

**TITLE XIII  
FLOOD PLAIN REGULATIONS**

**CHAPTERS:**

**[13-1: FLOODPLAIN REGULATIONS](#)**

## CHAPTER 13-1: FLOODPLAIN REGULATIONS

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**13-1-1: TITLE AND PURPOSE:**

A chapter for the city of Prescott of Yavapai County, Arizona, delineating floodplains and providing for the regulation of use of land, construction of dwellings, commercial or industrial structures, or uses which may divert, retard or obstruct floodwater and threaten public health, safety or the general welfare, and providing for the establishment of minimum flood protection elevations and flood damage prevention requirements for uses, structures and facilities which are vulnerable to flood damage; providing for the coordination by the floodplain board with all other interested and affected political subdivisions and state agencies. (Ord. 1188, 6-27-1977)

**13-1-2: SHORT TITLE:**

These regulations may be cited as the *FLOODPLAIN REGULATIONS FOR THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA.* (Ord. 1188, 6-27-1977)

**13-1-3: 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:

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

**APPEAL:** A request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

**AREA OF JURISDICTION:** All the lands within the corporate limits of the city of Prescott.

**AREA OF SHALLOW FLOODING:** A designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one foot (1') to three feet (3'); a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. This area is designated as zone A, AE, AH, and AO on the FIRM and other areas determined by the criteria adopted by the director of water resources.

**BACKFILL:** The placement of fill material within a specified depression, hole or excavation pit below the surrounding adjacent ground level as a means of improving floodwater conveyance or to restore the land to the natural contours existing prior to excavation.

**BASE FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**BASEMENT:** Any area of the building having its floor subgrade (below ground level on all sides).

**BREAKAWAY WALL:** Any type of wall, for use under a manufactured home, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is so designed as to break away, during the base flood, without damage to the structural integrity of the building on which it is used or any structures to which it might be carried by floodwaters.

**CITY ENGINEER:** As used in this Chapter, the "City Engineer" shall mean the "Floodplain Administrator." (Ord. 4504, 10-25-2005)

**CODE:** Floodplain regulations for the city of Prescott, Yavapai County, Arizona.

**COMMUNITY:** The city of Prescott.

**CUMULATIVE SUBSTANTIAL DAMAGE:** The total of all repairs to a repetitive loss structure shall not cumulatively increase the market value of the structure more than forty nine percent (49%) of the market value during the life of the structure. This term does not however include either:

- (A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (B) Any repair of flood damage to "historic structure", provided the repair will not preclude the structure's continued designation as an "historic structure".

**DELINEATED FLOODPLAIN:** The mapped regulatory floodplain areas as delineated on the maps entitled:

- (A) "Floodway --- flood boundary and floodway map", consisting of "map index" and drawings designated as panel 1720, 2020, 2070, 2080, 2085, 2090, 2095 of 3925, all a part of that "flood insurance study, city of Prescott, Yavapai County, Arizona" as prepared by the Arizona Department of Water Resources dated June 6, 2001, and all subsequent amendments and/or revisions thereto, three (3) copies of which are on file (or will be on file) in the office of the engineering services department, and

by reference are hereby made a part of this code as if included in full herein. (Ord. 4504, 10-25-2005)

- (B) "FIRM --- flood insurance rate map", consisting of "map index" and drawings designated as "1720, panel 2060, panel 2070, panel 2080, panel 2085, panel 2090, panel 2095, dated June 6, 2001, and all subsequent amendments and/or revisions thereto, three (3) copies of which are on file (or will be on file) in the office of the engineering services department, and by reference are hereby made a part of this code as if included in full herein. (Ord. 4504, 10-25-2005)
  
- (C) "Flood boundary and floodway property map", consisting of drawings 01FP, 02FP, 03FP, 05FP, 06FP, 07FP, 08FP, 09FP, 11FP, 12FP, 16FP, 17FP and 19FP, and all subsequent amendments and/or revisions thereto, three (3) copies of which are on file (or will be on file) in the office of the engineering services department, and by reference are hereby made a part of this code as if included in full herein. (Ord. 4504, 10-25-2005)

**DEVELOPMENT:** Any manmade 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 located within the area of special flood hazard.

**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.

**EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lots on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this chapter.

**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, either final site grading or pouring of concrete pads, or the construction of streets).

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

**FLOOD BOUNDARY AND FLOODWAY MAP:** The official map on which the Arizona Department of Water Resources or federal insurance and mitigation administration has FBFM delineated by the areas of special flood hazards and the floodway.

**FLOOD HAZARD BOUNDARY MAP:** The official map on which the Arizona Department of Water Resources or federal insurance and mitigation administration has FHBM delineated the areas of flood hazards.

**FLOOD INSURANCE RATE MAP (FIRM):** The official map on which the Arizona Department of Water Resources or federal insurance and mitigation administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** The official report provided by the federal insurance and mitigation administration that includes flood profiles, the FIRM, the flood boundary floodway map, and the water surface elevation of the base flood.

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

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

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

**FLOODPLAIN:** The relatively flat areas or lowlands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by manmade structures which have been or may be covered partially or wholly by floodwater,

but shall compose an area not less than that area confined by the 100-year flood as delineated on the flood boundary and floodway maps.

**FLOODPLAIN ADMINISTRATOR:** The person employed and designated by the city manager of the City of Prescott who is hereby authorized by the floodplain board to administer the provisions of this chapter. The floodplain administrator may be referred to in this Chapter as the city engineer. (Ord. 4504, 10-25-2005)

**FLOODPLAIN BOARD:** The city council of the city of Prescott at such times as they are engaged in the enforcement of this chapter.

**FLOODPLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

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

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

**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 one foot (1'). The floodway for some watercourses is delineated on the flood boundary map and is as defined by the director of water resources for other watercourses.

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

**FREEBOARD:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**HARDSHIP:** As related to section 13-1-21, "Variance Procedure", of this chapter, means the exceptional hardship that would result from a failure to grant the

requested variance. The governing body 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:

- (A) Listed individually in the National Register of Historic Places (a listing maintained by the department of the interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register.
- (B) 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.
- (C) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or
- (D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
  - 1. By an approved state program as determined by the secretary of the interior, or
  - 2. Directly by the secretary of the interior in states without approved programs.

**LEVEE:** A manmade 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.

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

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including 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 as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME:** A structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

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

**MEAN SEA LEVEL:** For purposes of the national flood insurance program, the national geodetic vertical datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

**NEW CONSTRUCTION:** Structures for which the "start of construction" commenced on or after the effective date of this chapter.

**NEW MANUFACTURED HOME PARK MANUFACTURED HOME SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities or servicing the lot (including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this chapter.

**OBSTRUCTION:** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization,

bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across, or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**100-YEAR FLOOD:** A flood that has a one percent (1%) chance of being equaled or exceeded in any given year (see definition of Base Flood).

**PERSON:** Any individual or his agent, firm, partnership, association, corporation or agent of the aforementioned groups or the state or any agency or political subdivision thereof.

**REACH:** The longitudinal segments of a stream, wash, or watercourse which may include, but not be limited to, the segment of the flood hazard area where flood heights are primarily controlled by manmade or natural obstructions or constrictions.

**RECREATIONAL:** A vehicle which is:

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

**REGULATORY FLOOD ELEVATION:** An elevation one foot (1') above the base flood elevation.

**REGULATORY FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Regulatory floodway is defined in Arizona Revised Statutes 48-3601.

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

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

**REPETITIVE LOSS STRUCTURE:** A structure, covered by a contract for flood insurance issued pursuant to the national flood insurance act, that has incurred flood related damage on two (2) occasions during any ten (10) year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on average, equaled or exceeded twenty five percent (25%) of the market value of the structure at the time of each such flood event. In addition to the current claim, the national flood insurance program must have paid the previous qualifying claim.

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

**SPECIAL FLOOD HAZARD AREA:** An area having special flood or flood related erosion hazards, and shown on a FHBM or FIRM as zone A, AO, A1-30, AE, A99 or AH.

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; 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.

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

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred (See definition of Cumulative Substantial Damage).

**SUBSTANTIAL IMPROVEMENT:** Any repair reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market values of the structure either:

- (A) Before the improvement or repair is started; or

- (B) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of a wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (C) The Cumulative Improvements will be tracked for the life of the structure to ensure the improvements do not exceed 50% of the market value.

The term does not, however, include either:

- (A) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (B) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

**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.

**WATERCOURSE:** Any lake, river, creek, stream, wash or other body of water having banks and beds through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur. (Ord. 4230, 7-9-2002; amd. Ord. 4449, 1-11-2005; Ord. 4697, 04-28-2009)

#### **13-1-4: GENERAL PROVISIONS:**

- (A) **Lands To Which This Chapter Applies:** This chapter shall apply to all areas of special flood hazards within the corporate limits of the city of Prescott. (Ord. 1702, 7-23-1984)
- (B) **Basis For Establishing The Areas Of Special Flood Hazard:** The areas of special flood hazard identified by the federal insurance and mitigation administration in a scientific and engineering report entitled "The Flood Insurance Study For The City Of Prescott", with an accompanying flood insurance rate map as originally adopted in June 1977, and all subsequent amendments and/or revisions thereto, is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at City of Prescott Engineer's Office, Prescott City Hall, 201 S. Cortez Street, Prescott, Arizona. The flood insurance study is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the floodplain board by the floodplain administrator. Further, the board, within its area of jurisdiction, shall delineate (or may by

- rule require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Arizona Department of Water Resources and the director of water resources, where there is no existing delineated FEMA floodplain. (Ord. 4230, 7-9-2002)
- (C) Compliance: No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.
- (D) Abrogation And Greater Restrictions: This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (E) Interpretation: In the interpretation and application of this chapter, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and
  3. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 1702, 7-23-1984)
- (F) Warning And Disclaimer Of Liability: The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the 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 of Prescott, any officer or employee thereof, the state of Arizona, the federal insurance and mitigation administration, or the Arizona Department of Water Resources, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 4230, 7-9-2002)
- (G) Declaration Of Public Nuisance: Every new structure, building, fill, excavation or development located or maintained within any area of special flood hazard after August 8, 1973, in violation of this chapter is public nuisance per se. (Ord. 1702, 7-23-1984)
- (H) Abatement Of Violations:

1. After the discovery of a violation of this chapter, the floodplain administrator may submit a report to the floodplain board which shall include all information available to the floodplain administrator which is pertinent to said violation. Within thirty (30) days of receipt of this report, the floodplain board shall either:
  - (a) Take any necessary action to effect the abatement of such violation; or
  - (b) Issue a variance to this chapter in accordance with the provisions of section 13-1-21 of this chapter; or
  - (c) Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the floodplain administrator within thirty (30) days of such order, and he shall submit an amended report to the floodplain board within twenty (20) days. At their next regularly scheduled public meeting, the floodplain board shall either order the abatement of such violation or they shall grant a variance in accordance with the provisions of section 13-1-21 of this chapter.
2. In lieu of the foregoing, the floodplain administrator may submit a report to the city attorney, requesting prosecution pursuant to this chapter.
3. In addition to the foregoing, the floodplain board may submit to the administrator of federal insurance administration a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to section 1316 of the national flood insurance act of 1968, as amended.

(l) Unlawful Acts:

1. It is unlawful for any person to directly or indirectly divert, retard or obstruct the flow of waters in any watercourse, or to commit any act which would cause the flow of waters in any watercourse to be directed, concentrated, retarded or obstructed, without a permit being issued pursuant to this chapter.
2. It is unlawful for any person to place or maintain or cause to be placed or maintained materials or other conditions in any watercourse which, in the time of a flood, would tend to cause a blockage to any bridge culvert designed to permit the flow of waters under the bridge.

3. It is unlawful for any person to construct, fill, excavate, alter or demolish any portion of a watercourse as defined under this code without a permit issued by the city of Prescott. (Ord. 4453, 1-25-2005)

### **13-1-5: FLOODPLAIN REQUIREMENTS:**

If the site for proposed new construction, substantial improvement, remodel and interior improvement or other development is located in zones A, AE, AH, or AO on the city's flood insurance rate map, the city engineer or floodplain board shall require the following actions in making determinations for control measures:

- (A) Take into account floodplain management programs, if any, already in effect in neighboring areas;
- (B) Apply as a minimum requirement the floodplain regulations to all areas identified as floodplain areas;
- (C) Provide that within the floodplain area, the law and ordinances concerning land use and control and other measures designed to reduce flood losses shall take precedence over any conflicting laws, ordinances or codes;
- (D) Require building permits for all proposed development within the delineated floodplain and assure that the applicant for a permit has obtained all necessary permits from those governmental agencies whose approval is required by federal or state law;
- (E) Require the review of building permit applications for any repairs not considered within the definition of a substantial improvement within the floodplain area to determine that the proposed repair uses construction materials and utility equipment that are resistant to flood damage and uses construction methods and practices that will minimize flood damage;
- (F) Require the review of building permit applications for new construction or substantial improvements within the floodplain area to assure that the proposed construction, including prefabricated and manufactured homes, is protected against flood damage, and is designed or modified and anchored to prevent flotation, collapse or lateral movements of the structure, uses construction materials and utility equipment that are resistant to flood damage and uses construction methods and practices that will minimize flood damage; (Ord. 1876, 3-24-1987)
- (G) Require the review of subdivision proposals and other proposed new developments to assure that all such proposals are consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and

constructed to minimize or eliminate flood damage, and that adequate drainage is provided so as to reduce exposure to flood hazards;

- (H) Require that all subdivision proposals and other proposed new developments which are greater than fifty (50) lots or five (5) acres, whichever is less, include with the proposal, elevation data;
- (I) Require that new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and require on site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding;
- (J) Require that new construction or substantial improvements of residential structures within the floodplain area, to have the lowest floor, including basements, elevated to one foot (1') above the level of the 100-year flood;
- (K) Require that new construction or substantial improvements on nonresidential structures within the floodplain area, to have the lowest floor, including basements, elevated to one foot (1') above the level of the 100-year flood, together with attendant utility and sanitary facilities or, to be floodproofed up to one foot (1') above the level of the 100-year flood;
- (L) Assure that the delineated floodplain will not be impaired or caused by fill or other encroachment to increase the floodway water surface elevation of 100-year flood more than one foot (1') at any point;
- (M) Provide that existing nonconforming uses in the floodway area shall not be expanded nor substantially improved, but may be modified, altered or repaired to incorporate floodproofing measures, provided such measures do not raise the level of the 100-year flood;

Other factors to be considered by the city engineer or the floodplain board in making determinations for control measures as to the delineated floodplains are:

- (N) The danger to life and property due to increased flood heights or velocities caused by encroachments;
- (O) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (P) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

- (Q) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (R) The importance of the services provided by the proposed facility to the community;
- (S) The availability of alternative locations not subject to flooding for the proposed use;
- (T) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (U) The relationship of the proposed use to any adopted comprehensive plan and the floodplain management program for the area;
- (V) The access to the property in times of flood for ordinary and emergency vehicles;
- (W) The expected heights, velocity, duration, rate of rise and sediment and transport of the floodwaters expected at the site;
- (X) Such other factors which are relevant to the purposes of these regulations. (Ord. 1188, 6-27-1977)

**13-1-6: FLOOD INSURANCE RATE MAP REQUIREMENTS AND FLOOD HAZARD PROVISIONS:**

The following requirements shall apply within certain zones as indicated on the city's flood insurance rate maps:

- (A) **Establishing Elevations:** In the A zones where base flood elevations have not been determined, the city engineer shall review and reasonably utilize the use of other base flood data available from a federal, state or other source as a base for establishing elevations of special flood hazard areas in order to administer the floodplain criteria for the 100-year flood for requiring that all new or substantially improved residential structures have their lowest floor including basements, elevated to one foot (1') above the 100-year flood level and that all new or substantially improved nonresidential structures have their lowest floor, including basements, elevated or floodproofed to one foot (1') above the 100-year flood level.
- (B) **Standards Of Construction:** In all areas of special flood hazards the following standards are required:
  - 1. **Anchoring:**

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - (b) All manufactured homes shall meet the anchoring standards of subsection (F)1 of this section.
2. Construction Materials And Methods:
- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. (Ord. 1702, 7-23-1984)
  - (c) Require within zones AH or AO that adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed or existing structures. (Ord. 4230, 7-9-2002)
3. Elevation And Floodproofing:
- (a) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the regulatory flood elevation. Nonresidential structures may meet the standards in subsection (B)3(c) of this section. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
  - (b) New construction and substantial improvement of any structure in zone AO shall have the lowest floor, including basement, elevated at least one foot (1') above the depth number specified on the FIRM. If there is no depth number of the FIRM, the lowest floor, including basement, shall be elevated above the highest adjacent grade, or at least two feet (2'). Nonresidential structures may meet the standards in subsection (B)3(c) of this section. Upon completion of the structure a registered professional engineer shall certify to the floodplain administrator that the elevation of the structure meets this standard.

- (c) Nonresidential construction shall either be elevated in conformance with subsection (B)3(a) or (B)3(b) of this section or together with attendant utility and sanitary facilities:
  - (1) Be floodproofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator. (Ord. 1702, 7-23-1984)
  
- (d) As an alternative to floodproofing requirements for all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access or storage in an area other than basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: (Ord. 4230, 7-9-2002)

A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  
- (e) Manufactured homes shall meet the above standards and also the standards in subsections (F) and (G) of this section. (Ord. 1702, 7-23-1984; amd. Ord. 1876, 3-24-1987)

(C) Standards For Storage Of Materials And Equipment:

1. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. (Ord. 1702, 7-23-1984)
2. Storage of other material or equipment may be allowed by permit issued by the city in accordance with this chapter if such material or equipment is not subject to major damage by floods and if such material or equipment is firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning. (Ord. 4453, 1-25-2005)

(D) Standards For Utilities:

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.
2. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 1702, 7-23-1984)
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. (Ord. 4230, 7-9-2002)

(E) Standards For Subdivisions:

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
2. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
3. All subdivision proposals shall be consistent with the need to minimize flood damage. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
4. Adequate drainage shall be provided to reduce exposure to flood hazards.

(F) Standards For Manufactured Homes And Manufactured Home Parks And Subdivisions: All manufactured homes and additions to manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by one of the following methods:

1. By providing an anchoring system designed to withstand horizontal forces of twenty five (25) pounds per square foot and uplift forces of fifteen (15) pounds per square foot;
2. By providing over the top and frame ties to ground anchors, specifically:
  - (a) Over the top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, except that manufactured homes less than fifty feet (50') long require only one additional tie per side;
  - (b) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that manufactured homes less than fifty feet (50') long require only four (4) additional ties per side; and
  - (c) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds. (Ord. 1702, 7-23-1984)
  - (d) Be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation.
  - (e) Waste disposal systems shall not be installed, wholly or partially, in a regulatory floodway. (Ord. 4230, 7-9-2002)

(G) Manufactured Home Parks And Manufactured Home Subdivisions: The following standards are required for all new and replacement manufactured homes:

1. Adequate surface drainage and access for a hauler shall be provided.
2. All manufactured homes shall be placed on pads or lots elevated on compacted fill or on pilings so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is

lower of the manufactured home, is at or above the regulatory flood level. If elevated on pilings:

- (a) The lots shall be large enough to permit steps;
- (b) The pilings shall be placed in stable soil no more than ten feet (10') apart; and
- (c) Reinforcement shall be provided for pilings more than six feet (6') above the ground level.

3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park or existing manufactured home subdivision. A manufactured home may be replaced by another manufactured home if the manufactured home to be replaced was not damaged by a flood to more than fifty percent (50%) of its value before the flood.

(H) Floodways: Located within areas of special flood hazard established in subsection 13-1-4(B) of this chapter "the flood insurance study" 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:

1. 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.
2. Prohibit the placement of any manufactured homes except in an existing manufactured home park or subdivision.
3. If subsections (H)1 and (H)2 of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section. (Ord. 1702, 7-23-1984; amd. Ord. 1876, 3-24-1987)

(I) Standards For Recreational Vehicles: All recreational vehicles placed on site will either:

1. Be on site for fewer than one hundred eighty (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

2. Meet the permit requirements of section 13-1-5 of this chapter and the elevation and anchoring requirements for manufactured homes in subsection (F) of this section. (Ord. 4230, 7-9-2002)

**13-1-7: FACTORS TO BE CONSIDERED IN FLOODPROOFING OR OTHER PROTECTION:**

The city engineer and the floodplain board, as the case may be, shall consider the following factors in determining whether a structure or use is adequately floodproofed or otherwise protected.

- (A) Modification of waste disposal and water supply facilities;
- (B) Limitations on periods of use and operation;
- (C) Imposition of operational controls, sureties and deed restrictions;
- (D) Requirements for construction of channel modifications, dikes, levies and other protective measures;
- (E) Floodproofing measures such as set forth in section 13-1-8 of this chapter shall be designed consistent with the delineated flood elevation for the particular area, flood velocity, durations, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with flood potentials and the city engineer and the floodplain board shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the 100-year flood elevation and associated flood factors for the area as designated by the official flood boundary and floodway map. (Ord. 1188, 6-27-1977)

**13-1-8: FLOODPROOFING MEASURES:**

The city engineer and the floodplain board shall require, but not be limited to, the following floodproofing measures:

- (A) Anchorage to resist flotation and lateral movement;
- (B) Installation of watertight doors, bulkheads and shutters;
- (C) Reinforcement of walls to resist water pressures;
- (D) Use of paints, membranes or mortars to reduce seepage of water through walls;

- (E) Addition of mass or weight to structures to resist flotation;
- (F) Installation of pumps to lower water levels in structures;
- (G) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters;
- (H) Pumping facilities for subsurface external foundation walls and basement floor pressures;
- (I) Construction to resist rupture or collapse caused by water pressure or floating debris;
- (J) Cut off valves on sewer lines or the elimination of gravity flow basement drains;
- (K) Elevation of structures and uses to one foot (1') above the 100-year flood elevation. (Ord. 1188, 6-27-1977)
- (L) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord. 1876, 3-24-1987)

**13-1-9: CITY ENGINEER AND BUILDING INSPECTOR:**

The city engineer shall not approve nor shall the building inspector issue a permit for construction within the regulatory floodplain area except as hereinafter provided.

The applicant for a building permit shall furnish to the city engineer satisfactory engineering data to enable the city engineer to determine whether proper care will be taken to preserve the 100-year frequency flood capacity of the floodplain, and said construction will not create a flood or associated hazard to adjoining property or the property improvements constructed therein, and to ascertain that any proposed construction will incorporate appropriate floodproofing measures. (Ord. 1188, 6-27-1977)

The determination of elevations and regulatory floodplain boundaries is an engineering function with calculations and decisions made in accordance with the "flood insurance study" made for the city of Prescott, Yavapai County, Arizona, and prepared by the federal insurance administration, department of housing and urban development, dated February 1976, and as revised by the Arizona Department of Water Resources. The necessary engineering calculations shall

be made by the property owner's or developer's registered engineer, and approved by the city engineer of the city. (Ord. 1876, 3-24-1987)

Upon a determination made by the city engineer on a building permit application issued under this code, the city engineer shall notify the building inspector of the determination made on the application, and the building inspector shall issue or not issue a permit accordingly. Any party may appeal the determination by the city engineer to the floodplain board in accordance with section 13-1-17 of this chapter. (Ord. 1188, 6-27-1977)

### **13-1-10: STATUTORY EXEMPTIONS:**

(A) In accordance with Arizona Revised Statutes section 48-3609(H), nothing in this chapter shall: (Ord. 4230, 7-9-2002)

1. Affect existing uses of property or the right to continuation of the use under conditions which existed on the effective date of this chapter.
2. Affect repair or alteration of property for the purposes for which such property was used on the effective date of this chapter; providing such repair or alteration does not exceed fifty percent (50%) of the value of the property prior to the repair or alteration; and provided the repair or alteration does not decrease the carrying capacity of the watercourse.
3. Affect or apply to facilities constructed or installed pursuant to a certificate of environmental compatibility issued under the authority of Arizona Revised Statutes, title 40, chapter 2, article 6.2. (Ord. 1702, 7-23-1984)
4. Affect the reasonable repair of structures constructed with the written authorization required by Arizona Revised Statutes section 48-3613.

(B) In accordance with Arizona Revised Statutes section 48-3613, written authorization shall not be required, nor shall the floodplain board prohibit: (Ord. 4230, 7-9-2002)

1. The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting a watercourse. (Ord. 1702, 7-23-1984)
2. The construction of storage dams for watering livestock or wildlife, structures on banks of a creek, stream, river, wash, arroyo or other watercourse to prevent erosion of or damage to adjoining land, or

dams for the conservation of floodwater as permitted by Arizona Revised Statutes, title 45, chapter 6. (Ord. 4230, 7-9-2002)

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 which will divert, retard or obstruct the flow of waters in any watercourse. (Ord. 1702, 7-23-1984)
  4. Any flood control district, county, city, town or other political subdivision, from exercising powers granted to it under Arizona Revised Statutes, title 48, chapter 21, article 1.
  5. Other construction, if determined by the board that written authorization is unnecessary.
  6. The construction of streams, waterways, lakes and other auxiliary facilities in conjunction with the development of public parks and recreation facilities by a public agency or political subdivision.
  7. The construction and erection of poles, towers, foundations, support structures, guywires, and other facilities related to a power transmission as constructed by any utility whether a public service corporation or a political subdivision. (Ord. 4230, 7-9-2002)
- (C) Before any construction authorized by subsection (B) of this section may begin, the responsible person must submit plans for the construction to the board for review and comment.
- (D) These exemptions do not preclude any person from liability if that person's actions increase flood hazards to any other person or property. (Ord. 1702, 7-23-1984)

**13-1-11: DISCONTINUANCE OF USES IN FLOODWAY:**

In the event that a nonconforming use of land, building or structure in the floodway is discontinued for twelve (12) months or destroyed to the extent of fifty percent (50%) of its value, as determined by a competent appraiser, any further use shall comply with this chapter or be terminated.

Any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by fifty percent (50%) or more shall either be floodproofed or elevated to or above the regulatory flood elevation. (Ord. 1702, 7-23-1984)

### **13-1-12: RECOMMENDATIONS:**

Hydrologic related floodplain regulations and engineering matters pertaining to the administration and direction of these regulations shall be officially referred to the city engineer of the city or his designated representative who shall be responsible for advice and recommendations to the floodplain board.

Upon the recommendation of the city engineer, and after securing the approval of the federal insurance administration, the floodplain board may approve revisions and refinements in the elevations and regulatory floodplain boundaries as delineated on the flood boundary and floodway map and the flood insurance rate map, referred to in section 13-1-3, definition of "Delineated Floodplain", of this chapter. (Ord. 1876, 3-24-1987)

### **13-1-13: COOPERATION:**

The city engineer and the floodplain board and their particular staff shall coordinate their efforts, decisions and management of these regulations with all other interested and affected political subdivisions, federal and state agencies. (Ord. 1876, 3-24-1987)

### **13-1-14: INTERPRETATION:**

In interpreting and applying the regulations of this code, they shall be held to the minimum requirements for the promotion of the public health, safety and general welfare. It is not intended by these regulations to interfere with or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued, and not in conflict with any of the regulations of this code, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this code nor is it intended by this code to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this code imposes a greater restriction, this code shall regulate. (Ord. 1876, 3-24-1987)

Whenever there is a discrepancy between the minimum requirements and dimensions in the Prescott land development code or the building code, or other official regulations, the more stringent requirement shall apply. (Ord. 4449, 1-11-2005)

### **13-1-15: CRITERIA FOR FLOODPLAIN MANAGEMENT:**

All engineering reports, determinations, findings, computations, and recommendations shall be based upon current maps on file in the office of the city manager. (Ord. 1876, 3-24-1987)

### **13-1-16: ADMINISTRATION:**

- (A) General Responsibility: All city departments, offices or public employees vested with the duty or authority to issue permits or licenses as required by law shall enforce the provisions of this chapter and issue no such license or permit for uses, buildings, structures or purposes where same would be in conflict with the provisions of this chapter, and any such license or permit, if issued, conflicting with the provisions of this chapter shall be made null and void.

It shall be the duty of the building inspector and the city engineer, with the aid of the police department, to enforce this chapter in accordance with the provisions of this chapter, and they shall report all violations of this chapter coming to their attention to the city attorney immediately. The city engineer shall review and approve all requests for building permits before issuance to ensure compliance with this code.

- (B) Establishment Of Development Permit: A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 13-1-4 of this chapter. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required: (Ord. 1702, 7-23-1984)

1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in zone AO, elevation of existing grade and proposed elevation of lowest floor of all structures. (Ord. 1876, 3-24-1987)
2. Proposed elevation in relation to mean sea level to which any 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 subsection 13-1-6(B)3 of this chapter; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

- (C) Duties And Responsibilities Of The Floodplain Administrator: Duties of the floodplain administrator shall include, but not be limited to:

1. Permit Review:

- (a) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
  - (b) Review all permits to determine that the site is reasonably safe from flooding.
  - (c) Until a floodway has been designated, review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the floodplain. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot (1') at any point. (Ord. 1702, 7-23-1984)
- (D) Use Of Other Base Flood Data: When base flood elevation data has not been provided in accordance with this chapter, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer section 13-1-6 of this chapter. (Ord. 1876, 3-24-1987)
- (E) Information To Be Obtained And Maintained: Obtain and maintain for public inspection and make available as needed for flood insurance policies:
- 1. The certified elevation required in subsection 13-1-6(B)3(a) of this chapter;
  - 2. The certification required in subsection 13-1-6(B)3(b) of this chapter;
  - 3. The floodproofing certification required in subsection 13-1-6(B)3(c) of this chapter; and
  - 4. The certified elevation required in subsection 13-1-6(E)2 of this chapter. (Ord. 1702, 7-23-1984)
- (F) Alteration Of Watercourses:
- 1. Notify adjacent communities and the Arizona division of emergency management (mitigation section) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal insurance and mitigation administration; and (Ord. 4230, 7-9-2002)

2. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
- (G) Interpretation Of FIRM Boundaries: Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 13-1-21 of this chapter.
- (H) Actions: Take actions on violations of this chapter as required in subsection 13-1-4(H) of this chapter.
- (I) Advisement: Advise the flood control district of Yavapai County and any adjunct jurisdiction having responsibility for floodplain management in writing and provide a copy of development plan of all applications for floodplain use permits or variances to develop land in a floodplain or floodway within one mile of the corporate limits of the city. Also, advise the flood control district of Yavapai County in writing and provide a copy of any development plan of any major development proposed within a floodplain or floodway which could affect floodplains, floodways or watercourses within the district's area of jurisdiction. Written notice and a copy of the plan of development shall be sent to the district no later than three (3) working days after having been received by the city. (Ord. 1702, 7-23-1984)
- (J) Notification: Notify the Arizona Department of Water Resources (FEMA) and the Arizona division of emergency management (ADEM) - mitigation section - of acquisition by means of annexation, incorporation, or otherwise, of additional areas of jurisdiction. (Ord. 4230, 7-9-2002)

### **13-1-17: APPEALS:**

The floodplain board shall decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this code, or new or additional engineering data may be considered for the reevaluation of the floodplain delineation if circumstances indicate such action is in the public interest. Said appeal to the floodplain board shall be within sixty (60) days of the city engineer's determination. (Ord. 1188, 6-27-1977)

### **13-1-18: VIOLATIONS:**

Except as provided by this chapter, any use of the land, construction of dwellings, commercial or industrial structures, sand or gravel operations or uses

which may divert, retard or obstruct floodwater and threaten public health, safety or general welfare, or a violation of the express provisions of any of the sections of this chapter is declared to be unlawful. (Ord. 1188, 6-27-1977)

**13-1-19: PENALTY CLAUSE:**

Any person convicted of a violation of any section of this chapter is guilty of a misdemeanor and shall be punished as provided in section 1-3-1 of this code. (Ord. 1188, 6-27-1977; amd. Ord. 1834, 9-23-1986)

Each day that a violation is permitted to exist constitutes a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter.

A violation of any section of this chapter is further declared to be a public nuisance and the city attorney shall, upon order of the floodplain board, or on his initiative, immediately commence the necessary actions or proceedings for the abatement, enjoinder or removal thereof in the manner provided by law. The attorney shall further take such other lawful steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate, enjoin and restrain any person, firm or corporation from any use of the land, construction of dwellings, commercial or industrial structures, or other uses which may divert, retard or obstruct floodwater and threaten public health, safety or the general welfare, or otherwise violate this chapter.

All remedies provided for herein shall be cumulative and nonexclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility to correct said prohibited conditions. In addition to the other remedies provided in this section, any adjacent or neighboring property owner who shall be especially damaged by the violations of any provisions of these floodplain regulations may institute, in addition to the other remedies provided by law and appropriate action, proceeding or proceedings to prevent or abate or remove such unlawful erection, construction, alteration, diversion or use. (Ord. 1188, 6-27-1977)

**13-1-20: AMENDMENTS:**

Amendments to this chapter may only be made after a public hearing. A notice of the time and place of said public hearing shall be duly published in a newspaper of general circulation in the city, at least thirty (30) days prior to the public hearing. A notice of any public hearing accompanied by a copy of each of the proposed rules and regulations shall be furnished to the Arizona division of emergency management (mitigation section) at least thirty (30) days prior to the date of such public hearing. A copy of any regulations adopted by the floodplain board shall, within five (5) days thereafter, be filed with the director of the department of water resources. (Ord. 4230, 7-9-2002)

### **13-1-21: VARIANCE PROCEDURE:**

(A) Appeal Board:

1. The floodplain board of the city shall hear and decide appeals and requests for variances from the requirements of this chapter.
2. The floodplain board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
3. Those aggrieved by the decision of the floodplain board, or any taxpayer, may appeal such decision to the superior court of Yavapai County.
4. In passing upon such applications, the floodplain board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger of life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location, where applicable;
  - (f) The availability of alternative locations for the proposed uses which are not subject to flooding or erosion damage;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

- (i) The safety of access to the property in time of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- (B) Variances: Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items subsections (A)4(a) through (A)4(k) of this section have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.
- (C) Consideration: Upon consideration of the factors of subsection (A) of this section and the purposes of this chapter, the floodplain board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (D) Maintenance Of Records And Reporting: The floodplain administrator shall maintain the records of all appeal actions and report any variances to the federal insurance administration upon request.
- (E) Conditions For Variances:
  - 1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.
  - 2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  - 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - 4. Variances shall only be issued upon:

- (a) A showing of good and sufficient cause;
  - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances. (Ord. 1702, 7-23-1984)
- (F) Written Notice: Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation, that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation, and that such construction below the base flood level increases risks to life and property. Such notice will also state that 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 for by Arizona Revised Statutes. A copy of the notice shall be recorded by the floodplain board in the office of the Yavapai County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. 4230, 7-9-2002)

**13-1-22: SEVERABILITY CLAUSE:**

Should any article, section or regulation of this chapter be judicially declared unconstitutional or invalid, such decision shall not affect the validity of the code as a whole, or any portion thereof other than the section or regulation so declared to be unconstitutional or invalid. (Ord. 1188, 6-27-1977)

(Ord. 4697, 4-28-2009)