR Floodway and Floodway Fringe mapping is the minimum area of applicability of this regulation and may be supplemented by studies, amendments, and revisions. The Board may adopt a study, amendment, or revision to increase the SFHA prior to or without FEMA approval. However, Board adoption of a study, amendment, or revision that reduces the SFHA does not reduce the SFHA identified by FEMA and therefore does not reduce the minimum area of applicability of this regulation until FEMA issues a LOMC or PMR.
- C. In areas where flood hazards are “Other Areas” as identified by the FIS and FIRM and no Board-adopted report, study, amendment, revision or mapping exists, the SFHA may be established by scientific and engineering reports and mapping provided by the applicant.
- D. The FIS and FIRM panels are on file at Yuma County Department of Development Services, 2351 W. 26<sup>th</sup> Street, Yuma, Arizona.

### **3.3 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 regulation and other applicable regulations.

### **3.4 ABROGATION AND GREATER RESTRICTIONS**

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

### **3.5 INTERPRETATION**

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

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

### **3.6 DISCLAIMER OF LIABILITY**

The degree of flood protection required by this regulation 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 regulation does not imply that land outside the SFHA or uses permitted within such areas will be free from flooding or flood damages. This regulation shall not create liability or criminal activity on the part of the District, any officer or employee thereof, County, 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 regulation or any administrative decision lawfully made hereunder.

### **3.7 EXCEPTIONS**

- A.** The provisions of this regulation shall not apply to permits and variances granted prior to the effective date of this regulation provided the start of construction or development under the terms and conditions of said permit or variance shall have commenced within six months of the issuance thereof, and permitted work is finalized and accepted within the expiration date of the permit or variance.
- B.** 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 legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for twelve months, or destroyed to the extent of 50 percent of its value as determined by a competent appraiser, any further use shall comply with this article and regulations of the District;
  - 2.** Reasonable repair or alteration of property for the purposes for which the property was legally used on 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 percent or more shall be either floodproofed or elevated to or above the regulatory flood elevation in accordance with Section 5;
  - 3.** Reasonable repair of structures constructed with the 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.
- C.** Before any authorized construction begins for the exceptions listed below, the responsible person must submit construction plans to the Board for review and comment. In accordance with A.R.S. § 48-3613, written authorization shall not be required, nor shall the 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 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 Board pursuant to regulations adopted by the Board under this article;
  4. Other construction upon determination by the 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;
  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; and
  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.
- D. These exceptions do not preclude any person from liability if that person's actions increase flood hazards to any other person's property or public right-of-way.

### **3.8 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.
- B. 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.
- C. Any person found guilty of violating any provision of this regulation shall be guilty of a class 2 misdemeanor. Each day that the action continues shall be a separate offense punishable as hereinabove described.

### **3.9 DECLARATION OF VIOLATION**

The failure of a structure or other development to be fully compliant with this regulation is a violation. A structure or other development without the finished construction elevation

certificate, other certifications, or other evidence of compliance required in this regulation is presumed to be in violation until such time as that documentation is provided. Each day that passes until the violation is corrected is a new violation.

### **3.10 DECLARATION OF PUBLIC NUISANCE**

All development located or maintained within any area of special flood hazard after February 9, 1984, in violation of this regulation, is a public nuisance per se and may be abated, prevented or restrained by action of this political subdivision.

### **3.11 CIVIL REMEDIES**

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, or the District in the case of any violation of this regulation, 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 regulation. If a person is found by the court to be in violation of this regulation, the court shall require the violator to either comply with this regulation, 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.

### **3.12 REMEDY OF VIOLATIONS**

#### **A. Notice of Alleged Violation**

- 1.** Within 30 days of discovery that a person has engaged or is engaging in development in the floodplain without a floodplain use permit, has engaged or is engaging in any development that is not in compliance with an active floodplain use permit or has damaged or interfered with facilities that are authorized pursuant to ARS §48-3600, et. seq. without written authorization of the board, the floodplain administrator shall issue a notice of alleged violation to the owner, occupant or manager of the real property on which the development is located or to the person who has damaged or interfered with the facilities.
- 2.** The notice of alleged violation shall identify the alleged violations observed and order the alleged violator to cease and desist any ongoing activity that is not in compliance with the regulations adopted pursuant to ARS §48-3600, et. seq. or cease and desist any damage or interference that is not authorized by the Board. The notice of alleged violation shall include the date, time and place, no less than 30 days from the date of the notice, where the person responding to the notice of violation may appear to show cause why the notice of alleged violation should be vacated.
- 3.** On receipt of the notice of alleged violation, the person shall stop work as soon as possible in a safe manner; and

4. No work shall be permitted on the parcel until such time as the alleged violation(s) are abated.

**B. Response to Notice**

On receipt of the notice of alleged violation, the person may:

1. Admit the allegations by doing either of the following:
  - a. Appearing in person, by attorney, or by another designated representative at a time and location given in the notice of alleged violation; or
  - b. Mailing or delivering to the Floodplain Administrator a stipulated agreement provided with the notice of violation or a written statement signed by the person in which the person admits the allegations, agrees to acquire any required permit and agrees to remedy the violation, damage or interference in accordance with the terms determined by the Floodplain Administrator.
2. Deny the allegation by doing either of the following:
  - a. Appearing in person, by attorney or by another designated representative at the time and location given in the notice of violation; or
  - b. Mailing or delivering to the Floodplain Administrator a stipulated agreement provided with the notice of alleged violation or a written statement signed by the person denying the allegations and requesting a hearing on the matter.
3. Take no action
  - a. If no action is taken by the date of appearance, the notice of violation will be forwarded to the hearing officer to set a hearing on the matter.

**C. Violators may remedy violations by either:**

1. Taking all actions to abate violations as alleged by the Floodplain Administrator in a Notice of Alleged Violation;
2. Obtaining a variance to this regulation in accordance with the provisions of Section 6; or
3. Obtaining a ruling from the Hearing Officer, the Board, or Yuma County Superior Court supporting a claim of compliance or exception.

**D. In accordance with ARS §48-3615.01, the Floodplain Administrator and Board may abate violations using the following process:**

1. Hold Public Hearings
  - a. On request for a hearing, the hearing officer shall set a date, time, and place for a

hearing and serve a notice of hearing on the person alleged to be in violation and provide a notice of the hearing to the Floodplain Administrator in accordance with ARS § 48-3615.01.

- b. The Floodplain Administrator shall prepare a report containing all pertinent information available to the Floodplain Administrator and provide the report to the Hearing Officer immediately prior to the hearing.
- c. Pre-public hearing discovery shall not be permitted meaning there will be no depositions, interrogatories, etc., before the actual public hearing.
- d. Immediately prior to the public hearing, both parties shall produce for inspection by the opposing party any prepared exhibits and written, taped or recorded statements of any witness, which may be offered at the public hearing.
- e. The Hearing Officer shall give oaths and all testimony shall be given under oath or affirmation.
- f. At the hearing, the District shall present evidence of the violation and the noticed party has the opportunity to present evidence and testimony in accordance with ARS § 48-3615.01(E). The Arizona Rules of Evidence shall not apply. Evidence is subject to determination by the Hearing Officer that it is relevant and material.
- g. At the completion of the public hearing, the Hearing Officer shall determine whether a violation exists and may impose civil penalties attributed to the violation. The Hearing Officer also may:
  - i. Rule that the subject of the claim is or is not a violation,
  - ii. Request additional information from Floodplain Administrator and/or the accused violator,
  - iii. Order corrective action to be taken by the person,
  - iv. Levy fines in amounts up to \$750 per violation for personal violations and \$10,000 for commercial violations, or
  - v. Recommend declaration of public nuisance, abatement, or prosecution to the Board.
- h. On receipt of the hearing officer's finding, determination and recommendation, the Floodplain Administrator shall issue a final, written decision and order and may include a determination of violation, an order directing that measures be taken to abate or ameliorate any harm or damage arising from the violation and the imposition of a civil penalty as recommended by the hearing officer.

## 2. Board of Hearing Review

- a. The Board is the board of hearing review for the hearing officer. If review of a hearing officer decision, a written request in accordance with Section 6.3 Appeals to the Board for review shall be delivered to the Clerk of the Board within fifteen (15) days after the

date of the public hearing.

- b. The Floodplain Administrator shall forward the report containing all available, pertinent information to the Board.
- c. The Board of Hearing Review may:
  - i. Uphold or overturn the Hearing Officer's action, or
  - ii. Remand the case back to the Hearing Officer in case there is need for further evidence or a procedural violation occurred,

### 3. Take Corrective Action

If compliance to a regulation cannot be achieved by sending a Notice of Alleged Violation, or through the Public Hearing Process, the Board may take corrective action to remedy an alleged violation. The Board may do one or more of the following:

- a. Declare a Violation, Public Nuisance, or Unlawful Act
- b. Order corrective action by the owner,
- c. Order abatement of violation by the District,
- d. Seek civil or criminal remedies in Superior Court,
- e. Issue a variance if conditions in Section 6 are applicable, or
- f. Submit to FEMA 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 as amended, or

### 4. Seek a Court Order or Injunction

If the person found to be in violation by the Hearing Officer or Board continues the violation after the determination or declaration is made or fails to cooperate with corrective action, the Floodplain Administrator may, with or without further Board action, apply for a temporary restraining order or preliminary or permanent injunction from the superior court according to the Arizona rules of civil procedure. A decision to seek injunctive relief does not preclude other forms of relief or enforcement against the violator at any time.

### **3.13 CLARIFICATIONS, COMPLAINTS, APPEALS, AND VARIANCES**

A person regulated by this regulation may, in accordance with terms and procedures given in Section 6.0:

- A. Request and receive written clarifications of interpretation to this regulation, substantive policies, or administrative decisions;
- B. Submit written complaints to the Board of Review, regarding this regulation, substantive policies or the implementation thereof as they relate to the Regulatory Bill of Rights;

- C. Appeal to the Board when the regulated person does not agree with the Floodplain Administrator's interpretation or application of this regulation, including map determination, Hearing Officer's or Board of Review's ruling, or seek a variance from one or more provisions of this regulation and mapping; and
- D. Appeal to the Yuma County Superior Court when aggrieved in any manner by an action of the Board.

### **3.14 SEVERABILITY**

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

## **SECTION 4.0** **ADMINISTRATION**

### **4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Floodplain Administrator, or his duly authorized representative, is hereby appointed to administer, implement and enforce this regulation by granting or denying Floodplain Use Permits in accordance with its provisions.

### **4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties of the Floodplain Administrator shall include, but not be limited to the activities given in this section.

#### **A. District Compliance with Federal and State Requirements**

Administer District regulations in compliance with federal and state regulations including NFIP (44 CFR Part 59, 60, 65, & 70) and ARS §48-3601 et. seq.

#### **B. Substantive Policy**

1. Recommend substantive policy relating to permitting or licensing to the Board for approval prior to enforcement.
2. Make substantive policy with or without Board approval that relates to:
  - a. Internal management of the District and does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public,
  - b. Relates only to the physical servicing, maintenance or care of District-owned or operated facilities or property, or
  - c. Relates to District contracts.

#### **C. Permit Administration and Coordination**

Administer Floodplain Use Permits in a manner that:

1. Provides fair, consistent, and open regulation;
2. Provides permit application information at the time of application;
3. Avoids duplication of other laws and dual permitting;

4. Bases licensing decisions, in whole or part, on specific regulations;
5. Approves or denies applications within the review times stated herein unless an extension is mutually agreed upon;
6. Provides written or electronic information and notice regarding review comments, inspections, approvals, and denials, rights to appeal and file complaints;
7. Allows the inspection of all ordinances, regulations and substantive policy statements, and a directory of documents at the District Office and/or website; and
8. Fosters communication and coordination between the applicant, District, and other regulators.

**D. Permit Application Form**

Prepare an application information guide and application packet that provides the substantive policy statement and instructs the applicant on the application process and all required submittals, timelines, contact person and information, website, and a notice that clarification is available to the applicant.

**E. Permit Application Review**

Perform administratively completeness and substantive reviews of all development permits to determine that:

1. Application submittals are complete and that no additional information is needed to determine compliance with this regulation;
2. The permit requirements of this regulation have been satisfied;
3. Applicant has certified that all other required state and federal permits have been or will be obtained prior to construction;
4. Structures are reasonably safe from flooding and proposed development does not constitute a danger or hazard to life or property; and
5. The proposed development does not adversely affect the carrying capacity of the floodway, density floodway, or areas where base flood elevations have been determined but a floodway has not been designated.

**F. Review Comments and Notices**

Provide written or electronic notices upon the completion of each review in compliance with state statutes. Complete permit reviews within the established time frames.

**G. Permit Timelines**

1. Establish permit timelines.
2. Complete permit administration within the permit timelines.
3. Upon mutual agreement between the applicant and the District, review times may be extended up to an additional 25%.

**H. Permit Issuing**

Within the timelines provided by Section 4.2.G:

1. Issue a Floodplain Use Permit when an application has been submitted, this regulation has been met and applicant has certified that all required local, State, and Federal permits are obtained; or
2. Deny a permit if the application remains incomplete or this regulation is not satisfied as specified by state statute.

**I. Community Review and Approval of Applications for Floodplain and Watershed Modification to Federal and State Agencies including LOMC's and PMR's**

1. As applicable, review applications for floodplain and waterway modifications to federal and state agencies, including FEMA, USACE, USBR, and ADWR to verify:
  - a. Proposed development is compliant with this regulation;
  - b. Proposed development has a perpetual means for maintenance;
  - c. Proposed development meets the conditions and statements to which the Community Official is signing;
  - d. No fill is placed within the floodway;
  - e. Applicant has certified that all federal, state, and local permits have been or will be obtained;
  - f. All existing and proposed structures and land within the modified area will be reasonably safe from flooding as defined in 44 CFR 65.2(c); and
  - g. All development restrictions and conditions necessary to maintain the provisions of this regulation are agreed to and recorded.
2. After reviewing applications for floodplain and waterway modifications to federal and state agencies to the satisfaction of this regulation and standard engineering practices, may comment and sign said applications on behalf of Yuma County and/or the District as the Community Official.

**J. Substantial Improvement and Substantial Damage Procedures**

Substantial improvement and substantial damage evaluation shall be based on the following standards:

1. Substantial improvement and damage is the 5-year cumulative value of repair, reconstruction, development, improvement, or damage equaling fifty percent (50%) or more of the market value of the structure prior to the start of construction or time of damage;
2. The market value of the structure is based on a current appraisal by a licensed appraiser or the full cash value assessment for the structure from the County Assessor's Office; and
3. The value of the improvements and damage is based on an average construction estimate prepared by a licensed contractor including all material and labor costs to perform the work or when available, based on the permit valuation placed on the improvements by the Chief Building Official.

**K. Use of Other Base Flood Data**

When base flood elevation data has not been provided in accordance with Section 3.2, obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, including the applicant, in order to administer this regulation. Any such information shall be consistent with the requirements of FEMA and the Director of the ADWR and shall be submitted to the Board for adoption.

**L. Obtain and Maintain for Public Inspection**

Obtain and maintain the following regulations and documents, as referenced by Sections 4.0, 5.0, and 6.0:

1. A directory summarizing the subject matter of all currently applicable ordinances, regulations and substantive policy statements;
2. Copies of all ordinances, regulations and substantive policy statements;
3. Copies of all references incorporated into this regulation;
4. Permit applications, improvement plans and supporting documentation and issued permits;
5. 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;
6. The LOMR, LOMA, LOMR-F, CLOMR, CLOMA, or other submittals to FEMA for map modification or comment;

7. Elevation certificates;
8. Floodproofing certificates;
9. No-rise certification for floodway encroachments;
10. One-foot-rise certifications for floodplain encroachments where no floodway is delineated;
11. Manufacturer's or engineer's floodproofing certification including flood openings;
12. Colorado River flood-related erosion potential certification;
13. Cross sections of the density floodway showing the cumulative record of the length of contiguous fills; and
14. Density Floodway Development Map showing the length of contiguous fill perpendicular to flow of the river and the pattern of development to assure that the conveyance of water will not be blocked for all new or substantially improved structures and development within the density floodway boundaries.

**M. Entry and Inspection**

1. Entry and inspections of premises for the purpose of conducting an inspection shall comply with state statutes.
2. See Section 4.2.S for Density Floodway inspection requirements.

**N. 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 such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency through appropriate notification means; and
  - b. Assure that the flood carrying capacity of the altered or relocated portion of said 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 FEMA of the changes by submitting technical or scientific data in accordance with

Volume 44 CFR 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; and

- b. Within one hundred twenty (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 FEMA and ADWR of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.
  4. Advise any city or town which has assumed jurisdiction over its floodplains in accordance with ARS § 48-3610 in writing and provide a copy of any development plan of any application for a FPU permit or variance to develop land in a floodplain or floodway within one (1) mile of the incorporated limits of such city or town.

**O. Map Determinations**

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards. The horizontal location of the SFHA as defined in Section 3.2 is the boundary of the SFHA. Elevation differences are grounds for issuing a permit or submitting a LOMA to FEMA, but are not grounds for not requiring a permit. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 6.0. A fee will be charged for map determinations in accordance with the approved Department of Development Services fee schedule.

**P. Remedial Actions**

Take actions on alleged violations of this regulation as required in Section 3.12.

**Q. Biennial Report**

Complete and submit a Biennial Report to FEMA.

**R. Colorado River Floodway Requirements**

Assure that proposals for development in the Colorado River Floodway and in the Colorado River Floodway Fringe meet the additional requirements described in Section 5.11, including the review and concurrence by the Bureau of Reclamation before any proposed development in the Colorado River Floodway is permitted.

## **S. Density Floodway Requirements**

1. Assure that proposals for development in Density Floodways meet the additional requirements described in Section 5.10.
2. Upon completion of fill and/or foundation form placement, inspect site for compliance with permitted fill dimensions and review elevation certificate for lowest floor elevation. Where elevation and volume are not in compliance, revoke the permit until such time that project is in compliance.
3. Record the actual loss of flow area and length of contiguous fill perpendicular to flow of the river for each parcel and section on the official density floodway base map.
4. Track the pattern of development within the density floodway to assure that the conveyance of water will not be blocked.
5. When any section across the width of the density floodway reaches 90 percent of its maximum allowable fill, District shall update the density floodway model.

## **T. Clarification**

Within 30 days of written requests submitted in accordance with Section 6.1, provide clarification of interpretations, application of statutes, regulations, ordinances, executive orders, delegation agreements or authorized substantive policy statements. The clarification shall include a written explanation of the Floodplain Administrator's interpretation or application and the requestor may meet with the Floodplain Administrator to discuss clarification.

## **U. Complaints, Appeals and Variances**

Written complaints and applications for appeals and variances are to be received and processed as follows:

1. Receive written complaints and applications for appeals and variances with appropriate fees;
2. Review submittals and determine recommendations, including where appropriate, recommended conditions;
3. Forward requests, recommendations, and staff reports to Board of Review or Board;
4. Notify applicant of the date the complaint, appeal, or variance is to be heard by the Board of Review or Board;
5. Provide written notice to the applicant of the Board of Review's or Board's decision, including any conditions, after the hearing; and

6. Maintain a record of all complaints, appeals, and variances including justification for variance issuance, and report variances in its biennial report submitted to FEMA.

#### **4.3 ESTABLISHMENT OF FLOODPLAIN PERMIT**

- A. A Floodplain Use Permit shall be obtained before construction or development begins, including placement of manufactured homes or prefabricated buildings, within any area of special flood hazard established in Section 3.2.
- B. Application for a Floodplain Use Permit shall be made on forms furnished by the Floodplain Administrator and shall demonstrate compliance with the Section 5.0 Provisions for Flood Hazard Reduction and include:
  1. Required fees as shown on the Department of Development Services Fee Schedule;
  2. Four (4) sets of duplicate plans drawn to scale showing the nature, location, dimensions and elevation of the:
    - a. Area of development,
    - b. Existing and proposed structures,
    - c. Existing and proposed utilities including wells and sewage disposal systems,
    - d. Fill, grading, and other earthwork including sand and gravel extraction,
    - e. Storage of materials,
    - f. Existing or proposed drainage and flood control facilities, and
    - g. Flooding source and floodplain boundaries;
  3. In Zones A, AE and AH, an elevation certificate with proposed elevation in relation to mean sea level (North American Vertical Datum of 1988) of the lowest floor (including basement) of all structures and all mechanical and utility equipment;
  4. In Zone AO, an elevation certificate with proposed relative elevation difference between the existing highest adjacent grade and proposed elevation of lowest floor (including basement) of all structures and all mechanical and utility equipment;
  5. In the Density Floodway, an additional elevation certificate certifying the existing or filled grade showing an elevation above regulatory flood elevation prior to start of construction;
  6. Proposed elevation in relation to proposed elevation of the lowest floor (including basement) to which any non-residential structure will be floodproofed;
  7. Base flood elevation;
  8. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

9. As applicable, complete and accurate additional certification, studies, reports, maps, plats, design, and supporting calculations, prepared by an engineer, necessary to show compliance with this regulation, as referenced by Sections 5.1-5.11, including but not limited to:
- a. Elevation certificates, existing grade and proposed elevation,
  - b. Floodproofing certificates,
  - c. Flood Resistant certificates,
  - d. No-rise certification for floodway encroachment,
  - e. One-foot-rise certification for floodplain encroachment where no floodway is delineated,
  - f. Flood opening design and certification,
  - g. Erosion plans and protection design,
  - h. Colorado River flood-related erosion potential,
  - i. Geotechnical reports and compaction reports,
  - j. Subdivision tentative map, improvement plans, and final plat,
  - k. Grading plans,
  - l. Anchoring design,
  - m. Plans of development,
  - n. Proposed easements,
  - o. Density floodway conveyance technical analysis,
  - p. Technical data notebooks for CLOMR, or PMR,
  - q. Variance application, and
  - r. Supporting data and calculations.

#### **4.4 TERMS OF APPLICATION AND FLOODPLAIN USE PERMITS**

- A. When applying for a Floodplain Use Permit, the applicant is responsible for and agrees to:
- 1. Consider and assume the risk associated with development within the floodplain;
  - 2. Consider and assume flood insurance requirements resulting from development within the floodplain;
  - 3. Submit complete and accurate applications, supporting documentation, studies, reports, and engineering design and survey data and certifications required by this regulation;
  - 4. Obtain all required federal, state, and local permits and approvals;
  - 5. Provide timely responses to review comments;
  - 6. Comply with this regulation and permit conditions;
  - 7. Grant the Floodplain Administrator access to the project site for the purpose of inspection;
  - 8. Obtain all required inspections;

9. Finalize all permits; and
  10. Site restrictions.
- B. An application will be considered void, and a new application with fees will be required, if the applicant takes no action regarding the application for 12 months.
  - C. Upon the issuance of a Floodplain Use Permit, the applicant shall have up to six (6) months to start construction. The permit shall be valid for up to 12 months from the actual start of construction. The permit expiration date may be extended when justified by a plan of development. The permit may be extended for up to 12 additional months if substantial work (more than 50%) has been accomplished. After the expiration date, the Floodplain Use Permit shall expire, and a new permit must be issued before work can continue.
  - D. The Floodplain Administrator may temporarily or permanently rescind a Floodplain Use Permit, by issuing a stop work order, if any of the following conditions are met:
    1. At the direction of the Board;
    2. The conditions of the permit, variance, or this regulation has been violated; or
    3. Substantial progress has not been accomplished such that the construction cannot be completed by the expiration date.
  - E. Upon completion of the permitted development, the following items shall be provided by the permit applicant, as applicable:
    1. In accordance with ARS §48-3609(I), within 120 days after completion of any development 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 ADWR;
    2. Final elevation certificate based on actual construction;
    3. Flood proofing certification based on actual construction;
    4. Record of Construction;
    5. Fully executed and recorded easements or other recordations; and
    6. If the project is within a density floodway, a record drawing of construction showing length of contiguous fill perpendicular to flow of the river and location of all structures.

#### **4.5 ESTABLISHMENT OF BOARD OF REVIEW**

The Board of Review for the District is the Flood Control Board of Directors. The Board of Review shall receive complaints concerning ordinances, substantive policy statements or district practices alleged to violate this article. The Board of Review may review any ordinance, regulation, substantive policy statement or district practice alleged to violate ARS §48-3600 et. seq. and may hold hearings regarding the allegations. The Board of Review may recommend actions to alleviate the aspects of the ordinances, regulations, substantive policy statements or district practices alleged to violate the statutes.

#### **4.6 ESTABLISHMENT OF HEARING OFFICER**

In accordance with ARS § 48-3615.01, the hearing officer for the District is the Yuma County Hearing Officer related to Zoning as appointed by the Yuma County Board of Supervisors. The hearing officer may take actions as described in Section 3.12 for the declaration and abatement of violations.

#### **4.7 ESTABLISHMENT OF BOARD OF APPEALS**

The Yuma County Flood Control District Board of Directors, or an appointed board designated to represent the Board of Directors, is the Board of Appeals. The Board of Appeals may take action to abate violations as described in Section 3.12 and hear and decide appeals as described in Section 6.0. and ARS § 48-3615.01.

#### **4.8 SALES OF COPIES**

Copies of this regulation may be sold by Yuma County Department of Development Services at a uniform charge as determined by the Board.

**SECTION 5.0**  
**PROVISIONS FOR FLOOD HAZARD REDUCTION**

**5.1 STANDARDS OF CONSTRUCTION**

In all special flood hazards areas, development shall comply with ARS §48-3601 et. seq. and the National Flood Insurance Program (44 CFR Part 59, 60, 65 & 70) and the following standards:

**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 section 5.5.C.

**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; 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**

Residential construction, new or substantially improved, shall have the lowest floor, including basement with attendant mechanical and utility equipment, elevated as follows:

- a. In Zones A, AE and AH, elevated to or above the regulatory flood elevation;
- b. In an AO Zone, elevated to or above the regulatory flood depth, or elevated at least two

feet above the highest adjacent grade if no depth number is specified; and

- c. In an A Zone where a BFE has not been determined, elevated to or above the regulatory flood elevation which is to be determined by the applicant using criteria developed by the Director of the Arizona Department of Water Resources or FEMA Publication 265, "Managing Floodplain Development in Approximate Zone A Areas."

Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by an engineer or surveyor and submitted on an elevation certificate, and verified by the Floodplain Administrator to be properly elevated.

## 2. Nonresidential Construction

New nonresidential construction or substantial improvement including attendant mechanical and utility equipment shall either be elevated to conform with Section 5.1.C.1 or:

- a. A non-conversion agreement must be recorded limiting the use below the RFE to access, limited storage, and parking and comply with either subsection 5.1.C.2.b or c;
- b. Be floodproofed up to the regulatory flood elevation so that the structure is:
  - i. Watertight with walls substantially impermeable to the passage of water,
  - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and
  - iii. Be certified by an engineer or architect that the standards of this section are satisfied and submitted to the Floodplain Administrator; or
- c. Be floodproofed using flood openings in accordance with Section 5.1.C.6.

## 3. Manufactured Homes and Recreational Vehicles

- a. Manufactured homes shall be elevated in accordance with Section 5.5.A
- b. Recreational Vehicles shall meet the standards in Section 5.6.

## 4. Garages and Low Cost Accessory Structures

- a. Attached garages.
  - i. A garage attached to a residential structure shall be constructed with the lowest garage floor elevated at or above the regulatory flood elevation or must have flood openings in accordance with Section 5.1.C.6.
  - ii. Portions of the garage below the regulatory flood elevation must be constructed with flood resistant materials.
  - iii. A garage attached to a nonresidential structure shall meet the above requirements

or be floodproofed in accordance with 5.1.C.2.

b. Detached garages and accessory structures.

- i. Detached garages and accessory structure 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:
  - a. Use of the accessory structure must be limited to access, parking or limited storage;
  - b. The portions of the accessory structure located below the regulatory flood elevation must be built using flood-resistant materials and certified by engineer or manufacturer;
  - c. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
  - d. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the regulatory flood elevation;
  - e. The accessory structure must comply with floodplain encroachment provisions in Section 5.9; and
  - f. The accessory structure must be designed with flood openings in accordance with Section 5.1.C.6.
- ii. Detached garages and accessory structures not meeting the above standards must be elevated in accordance with all applicable standards in Section 5.1.C.1.

**5. Mechanical and Utility Equipment**

Mechanical and utility equipment including electrical, heating, ventilation, plumbing, air conditioning equipment, duct work, and other service facilities shall be elevated at or above the regulatory flood elevation or designed so as to prevent water from entering or accumulating within the equipment components during flooding conditions.

**6. Flood Openings**

All new construction and substantial improvements with fully enclosed areas below the lowest floor, that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. The use of these areas is limited to parking of vehicles, building access and storage. Designs for meeting this requirement must meet or exceed the following criteria:

- a. 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;
- b. The bottom of all openings shall be no higher than one foot above either interior or exterior grade;
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices

certified for flood venting provided that they permit the automatic entry and exit of floodwater; and

- d. The interior grade shall be no more than 3 feet below the bottom of the vent and no more than 4 feet below the exterior grade.

#### **D. Erosion Protection**

Development shall be designed and constructed to withstand flood related erosion. The methods of erosion protection shall be consistent with Public Works Standards, Volume III, State Standard 7-98 and State Standard 5-96.

### **5.2 STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT**

- A. The storage or processing of materials that is, in times of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life if released during flooding is prohibited.
- B. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.
- C. Aggregate and other earthen material shall be compacted and otherwise protected to prevent erosion and transport.

### **5.3 STANDARDS FOR UTILITIES**

- A. All new or replacement utility systems and connections including gas and electric lines, water wells, tanks, and pipes 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.

### **5.4 STANDARDS FOR SUBDIVISIONS AND MANUFACTURED HOME AND RV PARKS**

- A. All new subdivision and park proposals and other proposed development (including proposals for manufactured home and recreational vehicle parks and subdivisions) shall also have or show:
  - 1. All street improvements shall be at an elevation at or above the base flood elevation with a minimum of one all-weather access as defined by Yuma County Public Works Standards;
  - 2. All portions of lots used for building structures, manufactured homes or recreational vehicle parking or placement shall be elevated at or above the regulatory flood elevation

and an elevation certificate prepared for each lot;

3. No portion of new subdivisions shall be permitted in a floodway except for uses as defined in Section 5.8.B;
  4. The area of the SFHA and the elevation of the base flood;
  5. On the final plats, the elevation(s) of the proposed structure(s) and pads certified by a surveyor or engineer on an elevation certificate; and
  6. If the site is filled above the base flood elevation, the final lowest floor and grade elevations and compaction shall be verified and certified by an 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.
  - C. 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.
  - D. All subdivision proposals and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.
  - E. New Manufactured Home or Recreational Vehicle Parks or Subdivisions are prohibited in the floodway.

#### **5.5 STANDARDS FOR MANUFACTURED HOMES**

All manufactured homes including pits, basements and attendant mechanical, plumbing, electrical, utilities, and equipment, water and sanitary facilities, that are placed on site or substantially improved shall:

- A. Be elevated, with compacted fill, stem walls, or pilings, so that the bottom of the structural frame or support beam, the lowest point of mechanical and utility equipment, or bottom of a fully-enclosed pit, whichever is lowest, is at or above the regulatory flood elevation;
- B. Have adequate erosion protection based on site conditions;
- C. 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. Masonry block and brick piers shall be steel-reinforced, and grouted filled to prevent pier movement. These requirements are in addition to applicable state and local anchoring requirements for resisting wind forces;
- D. Not be placed within a floodway; and

- E. Be approved by the Office of Manufactured Housing prior to placement.
- F. If pilings are used:
  1. The lot shall be large enough to permit steps,
  2. The pilings shall be placed in stable soil no more than ten feet apart, and
  3. Reinforcement shall be provided for pilings more than six feet above ground level; and
- G. If compacted fill is used:
  1. The filled area shall be large enough to permit an open area of 25 feet around the unit, and
  2. Compaction shall be certified by an engineer.

**5.6 STANDARDS FOR RECREATIONAL VEHICLES**

All recreational vehicles placed on site shall:

- A. Be on site for fewer than 180 consecutive days and 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 skirting; or
- B. Meet the permit requirements of Section 4.0 and 5.5.

**5.7 STANDARDS FOR SAND AND GRAVEL EXTRACTION**

The following standards shall apply to operations to extract sand and gravel or other materials within the floodplain:

- A. Applicant shall show that excavations will not have a cumulative adverse impact nor be of such depth, width, length, or location as to present a hazard to life or property or to the watercourse in which they are located;
- B. Excavations shall not be permitted so close to any floodplain crossings, utilities, structures, or facilities as to cause or have the potential to cause an adverse effect on such;
- C. Protective measures may be taken to reduce the setback from floodplain crossings, utilities, structures, or facilities;
- D. No stockpiling of tailings overburden or sand and gravel which may obstruct, divert, or retard the natural flow of tributaries to the main watercourse except as specifically approved by the Floodplain Administrator in a particular Floodplain Use Permit shall be permitted;
- E. Dikes or levees are permitted within the floodway fringe provided it can be shown by the applicant that such dikes or levees will not adversely affect structures, road or utility crossings,

other public or private property, will not cause erosion or diversion of flood flows onto property outside the delineated floodplain, and will not create a danger to life and property;

- F. Dikes or levees are not permitted within the floodway; and
- G. A plan of development shall be submitted with the Floodplain Use Permit application including:
  - 1. Engineered site plan;
  - 2. Sediment transport analysis;
  - 3. Reclamation plan to leave the land, when the approved use is terminated, in a stabilized condition by backfilling, contouring, leveling, removal of equipment and materials or other appropriate means;
  - 4. Any significant change; meaning a change that alters the volume or direction of flow, floodplain limits or depth, or otherwise changes the flood potential anywhere within the community; to an active plan of development shall require an application to amend that plan of development;
  - 5. In order to control erosion and preserve the natural and beneficial functions of the floodplain, removal of vegetation shall be the minimum necessary for the development;
  - 6. The plan of development is subject to post-flood review and possible modification or revocation if necessary due to flood related changes in river morphology; and
  - 7. The plan of development shall show erosion setbacks that meet Arizona State Standards 5-96 or as determined by an engineer.

## **5.8 ADDITIONAL STANDARDS FOR DEVELOPMENT WITHIN FLOODWAYS**

Located within areas of special flood hazard established in Section 3.2 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 additional provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements and other development, unless:
  - 1. Certification by an 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 a variance is issued by the Board, or
  - 2. The District agrees to the applicant submitting to FEMA for a CLOMR, CLOMA, or PMR and FEMA approval is received and the applicant provides all necessary submittal information, data, analyses, mapping, fees and other costs in relation to the application, and the

applicant posts a bond in the amount of \$50,000 for the completion of floodplain/floodway delineation. The applicant must also provide all necessary submittal information, data, analyses and mapping to FEMA and handle all costs related to the final LOMR, LOMA, or PMR;

- B. The following uses are allowable in a floodway without a variance:
  - 1. Livestock pasturing and grazing,
  - 2. Agricultural crop growing except orchard type crops,
  - 3. Excavations relating to sand and gravel operations (Renewable 1 year permits),
  - 4. Recreational uses such as golf courses, parks, boat ramps and target ranges,
  - 5. Accessory residential uses such as lawns, gardens and play areas,
  - 6. Flood and erosion control projects and facilities,
  - 7. Marinas, boat rentals, docks, piers and wharves, and
  - 8. Fencing that is open or breakaway to allow for conveyance; and
- C. The following are prohibited, in part or whole, within the floodway:
  - 1. Manufactured Home placement is prohibited within the floodway,
  - 2. Waste disposal systems, and
  - 3. Any structure with a lowest floor below the regulatory flood elevation.

#### **5.9 ADDITIONAL STANDARDS FOR ENCROACHMENTS**

Within the SFHA for which a floodway has not been delineated, no new construction, substantial improvements or other development, including fill, shall be permitted unless:

- A. The applicant demonstrates that the cumulative effect of the proposed developments, when combined with all other existing and anticipated developments, will not increase the water surface elevation of the base flood more than one foot at any location, within the cross section with the demonstration being a technical evaluation and a certification from an engineer provided to the Floodplain Administrator, or
- B. The District agrees to the applicant submitting to the FEMA for a CLOMR, CLOMA, or a PMR and FEMA approval is received and the applicant provides all necessary submittal information, data, analyses, mapping, fees and other costs in relation to the application, and the applicant posts a bond in the amount of \$50,000 for the completion of floodplain delineation. The

applicant must also provide all submittal information data, analyses, and mapping to FEMA and handle all costs related to the final LOMR, LOMA, or PMR.

#### **5.10 ADDITIONAL STANDARDS FOR DEVELOPMENT WITHIN DENSITY FLOODWAY**

The following additional standards shall apply to the SFHA of the Gila River identified on the FIRM and described in Section 3.2.A.3 as being a density floodway and having the following special floodplain management regulation in effect:

- A.** Within the boundaries of the density floodway, no more than six (6) structures shall be permitted on 20 acres;
- B.** The average size of the structures is not to be more than 1,000 square feet. The finished floor shall be at or above the regulatory flood elevation;
- C.** The maximum allowable continuous fill for all new construction and development shall equal no more than 50 percent of the length of the pre-divided parcel, lot or property measured perpendicular to the flow of the river at flood stage;
- D.** For major developments, those exceeding 3,000 square feet or 200 feet of filled area in any dimension, a comprehensive technical analysis shall be performed by an engineer which demonstrates that the overall conveyance through the site is not reduced by more than 50 percent;
- E.** No additional fill beyond that authorized by Sections 5.10.C or 5.10.D shall be permitted unless a comprehensive technical analysis is performed by an engineer to demonstrate that no net loss of conveyance across any cross-section will result;
- F.** The fill shall be protected with riprap and embankment protection to address possible erosion with plans prepared and reviewed and signed by an engineer;
- G.** Roads, fences or other construction within the density floodway shall require a design and calculations by an engineer demonstrating no major impediment to conveyance and flow;
- H.** The configuration or orientation of all development and new construction within each lot, parcel, or property shall be located, as much as practical, on one of the higher areas of the lot, parcel, or property, and oriented in such a way that its location and orientation minimize the loss of effective conveyance for the entire reach of the density floodway. Clusters of structures shall be aligned in rows that are all parallel to the general direction of flow;
- I.** The main channel of the river, defined by the areas between the levees, is a floodway and the requirements of Section 5.8 apply; and
- J.** A development restriction easement with an exhibit identifying the easement limits, existing and proposed structures and improvements, and any drainage structures and channels shall be recorded, prohibiting any future development in the area set aside for open floodplain. The

size of the easement shall be proportionate to 20 acres per 6,000 square feet of structure (3.33 acres per 1,000 square feet) in accordance with this section.

## **5.11 ADDITIONAL STANDARDS FOR DEVELOPMENT WITHIN COLORADO RIVER FLOODPLAIN**

### **A. Colorado River Floodway**

Since the Colorado River Floodway has, under flood conditions, proven to be an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following additional provisions apply to the Colorado River Floodway:

- 1.** Encroachments, including fill, new construction, substantial improvements, and other development are prohibited. Necessary river control, water conservation, power, water quality structures and related works, and improvements and alterations to approved structures associated with allowed uses of the floodway under Section 5.11.A.2 are excluded from this prohibition if they follow the NFIP Floodway Revision process described in 44CFR 65.12 for a Conditional Letter of Map Revision and the proposed project is reviewed and concurred with by the Bureau of Reclamation and approved by the community. Within 6 months of the completion of the approved project, the as-built data for the project must be submitted for a Letter of Map Revision to assure the accurate depiction of the Colorado River Floodway on the Flood Insurance Rate Maps;
- 2.** Allowed uses of the floodway may include functions and uses that serve the public interest, that are compatible with the floodway operation, and that will not cause a rise in the Colorado River base flood elevation. These may include river control, water conservation and diversion, power and water quality structures and related works; remedial or corrective actions including, but not limited to, drainage facilities to assist in controlling adjacent high ground water conditions caused by flood flows; public and tribal roads; military activities; fish and wildlife enhancement projects; navigational aids; emergency action assistance; public health assistance; compatible public, private and tribal recreational developments such as parks, golf courses, docks and boat launching ramps; and compatible agricultural uses that do not include permanent crops which would constitute an obstruction to river flood flows; and
- 3.** The floodplain administrator shall require permits for proposed development that is allowed by Section 5.11.A.1 & 5.11.A.2. The proposed development must be reviewed and concurred with by the Bureau of Reclamation to assure compatibility with the floodway operation prior to approval of the permit(s).

### **B. Colorado River Floodway Fringe**

The following additional provisions apply to the Colorado River Floodway Fringe:

- 1.** Fill, permanent structures or buildings, including residential structures, may be placed or erected in the Colorado River Floodway Fringe, provided, in the case of buildings, that the

elevation of the lowest floor (including basements) is at least one foot above the Colorado River Base Flood Elevation; and

2. Land may be filled, provided the top of the compacted fill shall at no point be below the Colorado River Base Flood Elevation for at least twenty-five feet beyond the limits of any structure erected or placed thereon.

### **C. Flood-Related Erosion-Prone Areas of the Colorado River**

The following additional provisions apply to the flood-related erosion-prone areas of the Colorado River:

1. Provide analysis prepared by an engineer showing whether the proposed site alterations and improvements are reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard;
2. If a proposed improvement is in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard;
3. A setback from the floodway is required for all new development to create a buffer and to provide access to the floodway for possible maintenance and improvements work. The buffer may consist of natural vegetation or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rates in relation to the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as agriculture, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only; and
4. A waiver to the setback requirements may be granted if it can be demonstrated that adequate erosion and flow velocity protection can and will be constructed and maintained, and provided that the erosion protection meets the applicable parts of 44CFR Section 65.5(a)(6). All plans for erosion and flow velocity protection must have the review and concurrence of the Bureau of Reclamation and be reviewed and approved by the Floodplain Administrator.

**SECTION 6.0**  
**CLARIFICATION, COMPLAINT, APPEAL, AND VARIANCE PROCEDURES**

Any regulated person may seek assistance from the District and Board to understand this regulation and relief from this regulation or the Floodplain Administrator’s interpretation thereof. This section provides the procedure for seeking clarification of interpretation, submitting a complaint regarding these regulations, and making an appeal for interpretation or variance to the Board.

**6.1 CLARIFICATION OF INTEPRETATION**

- A.** A person may request the Floodplain Administrator to clarify its interpretation or application of a statute, ordinance, regulation, executive order, delegation agreement or authorized substantive policy statement affecting the procurement of a FPU permit by providing a written request stating:
  - 1. Name and address of the person requesting the clarification;
  - 2. Reference to the statute, ordinance, or regulation requiring clarification;
  - 3. Any facts relevant to the requested clarification;
  - 4. Proposed interpretation, if applicable; and
  - 5. Whether the request for clarification is related to an application or other issue under review by the District.
  
- B.** Within 30 days of receipt of a written request that complies with Section 6.1.A, the District will issue a written explanation of its interpretation or application of the referenced statute. The clarification may interpret:
  - 1. The Floodplain Regulations if the meaning of a word, phrase or section is in doubt; or
  - 2. The location of a floodplain or floodway (Map Determination Fee applies).
  
- C.** The Floodplain Administrator will meet with the person requesting clarification if a meeting is desired.
  
- D.** An appeal to the clarification of interpretation may be made to the Board.

**6.2 SUBMITTING A COMPLAINT**

- A.** A person may submit a complaint to the Board of Review when the person alleges the District’s regulations, substantive policy statements, or practices violate the Regulatory Bill of Rights. A complaint is made by providing a written complaint stating:

1. Name and address of the person making the complaint;
2. Reference to the regulation, substantive policy statement, or practice alleged to violate the Regulatory Bill of Rights;
3. Any facts relevant to the complaint; and
4. Whether the complaint is related to an application or other issue under review by the District.

**B.** The Board of Review may:

1. Review the District's regulations, substantive policy statements or practices alleged to violate the Regulatory Bill of Rights;
2. Hold hearings regarding the allegations; and
3. Recommend actions to the Board to alleviate the aspects of the regulations, substantive policy statements, or practices found to violate the Regulatory Bill of Rights.

**6.3 APPEALS TO THE BOARD**

**A.** Any person may appeal to the Board when, the person alleges:

1. There is error or doubt in the interpretation of this regulation; or
2. Due to unusual circumstances related to a property, a hardship is being inflicted to the said property.

**B.** A person submits an appeal by written request stating:

1. Name and address of the person making the complaint;
2. Reference to the regulation, substantive policy statement, or practice which is the subject of the appeal;
3. Whether the appeal is a request for interpretation or a variance;
4. Proposed interpretation, if applicable;
5. Description of hardship to be remedied by variance, if applicable;
6. Any facts relevant to the appeal; and
7. Whether the appeal is related to an application or other issue under review by the District.

**C. The Board shall:**

- 1.** Hear and decide requests for variances from the requirements of this regulation;
- 2.** Hear and decide appeals when:
  - a. it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator, Hearing Officer, or Board of Review in the enforcement or administration of this regulation,
  - b. the meaning of a word, phrase or section of this regulation is in doubt, or
  - c. the location of a floodway or floodplain is in doubt;
- 3.** In passing decisions upon such applications, consider
  - a. The nature, terms, and conditions of variances;
  - b. All technical evaluations, relevant factors, and standards specified in other sections of this regulation;
  - c. The danger that materials may be swept onto other lands to the injury of others;
  - d. The danger of life and property due to flooding or erosion damage;
  - e. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - f. The importance of the services provided by the proposed facility to the community;
  - g. The necessity to the facility of a waterfront location, where applicable;
  - h. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
  - i. The compatibility of the proposed use with existing and anticipated development;
  - j. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - k. The safety of access to the property in time of flood for ordinary and emergency vehicles;
  - l. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
  - m. 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, water system and streets and bridges; and,

- n. Yuma County's continued eligibility in the National Flood Insurance Program and receive state and federal disaster relief;
4. Give written notice to any applicant to whom a variance is granted, over the signature of a community official that:
    - a. 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 (\$25,000 annual premium for \$100,000 worth of coverage), and
    - b. Such construction below the base flood level increases risks to life and property; and
  5. Record variances with any conditions and notices.
- D. Upon consideration of the factors of Section 6.3.C.3 and 6.4 and the purposes of this regulation, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this regulation, to reduce or eliminate the potential danger or hazard to life or property, and so that the variance does not constitute a grant of special privilege. Examples of conditions are:
1. Modification of waste disposal and water supply facilities;
  2. Limitations on periods of use and operation;
  3. Limitations on methods of operation;
  4. Imposition of operational controls such as limits on evacuation time;
  5. Requirements for construction and perpetual maintenance of development and flood control facilities;
  6. Requirements for specific floodproofing measures designed to be consistent with the base flood elevation, flowrates, forces and other factors related to the site and floodplain;
  7. Indemnification agreements whereby the applicant agrees to hold Yuma County, the District, the Board and their officers, employees, and agents harmless and defend from any and all claims for damages now and in the future relating to the use of property sought to be developed whether surface, flood or rainfall;
  8. Requirements for surety bonds or other financial commitments to guarantee performance and conditions of variance and agreements; and
  9. Requirements for recorded development restrictions to be placed on the parcel.

- E. 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.

#### **6.4 NATURE, TERMS, AND CONDITIONS OF VARIANCES**

- A. The variance criteria set forth in this section of the regulation 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 regulation 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 Board 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 regulation 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 regulation 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.
- C. Economic or financial hardship, personal considerations, convenience, preferences, disabilities, aesthetics, or disapproval of one's neighbors are not exceptional, unusual, and peculiar hardships and should not be the basis for granting a variance.
- D. 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.
- E. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- F. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- G. Variances shall only be issued upon a:
  - 1. Showing of good and sufficient cause;
  - 2. 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 as defined by “Functionally Dependent Use”;
  4. 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 regulations, a special privilege, or is the result of a self imposed condition;
  5. Determination that the variance will not violate the National Flood Insurance Program requirements or Arizona Revised Statutes;
  6. Determination that the variance will not confer a special privilege not commonly enjoyed by other properties within the District; and
  7. Basis of sound floodplain management principles and practices.
- H. A variance shall expire and shall be void one year following the date in which the variance becomes effective unless:
1. The Board sets a longer expiration date in conjunction with a schedule for development; or
  2. Prior to the expiration date, substantial progress is commenced and an application is made to extend the variance.

## **6.5 APPEALS TO SUPERIOR COURT**

Any person aggrieved in any manner by an action of the Board may within thirty days appeal to the Yuma County Superior Court, and the matter shall be heard anew as appeals from courts of justices of the peace in accordance with ARS § 48-3615.02.

**SECTION 7.0**  
**ADOPTION RESOLUTION**

PLEASE RETURN ORIGINAL DOCUMENT TO  
THE BOARD OF SUPERVISORS OFFICE  
ATTENTION: Yolanda Duran  
928-373-1133



# REQUEST FOR RECORDATION

## TYPE OF DOCUMENT:

RESOLUTION NO. 2012-42  
with  
Exhibit "A"  
Floodplain Regulations

A RESOLUTION OF THE YUMA COUNTY FLOOD  
CONTROL DISTRICT ADOPTING AMENDMENTS  
AND REVISIONS TO THE YUMA COUNTY  
FLOODPLAIN REGULATIONS

## DOCUMENT APPROVAL:

Adopted: November 5, 2012, Item No. D1



YUMA COUNTY FLOOD CONTROL DISTRICT  
BOARD OF DIRECTORS

RESOLUTION NO. 2012-42

A RESOLUTION OF THE YUMA COUNTY FLOOD CONTROL  
DISTRICT ADOPTING AMENDMENTS AND REVISIONS TO  
THE YUMA COUNTY FLOODPLAIN REGULATIONS.

- WHEREAS:** The Board of Supervisors of the County of Yuma ("Board") established on August 21, 1978, the Yuma County Flood Control District ("District") in accordance with A.R.S. §§ 48-3601 et. seq.; and
- WHEREAS:** The Board of Supervisors and the District Board of Directors adopted on February 9, 1984, the Floodplain Regulations for Yuma County, Arizona as defined in A.R.S. §48-3601(6) and in accordance with A.R.S. §§48-3603(D) and 3609; and
- WHEREAS:** In order to comply with any and all requirements of 42 U.S.C. §§ 4001, et. seq. (National Flood Insurance Program) and A.R.S. §48-3601 et. seq., so to remain eligible for any state and federal disaster relief, it is necessary to amend and revise Sections 1.0-6.0 of the Floodplain Regulations for Yuma County, Arizona as specified in Exhibit "A" attached hereto and incorporated herein; and
- WHEREAS:** In order to incorporate standards to specifically establish a Floodplain Administrator, Floodplain Use Permit, Hearing Officer, Board of Review, Board of Appeals, and duties thereof; and
- WHEREAS:** In order to establish specific duties and processes related to Floodplain Management within Yuma County, Arizona including permitting, recordkeeping, clarification of regulations, handling complaints, appeals, and variances; and
- WHEREAS:** The notice and hearing requirements addressed in A.R.S. §48-3609(E) have been met.

**NOW, THEREFORE, IT IS RESOLVED** that the Yuma County Flood Control District Board of Directors hereby adopts the amendments and revisions to the Floodplain Regulations for Yuma County, Arizona as described within Exhibit "A", attached hereto and incorporated herein, for use in Yuma County, Arizona; and

**BE IT FURTHER RESOLVED**, that the effective date of this resolution shall be December 31, 2012.

Adopted this 5<sup>th</sup> day of NOVEMBER 2012.

  
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GREGORY S. FERGUSON, Chairman

ATTEST:

  
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ROBERT L. PICKELS, JR.  
County Administrator/Clerk of the Board

APPROVED AS TO FORM AND DETERMINED TO BE WITHIN THE SCOPE OF  
PERFORMANCE OF DUTY OF THE YUMA COUNTY FLOOD CONTROL DISTRICT  
BOARD OF DIRECTORS:

  
\_\_\_\_\_  
EDWARD P. FEHELEY  
Flood Control District Attorney