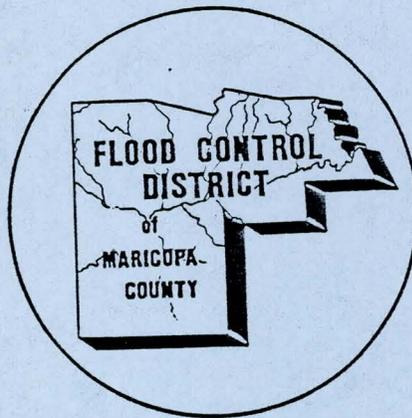


FLOODPLAIN REGULATION
FOR
MARICOPA COUNTY ARIZONA

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THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY

1301.001

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ARTICLE I. AUTHORITY, PURPOSE AND TITLE

Section 101. Statutory Authority.

Sections 48-3603 and 48-3609 of the Arizona Revised Statutes directs each County Flood Control District Board of Directors to adopt and enforce floodplain regulations. Therefore, the Board of Directors of the Flood Control District of Maricopa County, Arizona adopts this Regulation.

Section 102. Statement of Purpose.

It is the purpose of this Regulation to comply with the directive of ARS 48-3603 and to promote and protect the health, peace, safety, comfort, convenience, and general welfare of the citizens within the jurisdictional area of Maricopa County, Arizona and to minimize public losses due to flood conditions in specific areas.

Section 103. Title.

This Regulation may be referred to as the Floodplain Regulation for Maricopa County.

ARTICLE II. RULES, CONSTRUCTION AND INTERPRETATION

Section 201. Rules.

When not inconsistent with the context, words used in the present tense include the future tense, words in the singular number include the plural; words in the plural number include the singular. Words or phrases used in this Regulation shall be interpreted so as to give them the meaning they have in common usage and to give this Regulation its most reasonable application; the word "building" includes the word "structure"; the word "shall" is mandatory and the word "may" is permissive. No provision of this Regulation shall be construed to require written authorization for those exemptions set forth in ARS 48-3613 (B) nor shall the Board of Directors have authority to prohibit said exemptions.

Section 202. Construction and Interpretation.

1. This Regulation shall be liberally construed to effectuate its purposes. The requirements set out herein shall be construed as minimum requirements.
2. Nothing contained in this Regulation shall be construed to limit or repeal any powers granted to the Flood Control District of Maricopa County under state statute. If the provisions of this Regulation conflict with or overlap with other regulations, ordinances and statutes, the regulation, ordinance or statute which imposes the more stringent requirement or restriction shall prevail.

ARTICLE III. DEFINITIONS

Section 301.

In this Regulation unless the context requires otherwise the following words shall be used as defined in this article:

1. Accessory Use: A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
2. Appeal: A request for a review of the Floodplain Administrator's interpretation of any provision of this Regulation, or any determination made under this Regulation.
3. Area of Jurisdiction: The incorporated and unincorporated areas of Maricopa County, including public lands, excluding those incorporated areas of cities or towns which have elected to assume floodplain management powers and duties pursuant to ARS Section 48-3610.
4. Area of Shallow Flooding: An area with flood depths from one to three feet where a clearly defined channel does not exist, the path of flooding is indeterminate and where ponding may be evident.
5. Base Flood or One Hundred Year Flood: A flood that has a one percent chance of being equalled or exceeded in a one year period, based on the criteria established by the Director of the State Department of Water Resources.
6. Board: The Board of Directors of the Flood Control District of Maricopa County.
7. Building: A structure affixed to the land having a roof supported by columns or walls built for housing, shelter or enclosure of persons, animals, or property of any kind.
8. Development: Any man-made change to property, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
9. District: The Flood Control District of Maricopa County.
10. Encroachment: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or developments into a floodplain which may impede or alter the flow capacity of a floodplain.
11. Exempt Use: Any use of the floodplain specifically exempted from this Regulation by Arizona law or this Regulation.
12. Flood or Floodwaters: A temporary rise in water level including groundwater or overflow of water onto land not normally covered by water.

13. Flood Insurance Rate Map (FIRM): An official map on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to a community.
14. Flood Insurance Study: The official report provided by the Federal Insurance Administration. The report includes flood profiles as well as the Flood Hazard Boundary-Floodway Map and base flood elevations.
15. Floodplain: The areas adjoining the channel of a watercourse including areas where drainage is or may be restricted by man-made structures which have been or may be covered partially or wholly by floodwater from the one hundred-year flood.
16. Floodplain Administrator: The individual appointed by the Board to administer and enforce this Regulation.
17. Floodplain Regulations: This Regulation and other codes, ordinances and regulations adopted pursuant to the authority granted in ARS 48-3603 et seq. relating to the use of land and construction within the floodway and floodplain areas.
18. Floodplain Use Permit: A permit which must be obtained from the Floodplain Administrator prior to commencement or continuance of any non-exempt use within a floodplain.
19. Floodproofing: Structural or nonstructural modifications, additions, changes or adjustments to land or structures including utility and sanitary facilities which would preclude flood damage. Structural components shall have the capacity to resist the effects of buoyancy, hydrostatic and hydrodynamic loads.
20. Floodway or Floodway District: The channel of a river or other watercourse and the adjacent land areas necessary in order to discharge the one hundred-year flood without cumulatively increasing the water surface elevation more than one foot.
21. Floodway Fringe District: The areas of a floodplain on either side of the floodway district where encroachment may be permitted.
22. Habitable Floor: Any floor usable in connection with residential activities, including but not limited to working, sleeping, eating, cooking or recreation. A floor usable only for storage purposes is not a habitable floor.
23. Interim Delineation: A graphic delineation by the Floodplain Administrator of the floodplain made from the most reliable source available where a floodway district has not been finally determined.
24. Mobile/Manufactured Home: A moveable or portable dwelling unit over forty (40) feet in length or eight (8) feet in width, designed and constructed for conveyance on streets and highways on its own chassis or flatbed or other trailers, and designed and constructed to be

installed with or without a permanent foundation. It may include one or more components that can be retracted for towing or transporting purposes and, subsequently, expanded for additional capacity, or two or more such units separately towable or transportable but designed to be joined into one integral unit. Mobile/manufactured home does not include buildings or travel trailers.

25. Nonconforming Use: The use of any land, building or permanent structure lawfully existing on August 8, 1973, the effective date of Title 45, Chapter 10, Article 4 of the Arizona Revised Statutes. This statute subsequently renumbered as Title 48, Chapter 21, Article 1.
26. Obstruction: Includes but is not limited to any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water or its likelihood of being carried downstream.
27. Person: An individual or his agent, firm, partnership, association, corporation, municipality, or agent of the aforementioned groups, or the State or its agencies or political subdivisions.
28. Principal Structure: A structure used for the principal use of the property as distinguished from an accessory use or structure.
29. Principal Use: The main use of land, building or structure as distinguished from an accessory use.
30. Structure: Anything affixed to the ground or attached to something located on the ground, including but not limited to gas or liquid storage tanks, buildings and mobile/manufactured homes as defined by this Regulation.
31. Recreation Vehicle: Any vehicle or portable unit designed for living, sleeping, housekeeping or office purposes which is: a) not more than forty (40) feet in length or eight (8) feet in width; b) transportable on its own chassis; c) maintained in a readily transportable condition at all times. This definition includes motorized and non-motorized vehicles, travel trailers, camping trailers, but does not include mobile/manufactured homes or buildings as defined by this Regulation.
32. Regulatory Flood Elevation: The elevation which is one foot above the base flood elevation for a watercourse for which the base flood elevation has been determined and shall be as determined by the criteria developed by the Director of Water Resources for all other watercourses.

33. Special Flood Hazard Area: The area included within the floodplain as designated by the Federal Insurance Administration.
34. Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the fair market value of the building or structure either: before the improvement or repair is started or if the building or structure has been damaged and is being restored, before the damage occurred. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building or structure commences, whether or not that alteration affects the external dimensions of the building or structure. The term does not include any project for improvement of a building or structure to comply with existing State and local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; nor does it include any alteration of a building or structure listed on the National Register of Historic Places or State Inventory of Historical Places.
35. Variance: A grant of relief from the requirements of this Regulation which permits construction or other uses of property in a manner that would otherwise be prohibited or restricted by this Regulation.
36. 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.

ARTICLE IV. APPLICATION

This Regulation is applicable to all lands located within a floodplain which are within the area of jurisdiction of the Flood Control District of Maricopa County.

ARTICLE V. ADMINISTRATION

Section 501. Floodplain Administrator.

The Floodplain Administrator as designated by the Board of Directors shall be the Chief Engineer and General Manager of the District who shall administer and enforce this Regulation. Violators of any provision of this Regulation shall be notified by the Floodplain Administrator who shall state the nature of the violation and order corrective action. Failure to appeal the order of the Floodplain Administrator within the time period set forth in Section 602 shall render the order of the Floodplain Administrator final and enforceable as provided in Article XII.

Section 502. Floodplain Use Permit.

1. A floodplain use permit shall be obtained from the Floodplain Administrator prior to erection, addition, alteration or change of any building, structure, land or other use within the floodplain. The Floodplain Administrator may place a time limit and any other conditions or restrictions designed to reduce or eliminate potential hazards to life or property. The applicant may be required to execute deed restrictions running with the land or to post performance bonds, assurances or other security to guarantee the performance of the conditions and restrictions imposed.
2. The applicant shall submit any information to the Floodplain Administrator considered necessary in making determinations required by this Regulation. The applicant may also be required to provide certification that all requirements of the floodplain use permit have been met.

Section 503. Elevation/Floodproofing Certification.

An elevation/floodproofing certification by a registered professional engineer, architect or land surveyor shall be submitted on a form provided by the Floodplain Administrator prior to occupancy or use of any building in the floodplain, except those uses exempt by this Regulation.

Section 504. Coordination.

The Board and the Floodplain Administrator shall coordinate the provisions of this Regulation with all other interested and affected political subdivisions, Federal and State agencies, as required by ARS 48-3609 and 48-3610.

Section 505. Exemptions.

1. In accordance with ARS 48-3609, nothing in this Regulation shall affect:
 - a. Existing legal uses of property or the right to continuation of such legal uses. However, if a nonconforming use of land, building or structure is discontinued for twelve months or destroyed to the extent of fifty percent of its value, as determined by a competent appraiser, any further use shall comply with this Regulation.
 - b. Reasonable repair or alteration of property for the purposes for which the property was legally used on August 8, 1973; and provided that the alteration, addition or repair which increases the flood damage potential by fifty percent or more of the value of the property prior to alteration, addition or repair is either floodproofed or elevated to above the regulatory flood elevation.
 - c. Structures listed on the National Register of Historic Places or a State Inventory of Historic Places which is to be restored or reconstructed.

- d. Facilities constructed or installed pursuant to a certificate of environmental compatability issued pursuant to ARS Title 40, Chapter 2, Article 6.2.
 2. In accordance with ARS 48-3613, written authorization shall not be required, nor shall the Board prohibit the following except that before any construction authorized by this subsection may begin, the person shall submit plans for the construction to the Floodplain Administrator for review and comment.
 - a. Construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse.
 - b. Dams for the conservation of floodwaters as permitted by Title 45, Chapter 3 and construction of storage dams for watering livestock or wildlife and structures on the banks of a watercourse to prevent erosion of or damage to adjoining land so long as the structure will not divert, retard or obstruct the natural channel of the watercourse.
 - c. Construction of tailing dams and waste disposal areas used in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations which may divert, retard or obstruct the flow of water in any floodplain from the requirements of this Regulation.
 - d. Any political subdivision from exercising powers granted to it under ARS Title 48, Chapter 18, Article 10.
 - e. 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.
 - f. 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. In addition to the statutory exemptions, any other use or development within the jurisdiction of this Regulation as may be determined by the Floodplain Administrator to be exempt if the applicant for the exemption satisfies the Floodplain Administrator that such use is not prohibited by any other regulation, code or ordinance, and has a low flood damage potential, will not cause a change in watercourse mechanics including but not limited to obstruction, diversion or other changes detrimental to the natural flow of water and will not cause a hazard to life or property.
 4. Before any construction authorized under Section 505 may begin, the person shall submit plans for construction to the Floodplain

Administrator for review and comment and to determine whether any of the exemptions set forth in this Section are applicable.

Section 506. Personal Liability.

The exemptions contained in Section 505 do not relieve any person from liability if that person's actions cause flood damage to any other person or property.

ARTICLE VI. BOARD OF REVIEW, APPEALS AND VARIANCES.

Section 601. Board of Review.

Pursuant to the authority granted in ARS 48-3612, the Board of Directors shall appoint the Flood Control District Citizens Advisory Board as a Board of Review to sit in review and make decisions in accordance with ARS 48-3612. The members of the Board of Review shall serve without compensation except that their reasonable and necessary expenses incurred on board business may be reimbursed.

1. The Board of Review shall elect a chair and a vice chair from among its own members who shall have power to administer oaths and to take evidence.
2. The Board of Review shall by resolution fix the time and place of its meetings. The meetings shall be open to the public; minutes of its proceedings and records of its examinations and other official actions shall be kept and filed in the office of the Flood Control District as a public record.
3. The Board of Directors shall adopt rules of procedure consistent with the provisions of this Regulation for the conduct of Board of Review business including establishment of a fee schedule to cover in part administrative costs incurred in the processing of appeals, floodplain use permits, floodplain variances, plans review and performance bonds.
4. Property shall be posted pursuant to procedures adopted by the Floodplain Board of Review.
5. The Board of Review may prescribe, in connection with the grant of any variance or appealed use permit, conditions determined necessary to fully carry out the provisions and intent of the Regulation.
6. If the Board of Review has cause to believe, after approval of a variance, that any stipulations or conditions may have been violated, it may set a hearing for the purpose of determining to revoke the variance for such violation. The Board of Review may revoke the variance for finding a violation of the stipulations or conditions or it may grant a limited time within which to correct the violation in order to avoid revocation of the variance.

Section 602. Appeals.

1. Appeals of any decision of the Floodplain Administrator to the Board of Review shall be filed with the Floodplain Administrator within 30 days from the receipt of notice of the decision to be appealed and shall be in writing on a form provided by the Floodplain Administrator. The notice of appeal shall specify the grounds for said appeal.
2. During the pendency of an appeal all existing floodplain delineations shall remain in affect. All other matters regarding the proceeding shall be stayed during its pendency unless the Administrator certifies to the Board of Review that by reason of facts surrounding the application the stay would, in his opinion, cause imminent peril to life or property. In such cases the other matters shall not be stayed.
3. The Board of Review shall fix a time for hearing the appeal and give notice to the parties in interest and to the public as set forth herein. The Board of Review shall hear and decide the appeal within a reasonable time.
4. Any person aggrieved by a decision of the Board of Review may within 30 days of such decision appeal to the Board of Directors by filing a written notice of appeal with the Clerk of the Board on a form provided by the Floodplain Administrator. Said notice shall specify the grounds of appeal. The Board of Directors shall conduct the appeal under such rules of procedure as they shall adopt.
5. Any person aggrieved by a decision of the Board of Directors may file a special action in Superior Court of the State of Arizona to determine if an abuse of discretion by the Board of Directors, the Floodplain Board of Review or the Floodplain Administrator may have occurred.

Section 603. Floodplain Variance.

Conditions for the issuance of a variance:

1. The Board of Directors or the Board of Review as the case may be shall hear and decide requests for variance from the requirements of this Regulation.
2. A variance shall be issued only if the Board of Directors or the Board of Review finds that:
 - a. A determination that no increase in the base flood elevation would result; and
 - b. Only if special circumstances, such as size, shape, topography, location or surroundings of the property, would cause the strict application of the Regulation to deprive the property of privileges enjoyed by similar property in the floodplain; and

- c. 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; and
 - d. The variance requested is the minimum necessary, considering the flood hazard, to afford relief; and
 - e. There is a showing of good and sufficient cause; and
 - f. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - g. A determination that the granting of the variance will not result in additional threats to public safety, extraordinary public expense, create a nuisance, the victimization of or fraud on the public and that the variance does not conflict with existing local laws or ordinances.
3. In addition to the above requirements the Board of Directors or the Board of Review may attach such conditions or restrictions to the granting of a variance as it determines necessary to reduce or eliminate potential threats to public safety or to public or private property resulting from the granting of the variance. The applicant among other things may be required to post performance bonds, assurances or other security to guarantee compliance with the conditions and restrictions imposed.
 4. 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 elevation in conformance with the requirements of Sections 603.1, 603.2 and 603.3.
 5. Variances shall not be issued within an area of interim delineation with a flow depth of more than two (2) feet if an increase in the flow depth would result.
 6. The burden of proof for compliance with the above conditions shall be on the applicant.

Section 604. Publication/Notification of Variance.

Upon the granting of a variance for the construction of a dwelling unit or commercial or industrial structure, where the construction of such unit or structure is otherwise contrary to this Regulation the Board shall notify the applicant in writing that:

1. The issuance of the variance may result in increased premium rates for flood insurance;

2. Construction below the regulatory flood elevation will increase risks to life and property and flooding may occur by channel meander or by a more frequent flood or a larger flood than the 100-year flood event;
3. If the structure is a dwelling unit or business, then the land upon which the structure is located is ineligible for exchange of land pursuant to the flood relocation and land exchange program provided for by ARS Title 26, Chapter 2, Article 2;
4. The original of the above written notice shall be recorded with the Maricopa County Recorder in a manner so that it appears in the chain of title of the affected parcel of land. Proof of such recordation shall be maintained on file with the District and be available to any agency requiring any subsequent permits.
5. The Floodplain Administrator shall maintain a record of all variance actions. This record shall be included in the biennial report to the Federal Insurance Administration.

ARTICLE VII. FLOODPLAIN BOUNDARIES

Section 701. Minimum Area for Floodplain Delineation.

All zones designated A, AH, A0 or A1 through A99, on the current Flood Insurance Study, the Flood Insurance Rate Maps and Flood Boundary and Floodway Maps for Maricopa County, Arizona shall, when adopted by the Board, constitute the minimum area for management under this Regulation.

Section 702. Other Delineations.

In areas without designated flood hazard zones A, AH, A0 or A1 through A99, where development is imminent or ongoing, floodplain delineations shall be adopted and administered under this Regulation. These delineations may be obtained from any source, provided they are determined in accordance with criteria established by the Director, State Department of Water Resources. Sources include but are not limited to (1) a developer of floodplain property, (2) a County agency, (3) any agency which must delineate a floodplain as a result of completion of a flood control structure, or (4) the Federal Insurance Administration.

1. Delineations in areas without designated A, AH, A0 or A1 through A99 flood hazard zones shall be submitted to the Floodplain Administrator and shall be subject to review for technical adequacy. The Floodplain Administrator shall forward all such delineations to the Board with his recommendation for approval or denial within 60 days of receipt of all supporting information.
2. All delineations adopted by this procedure shall be submitted to the Federal Insurance Administration with the Board's request that they be included on the Flood Insurance Rate Maps for Maricopa County, Arizona.

Section 703. Publication of Floodplain Boundaries.

All floodplain delineations adopted by the Board of Directors, including all A, AH, AO and A1 through A99 zones on the Flood Insurance Rate Map for Maricopa County, Arizona, shall be shown on the official County maps entitled "Zoning District Maps", which are hereby made a part of this Regulation. The floodway districts and areas which have been identified as floodway fringe districts, interim delineations and areas of shallow flooding shall all be designated on these maps.

Section 704. Determination in Case of Dispute.

If the boundary of any floodplain with an interim delineation, floodway district, floodway fringe district or area of shallow flooding is in dispute the Floodplain Administrator shall determine the boundary using the best technical data available. In all cases, the base flood elevation shall be the determining factor. In cases where a revision of the official floodplain map may be necessary the required public notice and public hearing process shall be followed.

ARTICLE VIII. FLOODWAY DISTRICT

Section 801. Floodplain Use Permit.

The uses within a floodway district specified in 801.1 through 801.10 below require a floodplain use permit issued by the Floodplain Administrator and are subject to the provisions of Section 802. Issuance of a floodplain use permit does not exempt the holder of the floodplain use permit from any additional requirements necessary to obtain flood insurance.

Uses for which a floodplain use permit may be granted are:

1. Circuses, carnivals and similar transient amusement enterprises.
2. Drive-in theaters, roadside stands, signs and billboards.
3. Operations for extraction of sand, gravel and other materials.
4. Marinas, boat rentals, docks, piers and wharves.
5. Railroads, privately owned and maintained streets, bridges, utility transmission lines and pipelines.
6. Privately owned and maintained dikes and culverts.
7. Storage yards for equipment and machinery.
8. Kennels, stockyards, corrals and stables.

9. Golf courses and parks.

10. Other uses similar in nature to uses described in this section which are consistent with the standards set forth in Section 802.

Section 802. Floodway District Development Standards.

No structure, excavation or fill (including fill for roads, dikes, and levees), deposit, obstruction, storage of material or equipment or other uses shall be permitted which alone or in combination with existing or future uses would in the opinion of the Floodplain Administrator cause an increase in the base flood elevations or flood damage potential.

1. Any fill proposed in the floodway district must be shown by the applicant to have no detrimental effect on the goals of floodplain management. The amount of fill cannot be greater than is necessary to achieve the purpose for which it is intended as demonstrated by a plan submitted by the applicant indicating the uses to which the filled land will be put, the final dimensions and the extent of the proposed fill. Such fill shall not include junk, trash, wood or other buoyant or hazardous material and shall be protected against scour and erosion.
2. Structures within the floodway district shall have a low flood damage potential, shall be located so as to minimize obstruction to flood flows with all utilities floodproofed, and shall not be designed or utilized for human habitation.
3. The processing or the outside storage of materials and equipment may be permitted if flooding would cause minimal damage to the material or equipment and such material or equipment is either non-buoyant or firmly anchored or located so as to prevent floatation or is maintained in a readily transportable condition so as to be readily removed from the area within the time available after flood warning.
4. Sand and Gravel Extraction.
 - a. A floodplain use permit for the extraction of sand and gravel or other materials within the floodway district shall be granted if the applicant shows that excavations will not be of such depth, width, length, or location as to present a hazard to life or property or to the watercourse in which they are located.
 - b. Excavations shall not be permitted so close to any floodway crossings, utility structures or facilities as to cause or have the potential to cause an adverse effect on such crossings, utilities or similar facilities.
 - c. No stockpiling of tailings, overburden or sand and gravel which may obstruct, divert or retard the natural flow of water except as specifically approved by the Floodplain Administrator in a particular floodplain use permit shall be permitted.

- d. A plan of development shall be submitted with an application for a floodplain use permit to the Floodplain Administrator. The Floodplain Administrator may require that the plan be sealed by an Arizona Registered Professional Engineer and include a sediment transport analysis.
- e. The plan of development shall be required to include a plan of reclamation to leave the land when the approved use is terminated in such a condition as to maintain stability of the floodway by backfilling, contouring, leveling, removal of equipment and materials or other appropriate means.
- f. Any substantial change in a previously approved plan of development which may have an adverse effect on stream dynamics or surrounding land uses, life or property shall require an application to amend the approved plan of development.

ARTICLE IX. FLOODWAY FRINGE DISTRICT.

Section 901. Floodplain Use Permit.

The uses and structures within a floodway fringe district specified in 901.1 through 901.6 below require a floodplain use permit issued by the Floodplain Administrator subject to the provisions of Section 902. Issuance of a floodplain use permit does not exempt the holder of the floodplain use permit from any additional requirements necessary to obtain flood insurance.

Uses for which a floodplain use permit may be granted are:

1. Any use permitted in Section 801.
2. Structures and dwellings including mobile/manufactured homes, recreational vehicles and other residential uses.
3. New and replacement water supply systems, provided that they are designed to minimize or eliminate infiltration of flood waters into the systems.
4. New and replacement sanitary sewage systems, provided that they are designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters unless otherwise allowed by a permit in conformance with the Federal Water Pollution Control Act.
5. Onsite individual waste disposal systems provided that they are located in such a way as to avoid impairment to them or contamination from them during flooding.
6. Any other uses which will not be subject to substantial flood damage and which will not cause a hazard to life or property or to the

public. These may include uses which can be readily removed from floodplain areas during times of flooding.

Section 902. Floodway Fringe District Development Standards.

1. New construction or substantial improvement to any existing structure shall be constructed with methods which minimize flood damage and materials and utility equipment resistant to flood damage.
2. Dwellings other than mobile/manufactured homes shall have the lowest habitable floor elevated up to or above the regulatory flood elevation. The applicant shall provide an elevation/floodproofing certification by a registered professional engineer or surveyor that the elevation requirement has been met.
3. Mobile/manufactured homes shall be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation and is anchored to prevent floatation, collapse or movement.
4. Structures and dwellings, including mobile/manufactured homes may be elevated by methods other than on fill if approved by the Floodplain Administrator. Construction plans and certification by a registered professional engineer that the method used is adequate protection from the one hundred-year flood may be required.
5. Fill, if used to elevate structures, shall meet all of the following standards:
 - a. The top of such fill shall be at no point lower than the regulatory flood elevation.
 - b. Such fill shall extend at least 25 feet beyond the walls or supporting frame of the structure, or as approved by the Floodplain Administrator.
 - c. Fill shall be placed and compacted in accordance with the applicable building code.
 - d. Fill shall not interfere with local drainage or tributary flow to the channel of any watercourse.
 - e. Fill proposed in excess of the amount and extent required herein shall be shown by the applicant to have no detrimental effect and the amount of fill shall not be greater than is necessary to achieve the purpose for which it is intended as demonstrated by a plan submitted by the applicant indicating the uses to which the filled land will be put and the final dimensions and extent of the proposed fill. Fill shall not include junk, trash, wood or other buoyant or hazardous material and shall be protected as needed against scour and erosion by riprap or other protective measures as approved by the Floodplain Administrator.

6. Structures, except dwellings or any type of residence may be located below the regulatory flood elevation if adequately floodproofed or otherwise protected to a point above the regulatory flood elevation. The applicant shall provide an elevation/floodproofing certification by an Arizona registered professional engineer that the floodproofing methods used for any nonresidential structure meets the purposes and intent of this Regulation.
7. Recreational vehicles may be permitted provided that they are maintained in a readily transportable condition at all times and can be readily removed from the area within the time available after flood warning.
8. Sand and Gravel Extraction.

A floodplain use permit for the extraction of sand and gravel or other materials within the floodway fringe district shall be granted if the applicant shows that excavations will not be of such depth, width, length, or location as to present a hazard to life or property or to the floodplain in which they are located subject to the following conditions:

- a. Unprotected excavations shall not be permitted so close to any floodplain crossings, utility structures or facilities as to cause or have the potential to cause an adverse effect on such crossings, utilities or similar facilities.
- b. No stockpiling of tailings, overburden or sand and gravel which may obstruct, divert or retard the natural flow of tributaries to the main watercourse except as specifically approved by the Floodplain Administrator in a particular floodplain use permit shall be permitted.
- c. Dikes or levees are permitted provided it can be shown by the applicant that such dikes or levees would not adversely effect structures, road or utility crossings, other public or private property, will not cause erosion or diversion of flood flows onto property outside the floodplain and will not create a danger to life or property.
- d. A plan of development shall be submitted with an application for a floodplain use permit to the Floodplain Administrator. The Floodplain Administrator may require that the plan be sealed by an Arizona Registered Professional Engineer and include a sediment transport analysis.
- e. The plan of development shall be required to include a plan of reclamation to leave the land when the approved use is terminated in such a condition as to maintain stability of the floodplain or to an improved condition to enhance higher use of the land.

- f. Any substantial change in a previously approved plan of development which may have an adverse effect on stream dynamics or surrounding land uses, life or property shall require an application to amend the approved plan of development.

ARTICLE X. INTERIM DELINEATIONS

Section 1001. Floodplain Use Permit.

The uses and structures specified in 1001.1 and 1001.3 below require a floodplain use permit issued by the Floodplain Administrator subject to the provisions of Section 1002. Issuance of a floodplain use permit does not exempt the holder of the floodplain use permit from any additional requirements for flood insurance.

Uses for which a floodplain use permit may be granted are:

1. Any use permitted in Section 801 which will not increase the threat of flooding to surrounding property.
2. Any use permitted in Section 901 subject to the provisions of Section 902 which will not increase the threat of flooding to surrounding property.
3. Any other use not specifically named in Sections 801 or 901 provided the applicant submits an analysis of the regulatory floodplain adequate to provide delineation of the floodway and floodway fringe districts and an accurate profile as described in Article VII. Such delineations shall be subject to review and approval of the Floodplain Administrator prior to issuance of a floodplain use permit.

Section 1002. Interim Delineation Development Standards.

1. Uses permitted in Section 1001 shall be permitted within the interim delineations as set forth above provided that the base flood elevation is not more than two (2) feet above the existing ground elevation either at the site of the proposed use or along a line perpendicular to the direction of flow between such site and the limit of the floodplain.
2. The lowest habitable floor of dwellings other than mobile/manufactured homes shall be elevated up to or above the regulatory flood elevation. Mobile/manufactured homes shall be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation and is anchored to prevent floatation, collapse or movement. The applicant shall provide an elevation/floodproofing certification by a registered professional engineer or surveyor stating that the elevation requirement has been met.

3. All nonresidential structures and substantial improvements thereto shall have the lowest finished floor elevated or the structure shall be floodproofed up to the base flood elevation. The applicant shall provide an elevation/floodproofing certification by a registered professional engineer, architect or surveyor stating that the floodproofing requirement has been met.

ARTICLE XI. AREAS OF SHALLOW FLOODING

Section 1101. Floodplain Use Permit.

Uses, new structures and substantial improvements thereto which are permitted elsewhere in this Regulation may be permitted in areas of shallow flooding. A floodplain use permit issued by the Floodplain Administrator subject to the provisions of Subsection 1 and 2 of this Section shall be required. Issuance of a floodplain use permit does not exempt the holder of the floodplain use permit from any additional requirements for flood insurance.

1. The lowest habitable floor shall be elevated at least one (1) foot above the depth number specified on the Flood Insurance Rate Map. The applicant shall provide an elevation/floodproofing certification by a registered professional engineer or surveyor stating that the elevation requirement has been met.
2. All nonresidential structures and substantial improvements thereto shall have the lowest floor elevated or shall be floodproofed up to a point above the depth number specified on the Flood Insurance Rate Map. The applicant shall provide an elevation/floodproofing certification by a registered professional engineer or surveyor stating that the floodproofing methods used are adequate to protect such structures from the base flood.

ARTICLE XII. VIOLATIONS

Section 1201. Civil Remedies.

As provided for by ARS 48-3613D a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse, and the Floodplain Administrator in the case of any violation of this Regulation, has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this Regulation. If a person is found by the court to be in violation of this Regulation, the court shall require the violator to either comply with this Regulation, if authorized by the Board, or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

Section 1202. Criminal Penalty.

Every new structure, building, fill, excavation, or development located or maintained in a floodplain since August 8, 1973 in violation of Title 48, Chapter 21, Article 1 of the Arizona Revised Statutes or this Regulation is a public nuisance per se and may be abated, prevented or restrained by action of the State or any of its political subdivisions.

Section 1203. Violations.

It is unlawful for a person to fail to secure written authorization of the Board of Directors, Board of Review or the Floodplain Administrator as required by this Regulation. A person who violates ARS 48-3615.B or this Regulation is guilty of a CLASS 2 MISDEMEANOR.

ARTICLE XIII. WARNING AND DISCLAIMER OF LIABILITY

THE DEGREE OF FLOOD PROTECTION REQUIRED BY THIS REGULATION IS CONSIDERED REASONABLE FOR REGULATORY PURPOSES AND IS BASED ON ENGINEERING AND SCIENTIFIC METHODS OF STUDY. COMPLIANCE WITH THIS REGULATION DOES NOT INSURE COMPLETE PROTECTION FROM FLOODING AND IS NOT TO BE CONSTRUED AS A WARRANTY. LARGER FLOODS MAY OCCUR OR THE FLOOD HEIGHT MAY BE INCREASED BY MANMADE OR NATURAL CAUSES, SUCH AS BRIDGE OPENINGS RESTRICTED BY DEBRIS, NATURAL EROSION, STREAMBED MEANDER OR MANMADE OBSTRUCTIONS AND DIVERSIONS. THIS REGULATION IS NOT INTENDED TO IMPLY THAT AREAS OUTSIDE THE FLOODPLAIN OR LAND USES PERMITTED WITHIN SUCH AREAS WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. THIS REGULATION SHALL NOT CREATE LIABILITY ON THE PART OF THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY OR ANY OFFICER OR EMPLOYEE THEREOF FOR ANY FLOOD DAMAGES THAT MAY RESULT FROM RELIANCE ON THIS REGULATION OR ANY ADMINISTRATIVE DECISION LAWFULLY MADE THEREUNDER.

ARTICLE XIV. SEVERABILITY

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

ARTICLE XV. EFFECTIVE DATE

This amended Regulation shall become effective on _____ 19__.
Adopted by the Board of Directors of the Flood Control District of Maricopa County, Arizona, this _____ day of _____ 19__.