

## **Ordinance No. 2026-984**

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING CHAPTER 12 “FLOODPLAIN MANAGEMENT” OF THE TOWN CODE; PROVIDING THAT ALL OTHER CHAPTERS, ARTICLES, SECTIONS, AND SUBSECTIONS OF THE TOWN CODE NOT HEREIN REPEALED, REPLACED OR AMENDED SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, the U.S. Congress established the National Flood Insurance Program (NFIP) in 1968 to mitigate future flood damage nationwide and provide property owners with flood insurance protection at reasonable rates; and

WHEREAS, an essential component of the NFIP is for local communities to adopt and administer floodplain management measures which meet minimum NFIP standards so that residents and property owners may be eligible for flood insurance, federally-insured loans, and federal disaster relief [Code of Federal Regulations (CFR) Title 44, Chapter I, Parts 59-77]; and

WHEREAS, the Arizona Department of Water Resources (ADWR) plays an important role under the NFIP by (among other things) serving as a link between the Federal Emergency Management Agency (FEMA) and local communities, and by assisting local communities in developing floodplain management regulations; and

WHEREAS, Arizona Revised Statutes (ARS) §§48-3601 through 48-3627 require Arizona communities to enact and enforce floodplain management regulations which include: (a) minimum regulatory standards, (b) public hearing requirements for enacting or amending the regulations, and (c) requirements for issuing variances; and

WHEREAS, in accordance with its role and these statutes, ADWR has developed (and updated from time to time) a model floodplain management ordinance that meets minimum NFIP standards; and

WHEREAS, ADWR updated its Floodplain Management Model Ordinance for Non-Colorado River Communities (Model Ordinance) as of June 2023; and

WHEREAS, the Town now proposes to amend Chapter 12 consistent with the 2023 Model Ordinance; and

WHEREAS, ARS §48-3609(F) requires any floodplain management regulations (including, presumably, any amendments) to be adopted after a public hearing (notice of

said hearing to be (a) published, and (b) mailed to the ADWR Director at least 30 days before the hearing), and to be mailed to ADWR and Yavapai County within five (5) days after adoption; and

WHEREAS, the Town Council hereby determines that these floodplain management regulations are consistent with the health, safety and welfare needs of the community; and

WHEREAS, ARS §9-802 provides a procedure whereby a municipality may enact provisions of a code by reference, without setting forth such provisions, providing the adopting ordinance is published in full;

WHEREAS, ARS §9-803 requires penalty clauses in such public records to be set forth in full in the adopting ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That that certain document entitled “AMENDMENTS TO CHAPTER 12 ‘FLOODPLAIN MANAGEMENT’”, attached hereto as Exhibit “A”<sup>1</sup>, be declared to be a public record and be hereby adopted as if fully set forth herein in accordance with ARS §9-802.

SECTION TWO. That the following penalty clause in Section 12-03-100 “Abatement of Violations” in Article 12-03 “GENERAL PROVISIONS” in Chapter 12 “FLOODPLAIN MANAGEMENT” of the Town Code is hereby renamed and amended to read as follows:

**12-03-100     ~~Abatement~~Notice of Violations.**

~~Within sixty (60) days of discovery of a Violation of this Chapter, the Floodplain Administrator shall submit a report to the Floodplain Board which shall include all information available to the Floodplain Administrator which is pertinent to said Violation. Within thirty (30) days of receipt of this report, the Floodplain Board shall:~~

- ~~A. — Take any necessary action to effect the abatement of or otherwise remedy such Violation; or~~
- ~~B. — Issue a Variance to this Chapter in accordance with the provisions of Article 12-06 herein (as amended); or~~
- ~~C. — Order the owner of the property upon which the Violation exists to provide whatever additional information may be required for the Floodplain Board’s determination. Such information must be provided to the Floodplain Administrator within 60 days of such order and the Floodplain Administrator~~

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<sup>1</sup> Exhibits on file in the office of the Town Clerk for public review.

~~shall submit an amended report to the Floodplain Board within 30 days after the information is provided. At the next regularly scheduled public meeting that is no sooner than one (1) week after receiving the report, the Floodplain Board shall either order the abatement of said Violation or they shall grant a Variance in accordance with the provisions of Article 12-06 herein (as amended); or~~

~~D. Submit to FEMA a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to Section 1316 of the National Flood Insurance Act of 1968 (as amended).~~

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.

(Ord. No. 69, Enacted, 04/29/82; Ord. No. 124, Rep&ReEn, 12/19/85; Ord. No. 146, Rep&ReEn, 03/26/87; Ord. No. 178, Ren&Amd, 05/26/88, 15-03-090; Ord. No. 671, Renumbered, 09/28/06, 12-03-090; Ord. No. 889, Amended, 05/13/21; Ord. No. 2026-984, Ren&Amd, 10/08/26)

SECTION THREE. That all other Chapters, Articles, Sections, and Subsections of the Town Code not herein repealed, replaced, or amended shall remain in full force and effect.

SECTION FOUR. That, if any provision in this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION FIVE. That this Ordinance shall be effective 30 days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 8<sup>th</sup> day of October, 2026.

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Kell Palguta, Mayor

ATTEST:

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Fatima Fernandez, Town Clerk

APPROVED AS TO FORM:

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Ivan Legler, Town Attorney

## **EXHIBIT “A”**

### Chapter 12 Floodplain Management