



# Cochise County Floodplain Regulations



**Revised November 14, 2023**

**Cochise County Flood Control District**

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## SECTION 1

### STATUTORY AUTHORIZATION, FINDINGS OF FACTS, PURPOSE, AND METHODS

#### **1.1 STATUTORY AUTHORIZATION**

In A.R.S. § 48-3601 through 48-3628, the Arizona State Legislature has delegated the responsibility to each county flood control district to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Flood Control District Board of Directors of Cochise County, Arizona, does ordain as follows:

#### **1.2 FINDINGS OF FACTS**

- A.** The Special Flood Hazard Areas (SFHA) or flood prone areas of Cochise County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B.** These flood losses may be caused by the cumulative effect of obstructions in Special Flood Hazard Areas or flood prone areas which increase flood heights and velocities and, when inadequately anchored, cause damage in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage, also contribute to the flood loss.

#### **1.3 STATEMENT OF PURPOSE**

It is the purpose of this Ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flooding 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, fiber optic, telephone, and sewer lines; and streets and bridges located in Special Flood Hazard Areas or flood prone areas;
- F.** Help maintain a stable tax base by providing for the sound use and development of Special Flood Hazard Areas or flood prone areas so as to minimize blight areas caused by flooding;
- G.** Participate in and maintain eligibility for flood insurance and disaster relief.

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

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

- A.** Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, which result in increases in erosion, flood heights, or velocities;
- B.** Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- C. Outside of all SFHA and Regulatory Floodplains, all residential structures shall have their foundation or stem wall extend a minimum of six (6) inches above the finished grade at all points adjacent to the foundation or stem wall and an additional six (6) inches of fall within 10 feet from the foundation or stem wall to provide a total of twelve (12) inches of positive drainage away from the structure.
- D. Controlling the alteration of natural flood prone areas and overland flow of stormwater often referred to as sheet flow; control stormwater flow in stream channels and natural protective barriers, which help accommodate or channel flood waters;
- E. Controlling filling, grading, dredging and other development which may increase flood damage; and
- F. Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards in other areas.

## **1.5 LEVEL OF STANDARDS**

The performance requirements as specified herein are minimum standards and address general floodplain management requirements. Specific projects may warrant additional requirements that may be imposed by the Cochise County Flood Control District. The Cochise County Flood Control District has the authority to establish standards and/or policies, as necessary, to carry out the provisions of this Ordinance. All drainage design standards, river and basin management plans, riparian preservation and mitigation standards, environmental protection, or other land-use plans approved by the Cochise County Flood Control District are hereby incorporated into this Ordinance. Applicable floodplain management, flood hazard, and flood control regulations, rules and standards promulgated by the State of Arizona and the federal government are hereby incorporated into this Ordinance.

## SECTION 2

### DEFINITIONS

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

**Accessory structure:** For floodplain management purposes, accessory structures are structures that are on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. Accessory structures must be used for parking or storage, be small and represent a minimal investment by owners, and have low damage potential. FEMA considers “small” to mean not larger than a one-story two-car garage. Examples of small accessory structures include, but are not limited to, detached garages, storage and tool sheds, and small boathouses.

- Structure Size - The footprint of a typical two-car garage is about 600 square feet in area.
- Storage - Contents stored in wet floodproofed structures will get wet during flooding.

#### **Acronyms:**

**ARS** – Arizona Revised Statutes

**ADWR** – Arizona Department of Water Resources

**BFE** – Base Flood Elevation

**FEMA** – Federal Emergency Management Agency

**FIRM** – Flood Insurance Rate Map

**FIS** – Flood Insurance Study

**FPUP** – Floodplain Use Permit

**LOMA** – Letter of Map Amendment

**LOMC** – Letter of Map Change

**LOMR** – Letter of Map Revision

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

**MSL** – Mean Sea Level

**NFIP** – National Flood Insurance Program

**NPDES** - National Pollutant Discharge Elimination System.

**OA** – Other Areas

**OFA** - Other Flood Areas

**SFHA** – Special Flood Hazard Areas

**Agricultural commodities:** Means agricultural goods, products, foodstuffs, and livestock. Examples include, but are not limited to, harvested crops, aquaculture products, livestock, and animal products. Floodplain managers should use professional judgment when deciding whether contents of agricultural structures are agricultural commodities.

**Agricultural purposes or use:** Agricultural structures that are used exclusively in connection with the production, harvesting, storage, raising, or air drying of agricultural commodities and livestock. These include

structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses. Because agriculture is an industry and therefore farms are places of work, it is understood that entry into agricultural structures is necessary. The “exclusive use” limitation is satisfied when the principal use of an agricultural structure does include occupation by people over extended periods of time (i.e., office or communal areas for farm workers). Processing and production of agricultural commodities outside of the mentioned activities are not considered agricultural purposes or uses. Examples of other processing and production activities include distilling, brewing or fermenting beverages, baking or cooking, leather tanning, packaging, and similar production processes. Structures used for those processes are places of employment and are not agricultural structures.

**Agricultural structures:** For floodplain management purposes, structures (at least two outside rigid walls and a fully secured roof) used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms.. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purpose or uses. An agricultural structure specifically exclude any structure used for human habitation or mixed used where one or more uses are not purely agricultural.

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

**Area of shallow flooding:** A designated AO or AH Zone on a community’s Flood Insurance Rate Map (FIRM) with a 1% 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.

**Aquaculture:** Cultivation that involves aquatic organisms, such as fish, shellfish, plants, algae, etc., in all types of water under controlled or semi-controlled conditions. For floodplain management purposes, FEMA considers aquaculture to be farming that is conducted in water. Therefore, the definition for agricultural structures includes aquaculture structures. Processing facilities for aquaculture products are places of employment and are not agricultural structures for floodplain management purposes. Processing facilities shall be elevated or dry floodproofed to meet the NFIP minimum requirements for non-residential structures based on the flood zone. Other structures and development associated with aquaculture, such as fabric tents, covers, and enclosures; ponds and open aquaculture tanks/pools, aquaria, and raceways; and other structures without walls and roofs are development and subject to the floodplain management requirements.

**Base Flood:** A flood which has a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE):** The computed elevation to which floodwater is anticipated to rise during the base flood.

**Basement:** Any area of the building having its floor sub-grade (below ground level) on all sides.

**Board or Floodplain Board:** The Board of Directors of the Cochise County Flood Control District. The Cochise County Board of Supervisors is the Board of Directors of the District.

**Building:** See “Structure”.

**Chief Engineer:** See “Floodplain Administrator”

**Commercial Development:** The primary function, purpose, or activity for which land and/or structures are occupied, utilized, and/or maintained for conducting business, including but not limited to, retail stores, restaurants, shopping centers, business offices, gas stations, etc.

**Community:** Any state, area or political subdivision thereof, or any Native American 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.

**Community Rating System (CRS):** A voluntary program to recognize local efforts to reduce flood risk, and to reward communities, their residents and businesses by saving them money on flood insurance premiums.

**Detention basin:** A type of flood-control system which employs a reservoir as a means of delaying the downstream progress of floodwaters in a controlled manner. This is generally accomplished through the combined use of temporary storage areas and a metered outlet device (such as a WEIR or orifice) which reduces downstream flood peaks, and thereby causes a lengthening of the duration of flow.

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

**District:** The Cochise County Flood Control District as established by *A.R.S. § 48, Chapter 21*.

**Drainage Analysis:** A Drainage Statement, Hydrology Report, or Drainage Report used for the analysis of land improvements. All drainage analysis within Cochise County shall be analyzed and developed by an Arizona Registered Professional Civil Engineer, reviewed and approved by the Floodplain Division.

- **Drainage Statements:** a brief description of drainage conditions applicable for a site which is not affected by 100-year flows of 500 cfs, or more, and is neither subject to detention and/or retention requirements nor impacted by flows from a significant watercourse. The objective is to demonstrate adequate site drainage, and to establish finished-floor elevations which assure that all structures are free from flooding during a 100-year flood.
- **Hydrology Report:** a report required for development which are not subject to detention requirements, nor which require extensive structural improvements for handling drainage; but which are impacted by flows from significant watercourses and/or affected by 100-year flows of 500 cfs, or more. The objective of a hydrology report is to establish finished-floor elevations which assure that all structures are free from flooding during a Regulatory Flood. Additional objectives of a hydrology report are to establish the size and configuration of flow-through wall openings and other minor drainage features; and, if required, to develop a grading plan which demonstrates adequate site drainage. Hydraulic mapping of floodplains shall also be required.
- **Drainage Report:** a report which is required for any site greater than one acre in size or for any site subject to detention and/or retention requirements or adverse impact on adjacent parcel resulting from the proposed improvement. The drainage report shall contain all elements of a hydrology report, as well as the appropriate components of the required detention and/or retention facility design. In addition, a drainage report shall be required for any site where extensive structural improvements for mitigating drainage impact are required.

**Drainage area:** A drainage area is the total surface area, upstream of a point on a stream, where the water from rain, snowmelt, or irrigation which is not absorbed into the ground flows over the ground surface, back into streams, to finally reach that point.

**Dry floodproofing:** A combination of measures that results in structures (including attendant utilities and equipment) being watertight with all elements, substantially impermeable to the entrance of floodwater, and with structural components having the capacity to resist flood loads.

**Elevation Certificate:** An administrative tool of the NFIP which is to be used to provide elevation information necessary to ensure compliance with the community floodplain management ordinances, to determine the proper insurance premium rate, or support a request for a Letter of Map Amendment (LOMA).

**Encroachment:** Encroachments are activities or construction within the flood-prone areas including fill, new construction, substantial improvements, and other development. These activities are prohibited within the adopted Regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels.

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

**Erosion hazard area:** Land adjoining a watercourse regulated by this Ordinance, which is deemed by the Floodplain Administrator, to be subject to flood-related erosion losses.

**Erosion Hazard Setback:** The minimum horizontal distance from the top of bank of a watercourse, where a structure must be constructed or placed.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of floodwaters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, 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 Insurance Rate Map (FIRM):** The official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

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

**Floodplain or Flood-Prone Area:** Any land area susceptible to being inundated by water from any source. See “Flood or Flooding.”

**Floodplain Administrator:** The County Engineer, or designee, who oversees administration and enforcement of the floodplain management regulations contained within this Ordinance.

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

**Floodplain Use Permit (FPUP):** An official document which authorizes specific activity within a Other Flood Areas (OFA), and Other Areas (OA) with Regulatory Flood discharges and SFHA or within erosion hazard areas, or as determined by the Floodplain Administrator.

**Floodproofing:** Any combination of structural and non-structural 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 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. Also referred to as "Regulatory Floodway."

**Floodway Encroachment:** Activities or construction that are located within the floodway including fill, new construction, substantial improvements, etc. It shall be demonstrated through hydrologic and hydraulic analyses that the proposed encroachment shall not result in any increase in flood levels.

**Floodway Fringe:** The area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

**Governing Body:** The local governing unit (i.e., Cochise County), which is empowered to adopt and implement regulations to provide for the public health, safety, and general welfare of its citizenry.

**Greenhouses:** Structures made with a variety of materials, including glass roofs and walls, light transmitting rigid plastic or fiberglass roofs and walls, framing with transparent coverings, or combinations of those materials, to grow and maintain plants, crops, or similar foodstuffs. When proposed to be located in SFHA, greenhouses with flexible material forming the sides and those that are not walled and roofed are considered floodplain development and shall meet NFIP development requirements. Greenhouses with rigid walls shall be elevated, dry floodproofed, or wet floodproofed in accordance with the requirements applicable to agricultural structures.

**Habitable structures:** Those structures intended for human occupation, whether utilized on a full or part-time basis.

**Hardship:** As related to Section 6.0 of this Ordinance. The Flood Control District requires that the hardship 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 (HAG):** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure:** Any structure that is:

- 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;
- 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;
- 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
- 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.

**Hydrostatic load or pressure:** Established to minimize unequal pressure of water on walls during wet flood proofing.

**Industrial Development:** The primary function, purpose, or activity for which land and/or structures are occupied, utilized, and/or maintained for the production or distribution of products, materials (hazardous or not), etc.

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

**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.

**Limited storage:** Contents that are stored in a wet floodproofed accessory building that will get wet during flooding and therefore should be readily removed when threats of flooding is imminent.

**Low damage potential:** The consideration of at least three elements related to flood damage, including (but not limited to) physical damage, contents damage, and loss of function.

- The amount of physical damage incurred increases as the depth of floodwaters increase accounting for velocities, wave damage, flood borne debris impact, etc. In general, the more costly a structure is to begin with, and the more potential damage a structure may incur, the more it costs to make repairs.
- Structures allowed to be wet-proofed are designed to flood. Therefore, the contents of such structures will get wet unless the owner relocates the contents. Any materials or contents that become flooded will have to be replaced and inundated mechanical and electrical equipment will need to be repaired at owner's expense.
- The potential loss of function of a building or structure is considered with evaluating as to how the structure is used and how long it will be out of service if damaged by flooding.

**Lowest Adjacent Grade (LAG):** The lowest point of the ground level immediately next to a building.

**Lowest floor:** The lowest floor of the lowest enclosed area including 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 as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

**Manufactured home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured home park or subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value:** 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. Also defined in the

substantial damage and substantial improvement section of this Ordinance. Market value may be determined by a certified/qualified appraiser.

**Mean Sea Level (MSL):** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mixed mitigation:** The combination of dry floodproofing methods mixed with wet floodproofing methods to protect structure and/or contents during frequent, low-level flood events.

**Mixed uses:** Structures where one or more uses is not exclusively agricultural and are not considered agricultural structures for floodplain management purposes.

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

**Non-agricultural structures:** Those buildings that may be related to agriculture or located on farms but do not meet the definition of agricultural structure for the purposes of floodplain management; and therefore, are not eligible for wet floodproofing. Buildings that contain human habitation, such as a permanent or temporary residence or seasonal living quarters for workers, is not considered an agricultural purpose or use. When proposed to be located in SFHA, these and similar non-agricultural structures shall be elevated or dry floodproofed. Structures that relate to agricultural purposes or uses but are not used exclusively for agricultural purposes can have mixed uses where one or more uses are not purely agricultural, such as a barrel storage room that is also used as a tasting room; a barn that has office space or is used for entertainment or private parties; structures that are places of employment; or dwellings and other structures used for human habitation, including worker dormitories; shall be designed and constructed to meet the requirements of residential/commercial structures.

**Obstruction:** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any regulated 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:** A common name for the flood having a one percent chance of being equaled or exceeded in any given year. See "Base Flood".

**Other Areas (OA):** The areas of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2-percent-annual-chance flood, and from this point forward abbreviated as OA. An OA is designated as Zones X or D.

**Zone X:** Areas determined to be outside of 0.2-percent-annual-chance floodplain.

**Zone D:** Areas in which flood hazards are undetermined but possible.

**Other Flood Areas (OFA):** Moderate flood hazard areas, labeled Zone X (shaded) are also shown on the FIRM, and are the areas between the limits of the base flood and the 0.2-percent-annual-chance (or 500-year) flood, and from this point forward abbreviated as OFA. An OFA is designated as a Zone X (shaded).

**Zone X (Shaded):** Areas of 0.2-percent-annual-chance flood; areas of 1-percent-annual-chance flood with average depth of less than one foot or with drainage areas less than one square mile; and areas protected by levees from 1-percent-annual-chance flood.

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

**Recreational vehicle:** A vehicle that is:

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

**Registered Professional Civil Engineer or Land Surveyor:** A civil engineer or land surveyor registered pursuant to Arizona State law.

**Regulatory Floodplain:** Areas associated with a watercourse that would be inundated by the Regulatory Flood of 500 cubic feet per second (cfs) or greater; those areas that are subject to sheet flow; those areas identified on subdivision plats or development plans; those Special Flood Hazard Areas designated by FEMA, areas designated as Zone D, Zone X, and Zone X (Shaded), as well as those areas that the Floodplain Administrator, using the best available data, has determined is subject to a flood hazard during the Regulatory Flood.

**Regulatory Flood:** A flood which has a 1% chance of being equaled or exceeded in any given year (commonly referred to the 100-Year Flood), with a peak discharge of 500 cubic feet per second (cfs), or greater.

**Regulatory Flood Elevation :** An elevation one foot above the Base Flood Elevation.

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

**Repetitive Loss Structure (RLS):** A structure that is covered by an NFIP flood insurance policy that has incurred flood-related damage on two occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repair, on average, equaled or exceeded 50 percent of the value of the structure at the time of each flood event.

**Residential development:** The primary function, purpose, or activity for which land and/or structures (or any portion of a structure) that are occupied, utilized, and/or maintained for the means of the temporary or permanent domicile of persons.

**Retention basin:** A facility which stores surface runoff but is not provided with a positive outlet. No flow is discharged directly into a downstream watercourse from a retention basin, but may be drained into the subsurface by infiltration.

**Setback:** See Erosion Hazard Setback.

**Sheet flow area:** Those areas which are subject to flooding with depths of one-half foot or greater during the base flood event, where a clearly defined channel does not exist, and the path of the flooding is often unpredictable and indeterminate.

**Special Flood Hazard Areas (SFHA):** An area in the floodplain subject to a 1% or greater chance of flooding in any given year. It is shown on a Flood Insurance Rate Map as Zone A, AO, AE, AH, AR, or A99.

**Zone A:** Areas subject to inundation by the 1-percent-annual-chance flood event generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown.

**Zone AE:** Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. BFEs are shown.

**Zone AH:** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations BFEs derived from detailed hydraulic analyses are shown in this zone.

**Zone AO:** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone. Some Zone AO have been designated in areas with high flood velocities such as alluvial fans and washes.

**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:** For floodplain management purposes, a structure is a walled and roofed building that is principally above ground, where walled is considered “two or more outside rigid walls” and roofed is “a fully secured roof.” The term includes gas and liquid storage tanks and manufactured homes. The terms “structure” and “building” are used interchangeably in the NFIP regulations and this bulletin. Floodplain managers must use professional judgement to determine which proposed development projects are “walled and roofed,” and thus regulated as structures, and which proposed projects are regulated as development.

**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. In the absence of information to the contrary, the appraised value of the structure as listed in the County Assessor’s records is presumed to be fair market value.

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

- 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,
- Any alteration of a "historic structure", provided that the alteration would not preclude the structure's continued designation as a "historic structure".

**Variance:** A grant of relief from the requirements of this Ordinance which permits construction or other uses of property in a manner that would otherwise be prohibited by this Ordinance.

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

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

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

**Watershed:** The drainage area above any point on a watercourse.

**Wet floodproofing:** The use of flood damage resistant materials and construction techniques to minimize flood damage to structures by intentionally allowing floodwater to enter and exit automatically (without human intervention) to minimize unequal pressure of water on walls (called hydrostatic load or pressure). Wet floodproofing also requires structures to be anchored to resist flooding, have mechanical and utility equipment elevated or protected, and have flood openings installed in walls.

**SECTION 3**  
**GENERAL PROVISIONS**

**3.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

This Ordinance shall apply to property within the boundaries of Cochise County except those incorporated cities and towns which have adopted a resolution to assume the powers and duties of floodplain management within its area of jurisdiction in accordance with A.R.S. § 48-3610; unless and until said resolution is rescinded.

**3.2 ESTABLISHING SPECIAL FLOOD HAZARD AREAS, REGULATORY FLOODPLAINS, AND FLOODWAYS**

- A.** The SFHA identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled The Flood Insurance Study for Cochise County, AZ and Incorporated areas, dated August 28, 2008 with accompanying Flood Insurance Rate Maps (FIRMs) date August 28, 2008, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Ordinance. This Flood Insurance Study (FIS) and attendant mapping define the minimum area of applicability of this Ordinance and may be supplemented by studies of other areas which are recommended to the Floodplain Board by the Floodplain Administrator. The Board shall delineate (or by rule require developers of land to delineate) areas within its jurisdiction where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Federal Emergency Management Agency and the Director of Water Resources. The FIS, and FIRMs are on file at the Cochise County Engineering & Natural Resources Department, *1415 Melody Lane, Bisbee, Arizona 85603* or FEMA's website.
- B.** Due to continuously and episodically changing hydrologic and hydraulic conditions on the watercourses within Cochise County, base flood peak discharges, flow volumes, associated SFHA, Regulatory Floodplain and erosion hazard areas are continuously subject to revision. At a minimum, base flood values will meet or exceed the current values established by FEMA, and reflect historic flood information and current watershed conditions.
- C.** In those areas where the Regulatory Floodplain and erosion hazard areas are not delineated pursuant to Sections 3.2.A and 3.2.B, for commercial, industrial development, or subdivisions, the Floodplain Administrator may require the developer to establish the Regulatory Floodplain and floodway limits through a hydrologic and hydraulic study prepared by an Arizona Registered Professional Civil Engineer.
- D.** In those areas where the Regulatory Floodplain and erosion hazard areas are not delineated pursuant to Sections 3.2.A and 3.2.B, and upon request for a county permit for residential, accessory, or other structures, the Floodplain Administrator will determine the Regulatory Floodplain per 3.2.B and Section 8.
- E.** In those areas where a hydrologic and hydraulic study has been prepared by an Arizona Registered Professional Civil Engineer which delineates the Regulatory Floodplains, floodways and erosion hazard areas, and has been approved by the Floodplain Administrator, the delineation of those boundaries shown within the study shall be the Regulatory Floodplain, floodway and erosion hazard areas governed by this Ordinance.
- F.** Construction of any improvement which changes the configuration of the SFHA, whether upstream or downstream from or adjacent to the parcel under development, the owner shall provide Cochise

County a new delineation of Regulatory Floodplain boundaries affected by the improvement, prior to the release of assurances for subdivisions or certificate of occupancy for development plans. The new delineation and reports shall be prepared in conformance with the requirements of FEMA, the Director of the Arizona Department of Water Resources and this Ordinance. The owner, or the owner's engineer, shall submit the required flood insurance study information to FEMA. The owner shall be responsible for providing Cochise County a copy of all correspondence with FEMA.

### **3.3 COOPERATIVE AGREEMENTS AND CONSULTANTS**

Cochise County may retain consultants and experts, and may enter into cooperative agreements for the delineation of Regulatory Floodplains, floodways, riparian habitat, and erosion hazard areas or for other assistance and guidance considered appropriate and necessary.

### **3.4 COMPLIANCE**

All development of land, construction of residential, commercial, industrial and agricultural structures, or future development that is subject to the terms of this Ordinance shall also comply with all other applicable laws and regulations.

### **3.5 ABROGATION AND GREATER RESTRICTIONS**

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

### **3.6 INTERPRETATION**

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

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

### **3.7 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this Ordinance 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 Ordinance does not imply that land outside Regulatory Floodplains and SFHA or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Cochise County, the Cochise County Flood Control District, the State of Arizona, FEMA, or any officer or employee thereof, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

### **3.8 STATUTORY EXCEPTIONS**

- A. In accordance with A.R.S. § 48-3609(I), unless expressly provided, this and any regulation adopted pursuant to this article do not affect:
  - 1. Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for twelve months, or substantially damaged to the extent of 50 percent of its market value as determined by an Arizona Certified Appraiser, any further use shall comply with this article and regulations of the Cochise County.

2. Reasonable repair or alteration of property for the purposes for which the property was legally used on August 3, 1984, or on the date any regulations affecting such property take effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by 50 percent or more shall be either 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 shall submit plans for the construction to the Floodplain Board for review and comments pursuant to A.R.S. § 48-3613(C).
1. The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse;
  2. The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage to adjoining land if the structure will not divert, retard or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by A.R.S. Title 45, Chapter 6;
  3. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations that will divert, retard or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the floodplain board pursuant to regulations adopted by the Floodplain Board under this Ordinance;
  4. Other construction upon determination by the floodplain board that written authorization is unnecessary;
  5. Any flood control district, 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.

### **3.9 DECLARATION OF PUBLIC NUISANCE**

All development located or maintained within any SFHA since August 8, 1973, in violation of floodplain regulations established by the board and without written authorization from the board is a public nuisance per se and may be abated, prevented or restrained by action of this state or any of its political subdivision. (*A.R.S. § 48-3614*)

### **3.10 VIOLATIONS AND ENFORCEMENT**

If the Chief Engineer finds that a person has engaged or is engaging in development in the floodplain without a floodplain use permit, has engaged or is engaging in any development that is not in compliance with an active floodplain use permit or has damaged or interfered with facilities that are authorized pursuant to A.R.S. Title 48, Chapter 21 without written authorization of the Floodplain

Board, the chief engineer shall issue a notice of violation to the owner, occupant or manager of the real property on which the development is located or to the person who has damaged or interfered with the facilities. The notice of violation shall identify the violations observed and order the violator to cease and desist any ongoing activity that is not in compliance with the regulations adopted pursuant to this chapter or cease and desist any damage or interference that is not authorized by the board. The notice of violation shall include the date and time by which the person must mail or deliver a response to the notice of violation.

#### **A. UNLAWFUL ACTS**

1. 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.
2. A person who violates Section 3.10.A.1 is guilty of a class 2 misdemeanor.
3. A person who violates this Ordinance may be assess a civil penalty not to exceed the fine chargeable for a class 2 misdemeanor or, by agreement with the person in violation, a nonmonetary penalty that serves the district. Each day the violation continues constitutes a separate violation. .
4. A person who without written authorization damages or interferes with a facility that is owned, operated, or otherwise under the jurisdiction of the district is strictly liable for both of the following:
  - a. Any actual damages to persons or property that is caused by the damage or interference.
  - b. Payment of cost to the district for remediating the damage or interference.

#### **B. NOTICE OF VIOLATIONS**

1. In addition to other enforcement procedures set forth in these Regulations, enforcement may follow an administrative process. The administrative process for determining, enforcing, and appealing citations for violations shall be as established by the Legislature, which currently is codified in A.R.S. § 48-3613 thru 3615.02. In the event the Legislature alters or adds to that process, this section shall be deemed amended accordingly.
2. For the purpose of this Section, “Chief Engineer” shall be the County Engineer or designee.
3. The Chief Engineer is responsible for investigating all complaints of suspected violations of this Ordinance.
4. The Chief Engineer shall develop a form to be provided with a notice of violation, as required by statute, in which an alleged violator can admit or deny the allegations, and a form for a decision and order, as also required by statute.
5. The rules of procedure for hearings and review shall be the same as those adopted by the Board of Supervisors as Rules of Procedure on Zoning and Building Code Violations, except that for purposes of Floodplain violation enforcement:
  - a. Upon receipt of the notice of violation, the person may:
    1. Admit the allegation by mailing or delivering to the Chief Engineer where a “complaint” is deemed to be filed upon receipt of a form or written statement, signed by the alleged violator, as provided by statute. The “complaint” will consist of the Notice of Violation.

2. Deny the allegations by mailing or delivering to the Chief Engineer a form provided with the notice of violation or a written statement, signed by the person, denying the allegations and requesting a hearing on the matter.
  - b. If allegations are denied, a request for a hearing shall be granted. The hearing officer shall set a date, time, and place for a hearing and serve a notice of hearing on the person alleged to be in violation, and provide a notice of the hearing to the Chief Engineer. Service of notice shall be by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to affect actual notice on the alleged violator, the Chief Engineer and every other party to the action.
  - c. If possible, the hearing officer required by statute will be the hearing officer who hears zoning violations. If not possible, the Floodplain Board of Directors will separately appoint a hearing officer.
  - d. After completion of the hearing, the hearing officer shall issue a written finding within 30 days and a recommendation for the appropriate measures to be taken to abate or ameliorate any harm or damage arising from the violation and for the imposition of any civil penalties attributed to the violation.
    1. Upon receipt of the hearing officer's findings, determination and recommendation, the Chief Engineer shall issue a final decision and order OR
    2. If final decision and order are appealed by any party who is subject to the decision and order of the Chief Engineer, pursuant to this section, the board of hearing review may review any decision and order of the Chief Engineer. The written request for review shall be delivered to the clerk of the board of directors within fifteen (15) days after the date of the final decision and order. The written request shall identify specifically the section or sections of the Chief Engineer's final order that is requested to be reviewed by the board of hearing review.
  - e. Based on the record before the board of hearing review, the board may deny, approve or modify the order of the Chief Engineer. The board shall issue a written order of its decision, including findings of fact and conclusions of law, and shall submit its final written order on the matter to the Chief Engineer within thirty (30) days after completion of the hearing.
  - f. Certain terminology that is used in the Rules of Procedure on Zoning and Building Code Violations is deemed to be changed to harmonize with Floodplain regulation and enforcement terminology. For example, "Floodplain Administrator" instead of "Zoning Inspector" and "Floodplain Board of Directors" instead of "Board of Supervisors"
6. The Chief Engineer is authorized to obtain administrative search warrants in the manner provided by the Legislature, currently codified in A.R.S. § 48-3603.C.26.

### **C. ENFORCEMENT**

As provided for by 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 Ordinance or any regulations adopted pursuant to A.R.S. Title 48, Chapter 21, Article 1. If a person is found to be in violation of this section, the court shall require the violator to either comply with terms of this section, if authorized by the Floodplain Board, or to remove the obstruction and

restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

### **3.11 SEVERABILITY**

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

### **3.12 RECOVERY OF ADMINISTRATIVE AND OTHER COSTS**

Cochise County shall be entitled to recover all costs, administrative, engineering, and legal, as well as actual costs to remove or modify a structure, encroachment, and any other work in violation of this Ordinance.

**SECTION 4**  
**ADMINISTRATION**

**4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The County Engineer or designee is hereby appointed Floodplain Administrator, whose duties include administration and enforcement of the Cochise County Floodplain Management Ordinance and the National Flood Insurance Program and the day-to-day operations of the Cochise County Engineering & Natural Resources Department, Floodplain Division.

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

Duties of the Floodplain Administrator, together with duly authorized representatives shall include, but not be limited to;

**A. PERMIT REVIEW**

Review all development permits with Regulatory Flood discharges and SFHA, to determine that:

1. The permit requirements of this Ordinance have been satisfied;
2. All other required state and federal permits have been obtained by respective governmental agencies;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely impact the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Ordinance, "adversely impact" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one tenth (0.10) of a foot at any point or increase velocities by more than ten percent (10%) on adjacent properties.

**B. SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS**

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.

**C. USE OF OTHER BASE FLOOD DATA**

When Base Flood Elevation data has not been provided in accordance with Section 3.2 (A), 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 5 – Provisions For Flood Hazard Reduction. Any such information shall be consistent with the requirements of the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources and may be submitted to the Floodplain Board for adoption.

**D. OBTAIN AND MAINTAIN FOR PUBLIC INSPECTION**

Obtain and maintain the following for public inspection and make available as needed:

1. Certification required by Section 5.1(D)(1) and Section 5.4 (lowest floor elevations, bottom of the structural frame, and utilities);
2. Certification required by Section 5.1(D)(2) (lowest floor elevations or flood proofing of

nonresidential structures and utilities);

3. Certification required by Section 5.1(C)(5) (flood vents/openings);
4. Certification of elevation required by Section 5.8 (subdivisions and other proposed development standards);
5. Certification required by Section 5.10 (floodway encroachments);
6. Records of all variance actions, including justification for their issuance.
7. Obtain and maintain improvement and damage calculations required in Section 4.2

#### **E. NOTIFICATION TO OTHER ENTITIES**

1. Advise any city or town, having assumed jurisdiction over its floodplains in accordance with A.R.S. § 48-3610(B)(1), of any development plan within a Regulatory Floodplain or floodway which could affect floodplains, floodways or watercourses within one mile of such city's or town's area of jurisdiction. A copy of the development plan shall be provided to the city or town prior to approval of the development.
2. Whenever a watercourse is to be altered or relocated the Floodplain Administrator shall:
  - a. Notify adjacent communities and ADWR prior to such alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
  - b. Require as a condition of the floodplain use permit that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.
3. Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
4. Within one hundred twenty (120) days after completion of construction of any flood control protective works which changes the rate of flow during the base flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the Arizona Department of Water Resources.
5. Corporate Boundary Changes:

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

#### **F. MAP DETERMINATIONS**

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (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 Section 6.0.

## G. REMEDIAL ACTIONS

Take actions on violations of this Ordinance as required in Section 3.10

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

A Floodplain Use Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any OFA and OA with Regulatory Flood discharges and SFHA established in Section 3.2. Application for a Floodplain Use Permit shall be submitted electronically through Cochise County online Floodplain Use Permit Service, and may include, but not be limited to, plans 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:

- A. 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;
- B. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- C. Certification by an Arizona registered professional Civil Engineer or Architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 5.1.D.2;
- D. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data; and
- E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

These applications shall include, but not be limited to, plans drawn to scale showing the north point, nature, location and dimensions of the area in question, existing and proposed structures and utilities, washes, watercourses or drainage ways, fill, storage of materials, walls, fences, adjacent streets and driveways, or other development that may obstruct, divert or retard flow and a description of the extent to which any watercourse will be affected, altered or relocated as a result of proposed development.

**A FEMA Finished Construction Elevation, or Floodproofing Certificate, as applicable, shall be required to demonstrate compliance with Regulatory Flood Elevation requirements for structures, manufactured homes, service facilities, basement, utilities, machinery and equipment or other improvements.**

**SECTION 5**  
**PROVISIONS FOR FLOOD HAZARD REDUCTION**

**5.1 STANDARDS OF CONSTRUCTION**

**A. ADVERSE IMPACT**

The cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one tenth of a foot (0.10 ft) along adjacent boundaries, and shall not increase the flow velocity by more than ten percent (10%).

**B. 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 and storage tanks shall meet the anchoring standards of section 5.4.C.

**C. CONSTRUCTION MATERIALS AND METHODS**

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment (including ductwork) and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

**D. ELEVATION AND FLOOD-PROOFING**

**1. Residential construction, new or substantial improvement**

All shall have the lowest floor, including basement, utilities, machinery and equipment, elevated to or above the Regulatory Flood Elevation in SFHA or as indicated below:

- a. In a SFHA Zone AO, elevated to one (1) foot minimum above the number indicated on the FIRM panel or a minimum of two (2) feet above the highest adjacent grade if no number is specified.
- b. In a SFHA Zone A where a BFE has not been determined, the Base Flood Elevation is determined by the criteria in Section 4.2.C.
- c. In SFHA Zone(s) AE, and AH, elevated to one (1) foot above the base flood elevation as determined from the FIS and/or FIRM.
- d. In OFA and OA, (FEMA Zones X shaded, D, and X), where the flood flow is less than 500 cfs, there shall be a minimum of six (6) inches above the finished grade at all points adjacent to the foundation or stem wall and provide an additional six (6) inches of fall within 10 feet

from the foundation or stem wall to provide a total of twelve (12) inches of positive drainage away from the building.

- e. In OFA and OA (FEMA Zones X shaded, D, and X) and the flood flow is equal to or greater than 500 cfs (Regulatory Flood), elevate per b above.

Upon completion of the structure, the elevation of the lowest floor, including basement and all machinery and equipment servicing the structure, shall be certified by an Arizona Registered Professional Civil Engineer or Arizona Registered Professional Surveyor in Flood Zone(s) AE & AH. Other zones shall be verified by the community's building inspector and certified by the Floodplain Administrator to be properly elevated. All certification and verification shall be provided to the Floodplain Administrator.

## **2. Non-Residential construction, (Commercial, Industrial, Agricultural or other structures), new or substantial improvement**

All shall either be elevated to conform with Section 5.1.D.1(a), (b), or (c) as appropriate,

Or, together with attendant utility and sanitary facilities:

- a. Be floodproofed below the elevation required under Section 5.1. D.1 (a), (b), (c) or (e), as appropriate, 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. Be certified by a registered professional engineer or architect that the floodproofing standards of this section are satisfied. Such certification shall be provided to the Floodplain Administrator for verification.

Upon completion of the structure, the elevation of the lowest floor, including basement and all machinery and equipment servicing the structure, shall be certified by an Arizona Registered Professional Civil Engineer or Arizona Registered Professional Surveyor in Flood Zone(s) AE & AH. Other zones shall be verified by the community's building inspector and certified by the Floodplain Administrator to be properly elevated. All certification and verification shall be provided to the Floodplain Administrator.

## **3. Manufactured Homes**

Manufactured homes shall meet the standards in Section 5.4 – Standards for Manufactured Homes.

## **4. Accessory Structures (Attached/Detached Garages & Storage Structures)**

Accessory structures (less than 600 square feet) used solely for parking of vehicles or limited storage (small, low-cost sheds), as defined in Section 2.0, may be constructed such that its floor is below the Regulatory Flood Elevation, provided the structure is designed and constructed in accordance with the following requirements:

- a. Use of the accessory structure must be limited to parking or limited storage;
- b. The portions of the accessory structure located below the Regulatory Flood Elevation 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 flood-proofed to or above the Regulatory Flood Elevation;
- e. The accessory structure must comply with floodplain and floodway encroachment provisions in Section 5.10, 5.11; and
- f. The accessory structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 5.1.D.5.

Attached/Detached garages, storage structures and other accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 5.1.D.1 (a), (b), (c) or (e), as appropriate.

Upon completion of the structure, the elevation of the lowest floor, including basement and all machinery and equipment servicing the structure, shall be certified by an Arizona Registered Professional Civil Engineer or Arizona Registered Professional Surveyor in Flood Zone(s) AE & AH. Other zones shall be verified by the community's building inspector and certified by the Floodplain Administrator to be properly elevated. All certification and verification shall be provided to the Floodplain Administrator.

### **5. Flood Openings (Wet-Flood Proofing)**

All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are used solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement shall 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 highest adjacent pre-construction grade.
  - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater and meet the total net area that is unobstructed; or
- b. For Engineered Openings:
  - 1. Engineered openings (or covers and devices) that are specifically designed and certified by an Arizona Registered Professional Civil Engineer or architect as meeting the required performance and design requirements.
  - 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.

### **6. Fences – Continuous wood, steel sheet, masonry (block) walls or other material that impedes the flow of stormwater.**

To allow the Regulatory Flood discharge to pass, a minimum of 50% of fence shall be left open and unobstructed to or above the Regulatory Flood Elevation. No fence shall be constructed in a floodway.

## **7. Machinery and Service Equipment**

All new construction, substantial improvements, 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.

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

All or some of section 5.1 requirements may apply in addition to the following;

- A.** The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in SFHA and Regulatory Floodplains.
- B.** Storage of other material or equipment may be allowed if not subject to damage by floods and shall be firmly anchored (example: propane tanks, storage/cargo containers, etc.) to prevent flotation, or if readily removable from the area within the time available after flood warning.

### **5.3 STANDARDS FOR WATER SUPPLY AND WASTE DISPOSAL SYSTEMS**

- A.** All new or replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- B.** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. They shall also meet Section 5.11 – Erosion Hazard Areas and Building Setbacks.
- C.** Waste disposal systems shall not be installed wholly or partially in a floodway.

### **5.4 STANDARDS FOR MANUFACTURED HOMES**

All manufactured homes that are placed or substantially improved shall:

- A.** Meet all State of Arizona Manufactured Housing Division requirements set forth in the Minimum Standard for Manufactured Housing Foundation in Floodplains. Including the following:
  - Foundations, or fill pad erosion protection, for installation within floodplain shall be designed by an Arizona Registered Professional Civil Engineer and approved by all appropriate local governmental agencies and by the Manufactured Housing Division.
- B.** Be elevated to conform with Section 5.1.D.1, as appropriate, so that the bottom of the lowest horizontal structural member, including but not limited to duct work, utilities, machinery and equipment, is at or above the Regulatory Flood Elevation.
- C.** Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- D.** Certification that the installation of a manufactured home meets all of the requirements of this section is required as outlined in the Floodplain Use Permit. Such certification shall be provided by a licensed installer or an Arizona Registered Professional Civil Engineer.
- E.** Placement of Manufactured Homes should be placed parallel to the direction of flow.

### **5.5 STANDARDS FOR RECREATIONAL VEHICLES**

All recreational vehicles placed within OFA and OA with Regulatory Flood discharges and SFHA,

on site will either:

- A. Be on site for fewer than 180 consecutive days, and
- 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 Section 4.3, Establishment of Floodplain Use Permit, of this Ordinance and the elevation and anchoring requirements for manufactured homes in Section 5.4.

## **5.6 STANDARDS FOR GENERAL LAND DISTURBANCE**

### **COMMERCIAL AND INDUSTRIAL DEVELOPMENT**

Where more than one (1) acre of land is to be altered or disturbed, a drainage analysis shall be required. For parcels less than one (1) acre in size and where imperviousness cumulatively increases more than fifty percent (50%) of the parcel, a drainage analysis shall be required to meet the requirements of 5.1.A. This report shall be certified by an Arizona Registered Professional Civil Engineer. See Appendix A for minimum information required.

- A. Development plans, construction and grading plans shall:
  - 1. Identify the Special Flood Hazard Area and the Base Flood Elevation.
  - 2. Identify the elevation(s) of the proposed structures(s) and pads.
  - 3. Show areas subject to flooding and erosion.
  - 4. Include the direction of all flow, drainage area(s), water surface elevations, the limits of inundation.
  - 5. Show erosion hazard setback for the base flood if such a flood has a peak flow rate equal to or greater than five-hundred (500) cubic feet per second (cfs). These requirements are in addition to all Development Services site plan requirements.
- B. The cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one tenth of a foot (0.10 ft) along adjacent boundaries, and shall not increase the flow velocity by more than ten percent (10%).
- C. All proposed development shall be constructed to minimize flood damage and provide adequate drainage to reduce exposure to flood hazards

## **5.7 STANDARDS FOR SAND AND GRAVEL MINING**

Where more than one (1) acre of land is to be altered or disturbed, a drainage analysis shall be required. to meet the requirements of 5.1.A. This report shall be certified by an Arizona Registered Professional Civil Engineer. See Appendix A for minimum information required.

- A. Extraction of sand, gravel and other materials is allowed, if permitted by all other applicable Federal, State, and local regulations, and erosion hazard areas, provided that excavations are not so located nor of such depth, or width, or length, or combination of depth-width-length as to present a hazard to structures (including, but not limited to roads, bridges, culverts, and utilities), to banks or watercourses, or to other property.
- B. There shall be no stockpiling of material or tailings that may obstruct, divert, or retard the flow of floodwaters except as reviewed and approved by the Floodplain Administrator.

- C. Due to the rapidly changing hydraulic characteristics of watercourses in Cochise County, and the effects excavations have on these characteristics, Floodplain Use Permits for excavations shall only be issued for a limited period of time, not to exceed one year, maximum of one year extension, subject to annual renewal upon review by the Floodplain Administrator.
- D. In addition to those conditions provided for elsewhere, Floodplain Use Permit for excavations may impose conditions regarding the area and location in which excavations are allowed, the maximum amount of material to be excavated, and other reasonable restraints on methods of operation, including time restraints.
- E. Permitting for Sand and Gravel will require a closure plan that addresses flood heights, velocity, erosion, and grade control during and after the periods of extractions. The Floodplain Administrator may require hydrologic, hydraulic and geomorphic analyses addressing the existing conditions as well as the impacts under the proposed method of operation.
  - 1. The Board may grant variances as provided by Section 6 of this Ordinance.
  - 2. Standards for minimal impact no permit required.
  - 3. All proposed development shall be constructed to minimize flood damage and reduce exposure to flood hazards.

## **5.8 STANDARDS FOR SUBDIVISIONS**

- A. All new subdivision proposals, including proposals for manufactured home parks and subdivisions, greater than 6 lots and 1 acre, shall:
  - 1. Plats, construction and grading plans shall show areas subject to flooding and erosion. Plats and Plans shall also include the direction of any flow, drainage area(s), water surface elevations, the limits of inundation, and erosion hazard setback for the base flood if such a flood has a peak flow rate equal to or greater than five hundred (500) cubic feet per second (cfs). These requirements are in addition to all Development Services plat and site plan requirements.
  - 2. Submit drainage analysis to identify the SFHA and the floodplain area associated with the Regulatory Flood. Identify the SFHA, Regulatory Floodplain and Base Flood Elevation on the final plat.
  - 3. Identify on the final plans the elevation(s) of the proposed structure(s) and pads. If the site is filled above the base flood elevation, the lowest floor and finished grade elevations shall be certified by an Arizona Registered Professional Civil Engineer or surveyor and provided to the Floodplain Administrator for approval.

NOTE: See Appendix A for Drainage Report Requirement.

- B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage, have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All proposed development shall be constructed to minimize flood damage and reduce exposure to flood hazards.
- D. Application
  - 1. Land may not be parceled or subdivided in such a manner as to create lots unsuitable for development because of flood or erosion hazards.
  - 2. All subdivision plats, development plans, associated building plans and improvement plans are

subject to the design requirements for Regulatory Floodplains as specified under A.R.S. § 48-3609 and this Ordinance.

#### **E. Plan Information**

All tentative plats and development plans submitted to the County shall show location, by survey or photographic methods, of streams, watercourses, canals, irrigation laterals, private ditches, culverts, lakes and other water features, including those areas subject to flooding or erosion. The plats/plans shall also include the direction of any flow and drainage area, as well as water-surface elevations and the limits of inundation for the base flood, if such a flood has a contributing drainage area equal to or greater than four tenths of a square mile (five-hundred (500) cfs), or is a FEMA mapped floodplain. Plats or plans shall be sealed by an Arizona Registered Land Surveyor or Professional Civil Engineer.

##### **1. Grading and Drainage Improvement**

- a. A floodplain use permit is required prior to commencement of any site improvements or grading associated with a subdivision development. A grading plan, detailed plans for storm drains and channel improvements shall be submitted to the Cochise County Flood Control District for review and approval.
- b. All plats and development plans shall show proposed grading, drainage improvements, and erosion hazard setbacks.

##### **2. Grading and drainage plans shall demonstrate:**

- a. The methods for flood proofing and/or drainage control for the development, including sufficient lot grading information to demonstrate adequate finished pad elevations and/or drainage slopes to protect building foundations.
- b. That improvements are compatible with the existing upstream and downstream drainage conditions and that any proposed grading and/or grade change will not have an adverse impact on surrounding properties.
- c. Any necessary erosion and/or sediment control including but not limited to practices such as re-vegetating disturbed areas.
- d. The methods of mitigating increased urban peak and volumetric flood water runoff or discharge on downstream properties created as a result of the development.

##### **3. Floodplain and Floodway Boundaries - Drainage Areas**

- a. All plats and development plans shall indicate the limits of the Regulatory Floodplains, SFHA, Floodway, as applicable, and be delineated in a surveyable manner and sealed by an Arizona Registered Land Surveyor.
- b. Where subdivision improvements modify or remove the SFHA that is designated on the FIRM, a hydraulic analysis of the impact and the engineering plans for the modifications shall be approved by the District and a Conditional Letter of Map Revision (CLOMR) submitted and approved by FEMA prior to the recording of the final plat.
- c. Where modification of a defined floodway is proposed, approval of a CLOMR by FEMA amending the floodway boundary is required prior to the recording of the final plat.
- d. Prior to the release of assurances for subdivisions or certificate of occupancy for development plans, the Letter of Map Revision (LOMR) shall be approved by the Flood Control District and FEMA.

#### **4. Street Elevation Requirements**

Streets required for paved permanent access shall be designed and constructed so that the flow depths over them do not exceed 1 foot in depth during the base flood and that it can be demonstrated that there is zero (0) rise in water surface elevation on adjacent parcels or drainage easement.

#### **5. Building Site Location Restrictions**

- a. Building sites are to be located outside of OFA and OA with Regulatory Flood discharges and SFHA, where possible.
- b. No structure or fill shall be placed within the Regulatory Floodway unless it can be demonstrated that there is zero (0) rise in water surface elevation. See Section 5.10.
- c. Structures shall be constructed/placed in accordance with the erosion hazard setback as described in Section 5.11.

#### **6. Setbacks from Channels**

Erosion Hazard Setbacks from banks of watercourses and/or other protection measures shall be established in accordance with approved studies, ADWR State Standards 5-96 and this Ordinance. Along reaches of watercourses where hazards from eroding banks or channel meandering are considered by the Floodplain Administrator to be severe, special engineering studies, prepared and sealed by an Arizona Registered Professional Civil Engineer may be required of the property owner or developer.

#### **7. Cost recovery for drainage or flood control improvements**

The Floodplain Board may establish a cost recovery system or fee system for the improvement of installation of public flood control systems. The purpose of the fee is to provide a method for off-site improvements necessary to mitigate the effect of urbanization and to provide a systematic approach for the construction of public flood control improvements. If such a system is adopted, it shall demonstrate that the fee will in some manner benefit the property from which the fee is collected and be applied equitably to all property in proportion to floodwaters generated by urban use of the property. The fees will also be restricted to providing flood control improvements necessary for the allowed use of the properties from which the fee is collected, and the fees shall be reasonably related to the actual cost of providing flood control improvements beneficial to the site or surrounding area.

### **5.9 MAINTENANCE OF PRIVATE DRAINAGE IMPROVEMENTS**

When drainage improvements are associated with an approved development plan, subdivision plat, and/or drainage analysis, and are constructed to provide flood protection to remove or reduce flood hazards, or for storm water quality control, and where those improvements are privately owned, then it shall be the responsibility of the property owner(s) to perform maintenance as necessary to ensure the integrity of said drainage improvements and maintenance of the flood carrying capacity to the designed discharge. It is the responsibility of the Engineer of Record to provide the property owner with the drainage improvements and maintenance plan. Refer to Cochise County Stormwater Ordinance.

Covenants, conditions and restrictions shall be required for private drainage improvements, prior to the construction of the improvements. The covenants, conditions and restrictions shall outline maintenance responsibilities of the property owners and shall be reviewed and approved by the Floodplain Administrator, prior to the construction of the drainage improvements.

## **5.10 FLOODWAYS**

Located within SFHA established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements and other development, unless certification by an Arizona registered professional civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If Section 5.11.A is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 5.0.

## **5.11 EROSION HAZARD AREAS AND BUILDING SETBACKS**

### **A. SETBACKS NEAR MAJOR WATERCOURSES**

For major watercourses with base flood peak discharges of 2,000 cfs or greater, the following building setbacks shall be required::

- 1. Along the major natural watercourses such as the Babocomari River, San Pedro River, and San Simon River there shall be a minimum building setback of 300 feet. All other major watercourses will follow State Standard methods for calculating setbacks.
- 2. Along major natural watercourses/washes where unusual conditions do exist that may increase or decrease the required erosion hazard setback, building setbacks shall be established on a case-by-case basis by the Floodplain Administrator or designee using the State Standards adopted by ADWR, in Section 8, or other applicable engineering methods which establish safe limits for the development. Unusual conditions include but are not limited to historical meandering of the watercourse, large excavation pits, poorly defined or poorly consolidated banks, natural channel armoring, proximity to stabilized structures such as bridges or rock outcrops, and changes in the direction, amount and velocity of the flow of water within the watercourse.
- 3. When determining building setback requirements, the Floodplain Administrator or designee shall consider the danger to life and property due to existing flood heights or velocities and historical channel meandering.
- 4. For constructed channels, structural bank protection to prevent erosion is required for major watercourses with base flood peak discharge of more than 2,000 cfs unless a written waiver of the requirement is granted by the Floodplain Administrator. A waiver of the requirement may be granted based on an acceptable engineering study, which has been prepared and sealed by an Arizona Registered Professional Civil Engineer.

### **B. SETBACK NEAR MINOR WATERCOURSES**

For minor natural watercourses/washes with a base flood peak discharge of less than 2,000 cfs, the following building setbacks shall be required:

- 1. A minimum distance of 20 feet from any watercourse and in compliance with ADWR State Standard 5-96 shall be required.
- 2. Alternative safe limits for erosion setbacks approved in writing by the Floodplain Administrator based on an acceptable engineering study prepared and sealed by an Arizona Registered Professional Civil Engineer. However, at no time shall a setback of less than 20 feet from the

top of channel bank be permitted in order to provide for reasonable access and stability of nearby structure foundations, except as allowed pursuant to subpart 3 of this provision.

3. Along minor natural watercourses/washes where unusual conditions exist, building setbacks shall be established on a case-by-case basis by the Floodplain Administrator, using ADWR State Standards, other applicable engineering methods, or an acceptable engineering study is prepared and sealed by an Arizona Registered Professional Civil engineer and approved by the Floodplain Administrator. When determining building setback requirements, the Floodplain Administrator shall consider danger to life and property due to existing flood heights or velocities and historical channel meandering. Unusual conditions include but are not limited to historical meandering of the watercourse, large excavation pits, poorly defined or poorly consolidated banks, natural channel armoring, proximity to stabilized structures such as bridges or rock outcrops, and changes in the direction, amount and velocity of flow of the waters in the watercourse.
4. For constructed channels, channel banks are required to be stabilized to prevent erosion along minor watercourses with base flood peak discharges of less than 2,000 cfs, but greater than 500 cfs. Stabilization is required unless a waiver to the requirement is granted by the Floodplain Administrator based on an engineering study prepared and sealed by an Arizona registered Professional Civil Engineer who demonstrates an appropriate building setback for an earthen channel, based on soil and natural flow conditions. For constructed channels with a base flood peak discharge of less than 500 cfs, channel stabilization may be required based on engineering analysis and assessment of soil conditions and flow velocities.

**SECTION 6**  
**VARIANCE PROCEDURE**

**6.1 NATURE OF VARIANCES**

The variance criteria, OFA and OA with Regulatory Flood discharges and SFHA, set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics shall be unique to the property and not be shared by adjacent parcels. The unique characteristic shall pertain to the land itself, not to the structure (except with respect to Subsection 6.2, below), its inhabitants or the property owners.

It is the duty of the Floodplain Board to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Regulatory Flood Elevation is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Ordinance are detailed and contain multiple provisions that shall be met before a variance may be properly granted. These criteria are designed to screen out situations in which alternatives, other than a variance, are more appropriate. Variances can and will jeopardize the County's Community Rating System (CRS) standing which provides a discount to policy holders.

**6.2 ACCESSORY STRUCTURES AND AGRICULTURAL STRUCTURE**

A. At grade accessory structures and agricultural structures located in OFA and OA with Regulatory Flood discharges and SHFA may be wet floodproofed to the Regulatory Flood Elevation in lieu of the elevation or dry floodproofing to the Regulatory Flood Elevation, via variance, under the following requirements and conditions:

1. A determination that the proposed Accessory Structure:
  - a. Represents minimal investment and has low damage potential (amount of physical damage, contents damage, and loss of function)
  - b. Is larger than the size limits specified in 5.1.D.4.
  - c. Complies with the wet floodproofing construction requirements of 5.1.D.5.
2. A determination that the proposed Agricultural Structure:
  - a. Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
  - b. Has low damage potential (amount of physical damage, contents damage, and loss of function).
  - c. Does not increase the risk and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquefied natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.

- d. Complies with the wet floodproofing construction requirements in 5.1.D.5.
3. The variance shall be for an individual agricultural or accessory structure.
4. Justification for the variance shall be on a case-by-case basis.
5. A description of the exceptional hardship that the applicant would incur if a variance were not granted.
6. The structure shall be anchored to resist floatation, collapse, and lateral movement.
7. The portions of the structure located below the Regulatory Flood Elevation shall be constructed with flood-resistant materials.
8. Mechanical and utility equipment for the structure shall be elevated or dry floodproofed to or above the Regulatory Flood Elevation.
9. The structure shall comply with the floodway encroachment provisions in Section 5.10.
10. The structure shall be wet floodproofed to protect the structure from hydrostatic pressure and shall allow for the automatic entry and exit of floodwaters without manual operation or the presence of a person(s) per Section 5.1.D.5.

### **6.3 APPEAL BOARD**

- A. The Floodplain Board of Cochise County shall hear and decide:
  1. Appeals (other than appeals of notices of violations governed by Section 3.10 above) when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator, or designee, in the administration of this Ordinance; and
  2. Requests for variances from the requirements of this Ordinance.
- B. Before approving such applications, the Floodplain Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, 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 affect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
  6. The compatibility of the proposed use with existing and anticipated development;
  7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  8. The safety of access to the property in time of flood for ordinary and emergency vehicles;
  9. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
  10. 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, streets, and bridges.

- C. Upon consideration of the factors of Section 6.3(B) and the purposes of this Ordinance, the Floodplain Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
- D. Any applicant to whom a variance is granted shall be given written notice, signed by the Floodplain Administrator that:
  - 1. The issuance of a variance to construct a structure below the Regulatory Flood Elevation may result in increased premium rates for flood insurance coverage; and
  - 2. Such construction below the Regulatory Flood Elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions as required in Paragraph 6.3.E of this Ordinance. Such notice will also state that the land upon which the variance is granted shall be ineligible for exchange of land pursuant to any flood relocation and land exchange program. A copy of the notice shall be recorded by the Floodplain Board in the office of the Cochise County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- E. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance and report such variances issued in its biennial report submitted to FEMA.

**6.4 CONDITIONS FOR VARIANCES**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Regulatory Flood level, provided that the provisions of Sections 4 and 5 of this Ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair, rehabilitation, or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon:
  - 1. A showing of good and sufficient cause;
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - 3. A showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water;
  - 4. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief:
6. Special circumstances, such as size, shape, topography, location or surroundings of the property, would cause the strict application of the regulations to deprive the property of privileges enjoyed by similar property in the floodplain. A variance is subject to conditions to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations on similar property in the floodplain.

**SECTION 7**  
**FLOODPLAIN PERMITS AND OTHER FEES**

For each floodplain use permit application for properties in OFA and OA with Regulatory Flood discharges and SFHA, a nonrefundable filing/permit fee shall be charged based upon the adopted fee schedule. Fees specified herein shall be in addition to any fees required pursuant to other applicable regulations and ordinances.

- A.** Single and multi-family residence, and manufactured home, for which a drainage/hydrology study has not been submitted and approved - \$150.00
- B.** Single and multi-family residence, and manufactured home, for which a hydrology and hydraulics report has been submitted and approved - \$65.00
- C.** Accessory structures or additions, including detached garages, sheds, carports, and other structures (per structure or addition) - \$40.00 each
- D.** Permit fees for commercial and other non-residential developments shall be assessed in accordance with cost of the development as follows:
  - If cost is less than \$250,000 - \$150.00
  - If cost is more than \$250,000 - \$250.00
- E.** For use of outside consultant for plan review and/or inspection - \$ at cost
- F.** Variance requests - \$75.00

## SECTION 8

### ADOPTION OF ARIZONA DEPARTMENT OF WATER RESOURCES (ADWR) STANDARDS

The Director of the Arizona Department of Water Resources has authority outlined in A.R.S. §48-3605(A) to establish base flood elevations. The ADWR with the assistance of the Arizona Floodplain Managers Association and Arizona city and county flood control districts have established standard methodologies for determining base flood elevations and other design standards for floodplain and stormwater studies. The Cochise County Flood Control District hereby adopts the following standards and any modifications and amendments thereto:

#### **8.1 ADWR STANDARD 1, August 2012 - "Instructions for Organizing and Submitting Technical Documentation for Flood Studies"**

This standard establishes documentation standards for flood studies that delineate or revise floodplains. It applies to any Level III flood studies submitted to Cochise County.

#### **8.2 ADWR STANDARD 2-96 - "Delineation of Riverine Floodplains and Floodways in Arizona"**

This standard provides methodologies for estimating 100-year peak discharges, delineating 100-year floodplain limits and determining administrative floodplains. There are three levels of complexity of analysis. The Floodplain Administrator will determine the level of analysis required.

#### **8.3 ADWR STANDARD 3-94 - "Supercritical Flow"**

This standard establishes guidelines for modeling floodways for watercourses with supercritical or near critical flow.

#### **8.4 ADWR STANDARD 4-95 - "Identification of and Development within Sheet flow Areas"**

This standard provides minimum standards for identification of sheet flow areas and for development within them.

#### **8.5 ADWR STANDARD 5-96 - "Watercourse System Sediment Balance"**

This standard provides guidelines for determining: lateral migration setbacks for riverine floodplains, channel degradation estimation for alluvial channels, and evaluation of river stability impacts associated with Sand & Gravel mining.

#### **8.6 ADWR STANDARD 7-98 - "Watercourse Bank Stabilization"**

This standard provides standards for design and construction of channel bank protection.

#### **8.7 ADWR STANDARD 8-99 - "Stormwater Detention/Retention"**

This standard details methodologies for sizing detention/retention systems when required.

#### **8.8 ADWR STANDARD 9-02 - "Floodplain Hydraulic Modeling"**

This standard provides a procedure to use in order to fulfill the requirements of flood insurance studies and county flood damage prevention ordinances.

#### **8.9 ADWR STANDARD 6-05 - "Development of Individual Residential Lots within Flood-prone Areas"**

This standard provides guidelines for site plans for individual residential lots to be used for all new construction.

#### **8.10 ADWR STANDARD 10-07 - "Hydrologic Modeling Guidelines"**

**SECTION 9**  
**AMENDMENTS**

Amendments to these Regulations shall be as follows:

- 9.1** Amendment to the text of these Regulations shall occur only upon a hearing of the Flood Control District Board of Directors after giving not less than fifteen (15) days notice by publication of the proposed change in a newspaper of general circulation in the County. Any interested person may submit an application for an amendment, or the Flood Control District Board of Directors may act upon its own motion.
- 9.2** A copy of all proposed changes and notice of hearing shall be submitted to the appropriate Flood Insurance Administrator in FEMA and to the Arizona Department of Water Resources for their comment at least thirty days prior to the hearing.
- 9.3** Approval of an amendment to these Regulations may be granted only if the amendment does not conflict with any applicable federal or state requirements for Floodplain Management Regulations. A copy of any regulation adopted by the district shall within five (5) days thereafter be filed with Arizona Department of Water Resources and with each political subdivision and Municipal Corporation in the area of jurisdiction.

# APPENDICES

## APPENDIX A - DRAINAGE REPORT REQUIREMENTS

### **Regulatory Floodplain and FEMA Special Flood Hazard Areas**

### **General Land Disturbance, Commercial, Industrial, and Agricultural Developments**

#### **Report with cover stating:**

- Project title (Address and Parcel No.), Section, Township & Range, City, State
- Prepared for: name of development/developer/owner
- Prepared by: Engineering Firm & Address
- Date of report & all revised dates

#### **Minimum Information required in the Drainage Analysis**

##### **I. Introduction**

- Description of Project
- Purpose & Objective
- Previous Drainage Information
- Flood Insurance Studies: Location within designated Federal Emergency Management Area (FEMA) areas as shown on Flood Insurance Rate Maps (FIRM)

##### **II. Hydrologic Analysis**

- Provide description of Existing Conditions: Land Zoning, Hydrologic parameters [watershed areas, collector and routing channel lengths, slopes, basin factors, rainfall values (Per State Standard mean precipitation estimates, per NOAA Atlas 14)], Latitude/Longitude value used for project site (used for selecting rainfall values), soil types, impervious areas, vegetative cover, etc.
- Provide description of Proposed Conditions: Explanation of what is being proposed for the parcel; (buildings, pavement etc.) explain whether or not impervious area (improvements) will result in an increase/decrease in discharge.
- Provide delineations of the offsite and onsite watersheds. The total of individual onsite watershed areas shall equal the project site watershed area.
- Preferred hydrologic method used in determining 100-yr discharge for Offsite (if any) and Onsite flows: PC-Hydro software for rural or urban areas with less than 10 sq. mi., have a time of concentration of less than 180 minutes, and are not controlled by flood-control reservoirs or basins. If drainage area is greater than 10 sq. mi., apply acceptable State Standard methods (SS10-07) or Tucson Stormwater Management Study (TSMS) methodology to determine 100-yr discharge values.
- Provide summary table showing pre-development discharges vs. post-development discharges for the 100-year storm events.

- Provide Detention and/or Retention Pond Routing results, if modeling detention and/or retention basins, using AZ State Standards (SS8-99), HEC-1 or HEC-HMS to demonstrate post-development (proposed condition) flows shall not exceed pre-development (existing condition) flows.

### **III. Hydraulic Analysis**

- Provide description of analysis results of both existing and proposed conditions with hydraulic summary table comparing results. Submit summary of analysis including: 100-yr water surface elevations, velocities and flow depths through existing conditions and proposed improvements (channels, pipes, box culverts, weirs, etc.). The following are items that should be summarized in the analysis of the drainage report and included within tables of the report.
- Describe structure sizes and erosion control requirements if any within the text of the report.
- Provide 100-yr water surface elevations using Manning’s X-section if simple, HEC-RAS X-Sections if more detailed for regulatory flow (Cochise County Regulatory flows per floodplain regulations are areas producing more than 500 cubic feet per second (cfs) or greater).
- For purposes of the Cochise County Floodplain Ordinance, "adversely impact" 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 tenth of a foot along adjacent boundaries. Provide analysis and discussion that development will not adversely impact adjacent properties. If proposed development will adversely impact adjacent parcels, analyze and explain mitigation plan so as not to adversely impact parcels.
- If flow within a channel is proposed to be re-aligned, improvements should be modeled for maximum depth (sub-critical conditions) for lowest floor requirements, maximum velocities (super critical analysis) to determine scour depths, super elevation for flow in a curved channel; provide summary tables within the text of the report showing comparison of the results.
- Provide pipe design flows under roads:
  - Arterial, Main Collector: 25-yr flow
  - Minor Collector: 10-yr flow
  - Local: 2-yr flow
- Recommend all drainage pipes shall be high density polyethylene (HDPE), reinforced concrete pipe (RCP) or corrugated metal pipe (CMP), etc.
- Drainage pipes shall be 12 inches in diameter (minimum);
- Minimum slope of drainage pipe shall be 1.0% (0.5% absolute minimum);
- Maximum slope of drainage pipe shall be 9%;
- Minimum velocity of flow within the pipe shall not be less than 3 ft/s (cleaning) or greater than 10 ft/s (scour). If greater, downstream armoring shall be required;
- Description of basin (details, method of construction, sizing etc.);
- Calculations showing time-stage relationship inside basin (peak flow, peak elevation, peak hour);
- Outfall structure detail showing all outfall elevations;
- Show all outfall structure discharge elevations and 100-year storm event elevation;

- Overflow spillway made of concrete or grouted rip rap;
- Basin discharge shall have flared end with concrete or grouted rip rap apron;
- Recommend 3:1 basin side slopes;
- 10 foot wide level access around entire basin for maintenance access;
- Recommend enclosing basin with gated fence;
- Verify groundwater elevations do not impact operation of basin;
- Detention and/or Retention basin shall drain within 24 hours so as not to cause a mosquito issue.

#### **IV. Scour Analysis & Sedimentation (If required)**

- Provide Analysis to demonstrate the controlling of scour and/or the transporting of sediment is minimized. This includes but is not limited to controlling scour at pipe outlets, scour along channel bottoms, channel banks, detention and/or retention sloped areas, stabilization, etc. Provide analysis of pipe outlet velocities, channel velocities and provide erosion protection per ADWR SS7-98 Bank Stabilization, Section 9 Channel Stabilization and Hydraulic Structures methods per City of Tucson Standards Manual for Drainage Design and Floodplain Management (SMDDFM). Scour analysis stability for structures should follow Erosion and Sedimentation (Ch 6) requirements from the SMDDFM.

#### **V. Maintenance Instructions**

- Provide instruction on how drainage improvements are to be maintained. Culverts within in Cochise County frequently get plugged up from sediment transport. If clogged pipes are not cleaned, flows frequently get diverted to adjacent parcels resulting in property damage. Therefore, it is important that maintenance inspections and procedures are performed periodically (monthly, bi-monthly, before a storm, after a storm, yearly, etc.) to ensure conveyance systems are working properly.

#### **VI. Summary and Conclusions**

- Provide a summary of the results of the proposed improvements.

#### **VII. References**

- Provide a list of references used for the analysis provided in the drainage report.

#### **VIII. List of Figures (figures shall be referenced on specific page of drainage report within the Table of Contents)**

- Scales shall be engineering scale: (1"= 10', 20', 30', 40', 50', 60', 100', 1000', etc.) provided on 8.5" x 11", 11"x 17", 24" x 36" paper;
- Provide a Vicinity Map;
- Provide a location of the project site on a current FEMA Firm Panel, FEMA Firmettes etc.;
- Provide an Existing Conditions Watershed Map (showing concentration points, flow direction, parcel no., existing contours, watershed delineations of offsite areas that affect the project, onsite watershed delineations within the project site, 100-yr existing conditions discharge values, hydrologic soil type delineations, sub watershed areas values, 100-yr existing hydraulic cross sections [river stations in HEC-RAS], 100-yr existing conditions water surface elevations (WSE), 100-yr existing conditions floodplain delineations legend, etc.;

- Provide an Existing Conditions Floodplain map (showing concentration points (consistent with existing conditions), flow direction, parcel no., proposed contours, onsite watershed delineations, 100-yr proposed condition discharge values, 100-yr proposed hydraulic cross sections [river stations in HEC-RAS], 100-yr water surface elevations (WSE), 100-yr floodplain delineations, lowest floor elevation, detention and/or retention basin WSE, legend information;
- Proposed Conditions Floodplain (showing concentration points, flow direction, parcel no., proposed contours, Cross sections [river stations in HEC-RAS], legend information, etc.;
- Provide watershed shape files electronically.

**IX. List of Tables (tables shall be referenced on specific page of drainage report within the Table of Contents)**

- Pre-development/Post-development discharges
- Pre-development/Post-development Water Surface Elevations (if base flow is greater than the regulatory base flow.

**X. List of Appendices**

- Provide Hydrologic and hydraulic analysis calculations, Hydraulic, pipe design sizing if not in hydrologic files, erosion control calculations, scour calculations, weir calculations, curb opening calculations, detention and/or retention basin calculations (if proposing retention basins, as of Sept. 2022, dry wells must be registered with the Environmental Protection Agency (EPA).
- NOTE: ANALYSIS FILES (HEC-HMS, HEC-RAS, FLO-2D, PC-Hydro, shape files/Computer Aided Drafting [CAD], etc. for verifying SHALL BE PROVIDED ELECTRONICALLY. PLEASE PROVIDE ELECTRONIC COPIES IN LIEU OF HARD COPIES.

**XI Drawings**

- Pre-development, post-development, site plan and grading plans on appropriate engineering scaled size (minimum of 11" x 17") sheets in AutoCAD or ArcView format. Shall be on same drawings with ghost lines (lighter color gray) for existing conditions (scales: same as List of Figures scales);
- Detail sheets showing pertinent design specifications;
- Copies of electronic files used in drainage analysis (hydrology, hydraulics, scour analysis, etc.) is requested to be provided on disk and attached in the drainage report.