

ORDINANCE NO. O2021-013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 151 OF THE YUMA CITY CODE, AS AMENDED, RELATING TO FLOODPLAIN ADMINISTRATION WITHIN THE CITY LIMITS OF THE CITY OF YUMA

WHEREAS, orderly development of land necessitates installation and/or modification of public improvements; and,

WHEREAS, construction of public improvements in accordance with established floodplain regulations is necessary for the protection of health, property, safety and welfare of the general public in the City of Yuma; and,

WHEREAS, it is necessary to periodically review and update the floodplain administration regulations to coincide with changes in federal and state requirements; and,

WHEREAS, the Arizona Department of Water Resources (ADWR) has established a state model floodplain code for local agency use; and,

WHEREAS, the City of Yuma and ADWR conducted a Community Assistance Contact review of City of Yuma Code Chapter 151 for compliance with the state model floodplain code on December 1, 2020 and determined Chapter 151 required updates for the City of Yuma to be in compliance,

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma, as follows:

SECTION 1: Yuma City Code, Chapter 151 is amended to insert the following bolded text and delete the strikethrough text:

General Provisions

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- 151-29 Colorado River floodway fringe
- 151-30 Flood-related erosion-prone areas of the Colorado River
- 151-99 Penalty

§ 151-01 Findings of Fact.

(A) The ~~Special Flood Hazard Areas flood hazard areas~~ of the ~~city~~ **City of Yuma** 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 tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in ~~areas of special flood hazards~~ **Special Flood Hazard Areas** which increase flood heights and velocities, and when inadequate anchored, cause damage in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage, also contribute to the flood loss. (Ord. O2006-53, passed 8-16-06)

§ 151-02 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed 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, streets and bridges located in **Special Flood Hazard Areas** ~~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~~ **Special Flood Hazard Areas** as to minimize blight areas caused by flooding;

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

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

~~(GI)~~ **Participate in and maintain** eligibility for **flood insurance and** disaster relief.
(Ord. O2006-53, passed 8-16-06)

§ 151-04 Definitions.

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

"A" ZONE. See *SPECIAL FLOOD HAZARD AREA*.

ACCESSORY STRUCTURE, LOW-COST AND SMALL. A structure **on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.** ~~that is:~~

~~—(1) Solely for the parking of no more than two cars; or limited storage (small, low-cost sheds); and~~

~~—(2) Less than 400 square feet in area and \$20,000 in value.~~

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

AREA OF SHALLOW FLOODING. A designated **Zone AO, or AH, AR/AO, or AR/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. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. ThesesThese 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 ADWR. (See SPECIAL FLOOD HAZARD AREA)~~

BASE FLOOD. A flood, which as a one percent chance of being equaled or exceeded in any given year (also called the *100-YEAR FLOOD*).

BASE FLOOD ELEVATION (BFE). **The computed elevation to which floodwater is anticipated to rise during the base flood.** ~~elevation shown on the FIRM for Zones AE, AH, A1-30, VE and V1-V-30 that indicates the water surface elevation resulting from a flood that has a one percent of greater chance of being equaled or exceeded in any given year.~~

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

BUILDING. See *STRUCTURE*.

CITY. The City of Yuma, being in Yuma County, State of Arizona.

COLORADO RIVER BASE FLOOD ELEVATION. The flood elevation having a one percent chance of being equaled or exceeded in any given year or a flow of 40,000 cubic feet per second (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 are necessary to safely convey the floodway flow of either a one in 100-year flow consisting of controlled releases and tributary inflow, or a flow of 40,000 cubic feet per second (cfs), whichever is greater.

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.

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.

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

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

EROSION. The **process of the gradual** wearing away of land **masses.** ~~surface by running water, wind or other geological agents.~~ This peril is not, per se, covered under the **National Flood Insurance Program.** ~~program.~~

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

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

~~—FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). The official map on which FEMA or the Federal Insurance Administration (FIA) has delineated both the areas of special flood hazards and the floodway.~~

FLOOD INSURANCE RATE MAP (FIRM). The official map **of a community** on which **the**

Federal Emergency Management Agency (FEMA) ~~or FIA~~ has delineated both the ~~areas of special flood hazards~~ **Special Flood Hazard Areas** and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). The official report provided by FEMA that includes flood profiles, FIRMs, ~~FBFMs~~ and the water surface elevation of the base flood.

FLOODPLAIN or FLOOD-PRONE AREAS. Any land area susceptible to being inundated by water from any source. See **FLOOD or FLOODING**.

FLOODPLAIN ADMINISTRATOR (FPA). The community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN BOARD (FPB). The City Council of the City of Yuma, at such times as they are engaged in the enforcement of this chapter.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

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

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

FLOODWAY. The 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**.

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

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

HARDSHIP. As related to §§ 151-25 through 151-27 of this chapter, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Yuma City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot,

as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of 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.

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

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE.**

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

MARKET VALUE. **Replacement cost of a structure less depreciation since construction.** ~~Defined in the substantial damage and substantial improvement procedures.~~

MEAN SEA LEVEL. For purposes of the **National Flood Insurance Program (NFIP)**, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which ~~base flood elevations~~ **Base Flood Elevations** shown on a community's ~~flood insurance rate map~~ **FIRM** 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 FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

OBSTRUCTION. Including, but not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or

velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

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

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.

RECREATIONAL VEHICLE. A vehicle which is:

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

REGULATORY FLOOD ELEVATION (RFE). An elevation one foot above the BFE ~~for a watercourse for which the BFE has been determined and shall be determined by the criteria developed by the Director of the ADWR 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.

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). An area in the floodplain subject to a one percent or greater chance of flooding in any given year. **These areas are designated as Zone A, AE, AO, AH, A1-30 or A99 on the FIRM.** ~~It is shown on a FBFM or FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.~~

START OF CONSTRUCTION. Includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

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

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other

improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the NGVD of 1929, the 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.

ZONE A. No Base Flood Elevations determined.

ZONE AE. Base Flood Elevations determined.

ZONE AH. Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.

ZONE AO. Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.

ZONE AR. Special Flood Hazard Area formerly protected from the one-percent annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the one-percent annual chance or greater flood.

ZONE A99. Area to be protected from one-percent annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.

ZONE D. Areas in which flood hazards are undetermined, but possible.

ZONE X (UNSHADED). Areas determined to be outside the 0.2% annual chance floodplain.

ZONE X (SHADED). Areas of 0.2% annual chance flood; areas of one-percent 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 one-percent annual chance flood.

(Ord. O2006-53, passed 8-16-06)

§ 151-05 Lands to Which This Chapter Applies.

This chapter shall apply to all ~~areas of special flood hazards~~ **Special Flood Hazard Areas** within the corporate limits of the City of Yuma.

(Ord. O2006-53, passed 8-16-06)

§ 151-06 Basis for Establishing the Areas of Special Flood Hazard.

The **Special Flood Hazard Areas** ~~areas of special flood hazard~~ identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for the City of Yuma, Arizona", dated **January 16, 2014**~~November 15, 1985~~, with the accompanying Flood Insurance Rate Maps (FIRM), **updated to the most current version**, ~~dated November 15, 1985~~, and the area of 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 amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the FPB by the FPA. The FPB, within its area of jurisdiction, shall delineate (or may, by rule, require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by FEMA and the Director of the ADWR. The **FIRMs (number 04027C1540E) are available on the FEMA website at <https://msc.fema.gov/portal/home> (dynamic mapping) or <https://msc.fema.gov/portal/advanceSearch> (FIRM map panels)**. FIS and FIRM panels are on file at the City Clerk Office, One City Plaza P.O. Box 13012 Yuma, AZ 85366-3012**285364** or at the City of Yuma Department of Public Works, 155 W. 14th Street, Yuma, AZ 85364. (Ord. O2006-53, passed 8-16-06)

§ 151-10 Disclaimer of Liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the **Special Flood Hazard Areas** ~~areas of special flood hazards~~ or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, the State of Arizona or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. O2006-53, passed 8-16-06)

§ 151-11 Statutory Exceptions.

(A) In accordance with A.R.S. § 48-3609~~(H)~~, unless expressly provided, this and any regulation adopted pursuant to this chapter 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 12 months, or destroyed to the extent of 50% of its value as determined by a competent appraiser, any further use shall comply with this chapter and regulations of the Yuma City Council;

(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% or more shall be either flood-proofed or elevated to or above the regulatory flood elevation;

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

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

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

(1) The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting 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 subsection 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 FPB pursuant to regulations adopted by the FPB under this chapter;

(4) Other construction upon determination by the FPB 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.

(C) In accordance with A.R.S. § 48-3613(D), in addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this section or regulations adopted pursuant to **A.R.S. Title 48, Chapter 21, Article 1.** ~~this subchapter.~~ If a person is found to be in violation of this section, the court shall require the violator to either comply with this section if authorized by the FPB or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

(Ord. O2006-53, passed 8-16-06)

§ 151-12 ~~Unlawful Acts~~ **Violations.**

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

floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.

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

(Ord. O2006-53, passed 8-16-06)

§ 151-13 Declaration of Public Nuisance Statute.

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

(Ord. O2006-53, passed 8-16-06)

§ 151-16 Designation of the Floodplain Administrator.

The City Engineer **or their designee** is hereby appointed to administer, implement and enforce this chapter by granting or denying development permits in accordance with its provisions.

(Ord. O2006-53, passed 8-16-06)

§ 151-17 Duties and Responsibilities of the Floodplain Administrator (FPA).

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

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

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

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

(B) *Substantial improvement and substantial damage procedures.* **Review all development permits for improvements and/or damages to existing structures to determine if the application of the substantial improvement rules apply, including establishing a definition of market value determination and verifying that the estimated improvement and/or repair costs are less than 50% of the market value of the structure.**

~~—(1) Develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining market value.~~

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

(C) *Use of other base flood data.* When BFE data has not been provided in accordance with § 151-06, the FPA shall obtain, review and reasonably utilize any BFE data available from a federal, state or other source, in order to administer §§ 151-18 through 151-24. Any such information shall be consistent with the requirements of FEMA and the Director of the ADWR and shall be submitted to the FPB for adoption.

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

- (1) The certified RFE required in § 151-18(C)(1) **& § 151-22.**
- (2) The floodproofing certification required in § 151-18(C)(2).

- (3) The flood vent certification required in Section 151-18(C)(3)(a).
- (4) The elevation certification required for additional development standards, including subdivisions, in § 151-21(A)(2).
- (5) The floodway encroachment certification required in § 151-24(A).
- (6) ~~Maintain a record~~ **Records** of all variance actions, including justification for their issuance, ~~and report such variances issued in its biennial report submitted to FEMA.~~
- (7) ~~Obtain and maintain improvement~~ **Improvement and damage** calculations **required in § 151-17(B).**

(E) *Notification of other entities.*

- (1) Whenever a watercourse is to be altered or relocated:
 - (a) Notify adjacent communities and the ADWR prior to such alteration or relocation of a watercourse, and submit evidence of such notification to FEMA through appropriate notification means; and

- (b) Assure that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.

- (2) BFE and rate of flow due to physical alterations:

- (a) BFEs 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 FPA shall notify FEMA of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

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

- (3) Corporate boundary changes. Notify FEMA and the ADWR of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

(F) *Map determinations.* Make interpretations, where needed, as to the exact location of the ~~boundaries of the areas of special flood hazards~~ **Special Flood Hazard Areas** (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in §§ 151-25 through 151-27.

(G) *Remedial actions.* Take actions on violations of this ordinance as required in § 151-14 herein.

~~(H) Biennial report. Complete and submit a Biennial Report to FEMA.~~

~~(H)~~ *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 §§ 151-28 through 151-30, including the review and concurrence by the Bureau of Reclamation before any proposed development in the Colorado River Floodway is permitted.

~~(H)~~ *Establishment of development permit.* A development permit shall be obtained before construction or development begins, including placement of manufactured homes, within any

~~area of special flood hazard~~ **Special Flood Hazard Area** established in § 151-06. Application for a development permit shall be made on forms furnished by the FPA and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

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

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

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 151-18(C)(2);

(4) BFE data for subdivision proposals or other development greater than 50 lots or five acres, **whichever is the lesser**; and

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

(Ord. O2006-53, passed 8-16-06)

§ 151-18 Standards for Construction.

In all ~~areas of special flood hazards~~ **Special Flood Hazard Areas** the following standards are required:

(A) *Anchoring.*

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

(2) All manufactured homes shall meet the anchoring standards of § 151-22(B).

(B) *Construction materials and methods.*

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

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

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

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

(C) *Elevation and floodproofing.*

(1) *Residential construction.*

(a) Residential construction, new or substantial improvement, shall have the lowest floor, including basement, **elevated to or above the RFE**:

1. In an AO Zone, **the Base Flood Elevation is determined from the FIRM panel** ~~elevated to or above the RFE~~, or elevated at least two feet above the highest adjacent grade if ~~no~~

~~depth number is specified~~ **unspecified.**

2. In an A Zone where a BFE has not been determined, elevated to or above the RFE ~~or be elevated in accordance with the criteria developed by the Director of the ADWR.~~

3. In Zones AE; ~~and AH and A1-30, elevated to or above the RFE,~~ **the BFE is determined from the FIS and/or FIRM.**

4. A garage attached to a residential structure, constructed with the garage floor slab below the RFE, must be designed to allow for the automatic entry and exit of flood waters and must be used solely for parking, access and/or storage. See § 151-18(C)(3)

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

(2) *Non-residential construction.* Nonresidential construction, new or substantial improvement, shall **have the lowest floor** either be elevated to conform with § 151-18(C)(1), or together with attendant utility and sanitary facilities:

(a) Be floodproofed below the elevation recommended under § 151-18(C)(1) so that the structure is watertight with walls substantially impermeable to the passage of water; **and**

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~;~~**and**

(c) **Upon completion of the structure, the elevation of the lowest floor including basement shall be** Be certified by a registered professional engineer or ~~architect~~ **surveyor** that the standards of this section are satisfied. Such certification shall be provided to the FPA.

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

(a) **For non-engineered openings:**

1. 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.

2. The bottom of all openings shall be no higher than one foot above grade.

~~1-3.~~ 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood water; or

(b) **For engineered openings:**

1. **Engineered openings (or covers and devices) that are specifically designed and certified by a registered engineer or architect as meeting the required performance and design requirements.**

~~1-2.~~ 2. **Engineered openings (or covers and devices) for which an Evaluation Report has been issued by the International Code Council (ICC) Evaluation Service, Inc. (ICC-ES), a subsidiary of the International Code Council, Inc.**~~If it is not feasible or desirable to meet the openings criteria stated above, a registered engineer or architect may design and certify the openings.~~

(4) *Manufactured homes.* Manufactured homes shall ~~also~~ meet the standards in § 151-22.

(5) *Garages and low cost accessory structures.*

(a) Attached garages.

1. A garage attached to a residential structure, constructed with the garage floor slab below the RFE, must be designed to allow for the automatic entry of flood waters. See § 151-18(C)(3). Areas of the garage below the RFE must be constructed with flood resistant materials. See § 151-18(B).

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

(b) Detached garages and accessory structures.

1. Accessory structure used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in § 151-04, may be constructed such that its floor is below the RFE, provided the structure is designed and constructed in accordance with the following requirements:

a. Use of the accessory structure must be limited to parking or limited storage;

b. The portions of the accessory structure located below the RFE must be built using flood-resistant materials;

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 RFE;

e. The accessory structure must comply with ~~floodplain~~ **floodway** encroachment provisions in § 151-24; and

f. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with § 151-18(C)(3).

2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in § 151-18.

3. Upon completion of the structure, certification by a registered professional engineer or surveyor, and verified by the community's building inspector to be properly constructed. Such certification and verification shall be provided to the FPA.

(6) Machinery and Service Equipment. All new construction, substantial improvement, and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing, 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.

(Ord. O2006-53, passed 8-16-06)

§ 151-20 ~~Utilities~~ **Water Supply and Wastewater Disposal Systems.**

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

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

(C) Waste disposal systems shall not be installed wholly or partially in a regulatory floodway. (Ord. O2006-53, passed 8-16-06)

§ 151-21 Additional Development Standards, Including Subdivisions.

(A) All new subdivisions proposals and other proposed development (including proposals for manufactured home parks and subdivisions), greater than 50 lots or five acres, whichever is

lesser, shall:

(1) Identify the ~~area of the special flood hazard~~ **Special Flood Hazard Areas** and the **BFE**, ~~and elevation of the base flood.~~

(2) Identify on the final plans the elevation(s) of the proposed structure(s) and the pads. If the site is filled above the BFE, the final lowest floor and **finished** grade elevations shall be certified by a registered professional engineer or surveyor and provided to the **FPA**. ~~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.

(Ord. O2006-53, passed 8-16-06)

§ 151-22 Standards for Manufactured Homes.

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

(A) Be elevated **to conform with Section 151-18(C)** so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the RFE; and

(B) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(C) Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor, and verified by the community's building inspector that the elevation requirements of this section have been satisfied. Such certification and verification shall be provided to the FPA.

(Ord. O2006-53, passed 8-16-06)

§ 151-23 Standards for Recreational Vehicles.

All recreational vehicles placed on site shall:

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

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

(C) Meet the permit requirements of §§ 151-16 and 151-17 of this chapter and the elevation and anchoring requirements for manufactured homes in § 151-22.

(Ord. O2006-53, passed 8-16-06)

§ 151-24 Floodways.

Located within ~~areas of special flood hazard~~ **the Special Flood Hazard Areas** established in § 151-06 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements and

other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of §§ 151-18 through 151-24. (Ord. O2006-53, passed 8-16-06)

§ 151-26 Appeal Board.

(A) The FPB of the Yuma City Council shall hear and decide appeals **when it is alleged there is an error in any requirement, decision, or determination made by the FPA in the enforcement or administration of this chapter.** ~~and requests for variances from the requirements of this chapter.~~

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

~~(C)~~ In ~~passing upon~~ **considering** such applications, the FPB shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

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

~~(D)~~ Upon consideration of the factors of § 151-26(C) and the purposes of this chapter, the FPB may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

(2) Such construction below the base flood level increases risks to life and property; ~~and~~

~~—(3) The land upon which the variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided by A.R.S. Title 26, Chapter~~

~~2, Article 2. A copy of the notice shall be recorded in the office of the Yuma County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.~~

(F) The FPA shall maintain a record of all variance actions, including justification for their issuance and report such variances issued in its biennial report submitted to FEMA.
(Ord. O2006-53, passed 8-16-06)

SECTION 2: It shall be unlawful for any person, firm or corporation to violate, or cause the violation of, any provision of this ordinance. Unless otherwise specifically provided for in this chapter, any person or firm or corporation violating any of the provisions in this ordinance shall be guilty of a class 3 misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$500 or by imprisonment for not more than one day or by both fine and imprisonment. Each day the violation shall continue shall constitute a separate offense or misdemeanor.

SECTION 3: If any part or portion of this ordinance is found invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining part or portion of this ordinance.

Adopted this _____ day of _____, 2021.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney