

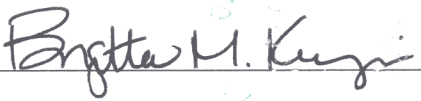
City of YUMA

**Office of the
City Clerk**

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CERTIFICATION

I, Brigitta M. Kuiper, do hereby certify that I am the duly appointed City Clerk of the City of Yuma, Arizona, and that the attached ordinance, Ordinance No. O2006-53, is a true and correct copy of the ordinance on file in the Office of the City Clerk.



Brigitta M. Kuiper, City Clerk

8/23/06
Date

ORDINANCE NO. O2006-53

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA,
ARIZONA, ADOPTING A FLOODPLAIN MANAGEMENT ORDINANCE
AS AUTHORIZED BY THE LEGISLATURE OF THE STATE OF
ARIZONA IN ARIZONA REVISED STATUTES 48-3610, AMENDING
THE YUMA CITY CODE, CHAPTER 151, REPEALING ORDINANCES
2359 AND O2004-45 AND PROVIDING A PENALTY FOR VIOLATIONS
THEREOF**

WHEREAS, the City Council adopted the original floodplain management ordinance number 2359 on June 4, 1987, and amended the regulations by Ordinance O2004-45 on July 21, 2004; and,

WHEREAS, an initial review by the Arizona Department of Water Resources (ADWR) and FEMA has determined that the City of Yuma (City) floodplain management regulations must be updated to meet current National Flood Insurance Program (NFIP) standards; and,

WHEREAS, the City will face the following sanctions if a revised and compliant floodplain management ordinance is not in effect:

- (A) Property owners will not be able to purchase NFIP flood insurance policies and existing policies will not be renewed.
- (B) Federal grants or loans for development will not be available in identified flood hazard areas under programs administered by federal agencies.
- (C) Federal disaster assistance will not be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
- (D) Federal mortgage insurance or loan guarantees will not be provided in identified flood hazard areas such as those written by the Federal Housing Administration and the Department of Veteran Affairs.

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

SECTION 1: That the Yuma City Code, Title 15, be amended at Chapter 151, Section 151-01 thru 151-30, to read as follows:

§ 151-01 Findings of Facts.

The flood hazard areas of the City are subjected to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazards 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.

§ 151-02 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 flood conditions in specific areas by provisions designed to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- (F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard as to minimize blight areas caused by flooding;
- (G) Ensure that potential buyers are notified that property is in an area of special flood hazard;
- (H) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions,
- (I) Maintain eligibility for disaster relief.

§ 151-03 Methods of Reducing Flood Losses.

This ordinance takes precedence over Ordinances No. 2359 and O2004-45 and repeals them. This ordinance also takes precedence over any less restrictive conflicting ordinance. In order to accomplish its purposes this ordinance includes methods and provisions to:

- (A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

(D) Control filling, grading, dredging, and other development which may increase flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

§ 151-04 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.

“A” ZONE. See "Special flood hazard area".

ACCESSORY STRUCTURE, LOW-COST AND SMALL. A structure that is:

(A) Solely for the parking of no more than 2 cars; or limited storage (small, low cost sheds); and
(B) Less than 400 square feet in area and \$20,000 in value.

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

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on a community's FIRM with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. These areas are designated as Zone A, AE, AO, AH, and A1-30 on the FIRM and other areas determined by the criteria adopted by the Director of the ADWR. See "Special flood hazard area").

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

BASE FLOOD ELEVATION (BFE). The elevation shown on the FIRM for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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

BUILDING. See "Structure."

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

COLORADO RIVER BASE FLOOD ELEVATION. The flood elevation having a one percent chance of being equaled or exceeded in any given year or a flow of forty thousand cubic feet per second (cfs), whichever is greater.

COLORADO RIVER FLOODPLAIN. The combined area of the Colorado River Floodway and the Colorado River Floodway Fringe.

COLORADO RIVER FLOODWAY. The channel of the Colorado River and that part of the floodplain that are necessary to safely convey the floodway flow of either a one in one hundred year flow consisting of controlled releases and tributary inflow, or a flow of forty thousand cubic feet per second (cfs), whichever is greater.

COLORADO RIVER FLOODWAYFRINGE. That area subject to inundation by floods of varying magnitudes, up to and including the floodway flow, but which is not required for the safe conveyance of the floodway flow and is not included in the computation of the Colorado River Floodway base flood elevation.

COMMUNITY. Any state, area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

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

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

EROSION. The wearing away of land surface by running water, wind or other geological agents. This peril is not, per se, covered under the Program.

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

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the FEMA or FIA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

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

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

FLOODPLAIN BOARD (FPB). The City Council of the City of Yuma, at such times as they are engaged in the enforcement of this 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. The ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which, control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

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

FLOODWAY. The area of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

FUNCTIONALLY DEPENDENT USE. A use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers,

and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

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

HARDSHIP. As related to Section 151-25 thru Section 151-27 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Yuma City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

HISTORIC STRUCTURE. Any structure that is:

- (A) 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;
- (B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (C) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR. The lowest floor of the lowest enclosed area, including the basement. See "Basement." An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so 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. Defined in the substantial damage and substantial improvement procedures.

MEAN SEA LEVEL. For purposes of the NFIP, 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.

NEW CONSTRUCTION. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

OBSTRUCTION. Including, but not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

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

PERSON. An individual or the individual's agent, a firm, partnership, association or corporation, or an agent of the aforementioned groups, or this state or its agencies or political subdivisions.

RECREATIONAL VEHICLE. A vehicle which is:

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

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

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

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

SHEET FLOW AREA. See "Area of shallow flooding."

SPECIAL FLOOD HAZARD AREA (SFHA). An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on a FBFM or FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

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

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

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

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

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

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

VARIANCE. A grant of relief from the requirements of this ordinance, which, permits construction 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 NGVD of 1929, the NAVD of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

§ 151-05 Lands To Which This Ordinance Applies.

This ordinance shall apply to all areas of special flood hazards within the corporate limits of the City of Yuma.

§ 151-06 Basis For Establishing The Areas of Special Flood Hazard.

The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for the City of Yuma, Arizona", dated November 15, 1985, with accompanying Flood Insurance Rate Maps (FIRMs) dated November 15, 1985, and the area of the Colorado River mapped by the U.S. Department of the Interior, Bureau of Reclamation and subject to provisions of Public Law 99-450, Colorado River Floodway Act, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the FPB by the FPA. The FPB, within its area of jurisdiction, shall delineate (or may, by rule, require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by FEMA and the Director of the ADWR. The FIS and FIRM panels are on file at the City Clerk Office, One City Plaza P.O. Box 13012 Yuma, AZ 85366-3012 or at the City of Yuma Department of Public Works, 155 W. 14th Street, Yuma, AZ 85364.

§ 151-07 Compliance.

All development of land, construction of residential, commercial or industrial structures, or future development within delineated floodplain areas is subject to the terms of this ordinance and other applicable regulations.

§ 151-08 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.

§ 151-09 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.

§ 151-10 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 the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City, any officer or employee thereof, the State of Arizona or FEMA, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

§ 151-11 Statutory Exceptions.

In accordance with A.R.S. § 48-3609(H), unless expressly provided, this and any regulation adopted pursuant to this article do not affect:

(A) 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 destroyed to the extent of 50 percent of its value as determined by a competent appraiser, any further use shall comply with this article and regulations of the Yuma City Council;

- (B) Reasonable repair or alteration of property for the purposes for which the property was legally used on August 3, 1984, or any regulations affecting such property takes effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by 50 percent or more shall be either flood-proofed or elevated to or above the regulatory flood elevation;
- (C) Reasonable repair of structures constructed with the written authorization required by A.R.S. § 48-3613; and
- (D) Facilities constructed or installed pursuant to a Certificate of Environmental Compatibility issued pursuant to A.R.S. Title 40, Chapter 2, Article 6.2.

Before any authorized construction begins for the exceptions listed below, the responsible person must submit plans for the construction to the FPB for review and comment. In accordance with A.R.S. § 48-3613, written authorization shall not be required, nor shall the FPB prohibit:

- (E) The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse;
- (F) 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;
- (G) 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 FPB pursuant to regulations adopted by the FPB under this article;
- (H) Other construction upon determination by the FPB that written authorization is unnecessary;
- (I) Any flood control district, county, city, town or other political subdivision from exercising powers granted to it under A.R.S. Title 48, Chapter 21, Article 1;
- (J) 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
- (K) 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.

In addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or

otherwise prevent any person from violating or continuing to violate this section or regulations adopted pursuant to this Article. If a person is found to be in violation of this Section, the court shall require the violator to either comply with this Section if authorized by the FPB or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

§ 151-12 Unlawful Acts.

- (A) It is unlawful for a person to engage in any development or to divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property without securing the written authorization required by A.R.S. § 48-3613. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.
- (B) Any person found guilty of violating any provision of this ordinance shall be guilty of a Class 2 misdemeanor. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

§ 151-13 Declaration of Public Nuisance Statute.

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

§ 151-14 Abatement Of Violations.

Within 30 days of discovery of a violation of this ordinance, the FPA shall submit a report to the FPB which shall include all information available to the FPA which is pertinent to said violation. Within 30 days of receipt of this report, the FPB shall either:

- (A) Take any necessary action to effect the abatement of such violation; or
- (B) Issue a variance to this ordinance in accordance with the provisions of Section 151-25 thru 151-27 herein; or
- (C) Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the FPA within 30 days of such order and the FPA shall submit an amended report to the FPB within 20 days. At the next regularly scheduled public meeting, the FPB shall either order the abatement of said violation or they shall grant a variance in accordance with the provisions of Section 151-25 thru Section 151-27 herein; 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.

§ 151-15 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.

Administration

§ 151-16 Designation Of The Floodplain Administrator.

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

§ 151-17 Duties and Responsibilities Of The Floodplain Administrator (FPA).

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

(A) Permit Review:

Review all development permits to determine that:

1. The permit requirements of this ordinance have been satisfied;
2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of areas where BFEs have been determined but a floodway has not been designated. For purposes of this ordinance, "adversely affect" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

(B) Substantial Improvement And Substantial Damage Procedures:

1. Develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
2. Assure procedures are coordinated with other departments and divisions and implemented by community staff.

(C) Use Of Other Base Flood Data:

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

(D) Obtain And Maintain For Public Inspection:

1. The certified RFE required in Section 151-18-C.1.

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

(E) Notification Of Other Entities:

1. Whenever a watercourse is to be altered or relocated:
 - a. Notify adjacent communities and the ADWR prior to such alteration or relocation of a watercourse, and submit evidence of such notification to FEMA through appropriate notification means; and
 - b. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.
2. BFE and rate of flow due to physical alterations:
 - a. BFEs may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the FPA shall notify FEMA of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
 - b. Within one hundred twenty (120) days after completion of construction of any flood control protective works which changes the rate of flow during the flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the Director of the ADWR.
3. Corporate Boundary Changes:

Notify FEMA and the ADWR of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

(F) Map Determinations:

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (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 151-25 thru Section 151-27.

(G) Remedial Actions:

Take actions on violations of this ordinance as required in Section 151-14 herein.

(H) Biennial Report:

Complete and submit a Biennial Report to FEMA.

(I) Colorado River Floodway Requirements:

Assure that proposals for development in the Colorado River Floodway and in the Colorado River Floodway Fringe meet the additional requirements described in Section 151-28 thru Section 151-30, including the review and concurrence by the Bureau of Reclamation before any proposed development in the Colorado River Floodway is permitted.

(J) Establishment Of Development Permit:

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in Section 151-06. Application for a Development Permit shall be made on forms furnished by the FPA and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

1. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures. In Zone AO, elevation of existing highest adjacent natural grade and proposed elevation of lowest floor of all structures;
2. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 151-18-C.2;
4. BFE data for subdivision proposals or other development greater than 50 lots or 5 acres; and
5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Provisions For Flood Hazard Reduction

§ 151-18 Standards For Construction.

In all areas of special flood hazards the following standards are required:

(A) Anchoring

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

2. All manufactured homes shall meet the anchorage standards of Section 151-22.B.

(B) Construction Materials and Methods

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

(C) Elevation and Floodproofing

1. Residential Construction:

Residential construction, new or substantial improvement, shall have the lowest floor, including basement,

- a. In an AO Zone, elevated to or above the RFE, or elevated at least two feet above the highest adjacent grade if no depth number is specified.
- b. In an A Zone where a BFE has not been determined, elevated to or above the RFE or be elevated in accordance with the criteria developed by the Director of the ADWR.
- c. In Zones AE, AH and A1-30, elevated to or above the RFE.

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

2. Non-residential Construction

Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 151-18-C.1 or together with attendant utility and sanitary facilities:

- a. Be floodproofed below the elevation recommended under Section 151-18-C.1 so that the structure is watertight with walls substantially impermeable to the passage of water;
- 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 standards of this section are satisfied. Such certification shall be provided to the FPA.

3. Flood Openings

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

- a. 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or
- b. If it is not feasible or desirable to meet the openings criteria stated above, a registered engineer or architect may design and certify the openings.

4. Manufactured Homes

- a. Manufactured homes shall also meet the standards in Section 151-22.

5. Garages and Low Cost-Accessory Structures:

a. Attached garages.

- i. A garage attached to a residential structure, constructed with the garage floor slab below the RFE, must be designed to allow for the automatic entry of floodwaters. See Section 151-18.C.3. Areas of the garage below the RFE must be constructed with flood resistant materials. See Section 151-18.B.
- ii. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed.

b. Detached garages and accessory structures.

- i. "Accessory structure" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 151-04, may be constructed such that its floor is below the RFE, provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the accessory structure must be limited to parking or limited storage;
 - b) The portions of the accessory structure located below the RFE must be built using flood-resistant materials;

- c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
- d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the RFE;
- e) The accessory structure must comply with floodplain encroachment provisions in Section 151-24; and
- f) The accessory structure must be designed to allow for the automatic entry of floodwaters in accordance with Section 151-18.C.3.

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

§ 151-19 Standards For Storage Of Materials And Equipment.

- (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 special flood hazard areas.
- (B) Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning

§ 151-20 Standards For Utilities.

- (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.
- (C) Waste disposal systems shall not be installed wholly or partially in a regulatory floodway.

§ 151-21 Additional Development Standards, Including Subdivisions.

- (A) All new subdivisions proposals and other proposed development (including proposals for manufactured home parks and subdivisions), greater than 50 lots or 5 acres whichever is lesser, shall:
 - 1. Identify the area of the special flood hazard and the elevation of the base flood.

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

(B) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

(C) All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(D) All subdivision proposals and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

§ 151-22 Standards For Manufactured Homes.

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

(A) 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 RFE; and

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

§ 151-23 Standards For Recreational Vehicles.

All recreational vehicles placed on site shall:

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

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

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

§ 151-24 Floodways

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

- (A) Prohibit encroachments, including fill, new construction, substantial improvements and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (B) If Section 151-24 is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 151-18 thru Section 151-24.

Variance Procedure

§ 151-25 Nature Of Variances.

The variance criteria 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 must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

It is the duty of the Yuma City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure that is built below the RFE are 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 more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

§ 151-26 Appeal Board.

- (A) The FPB of the Yuma City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (B) The FPB shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the FPA in the enforcement or administration of this ordinance.
- (C) In passing upon such applications, the FPB 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 effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system and streets and bridges.

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

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

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
2. Such construction below the base flood level increases risks to life and property; and
3. The land upon which the variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided by A.R.S. Title 26, Chapter 2, Article 2. A copy of the notice shall be recorded in the office of the Yuma County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(F) The FPA shall maintain a record of all variance actions, including justification for their issuance and report such variances issued in its biennial report submitted to FEMA.

§ 151-27 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 BFE, provided the procedures of Section 151-16 thru Section 151-24 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 a:
 - 1. Showing of good and sufficient cause;
 - 2. Determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - 3. Showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 151-04 of this ordinance in the definition of "Functionally Dependent Use"; and,
 - 4. 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.

Requirements For Colorado River Communities

§ 151-28 Colorado River Floodway.

Since the Colorado River Floodway has, under flood conditions, proven to be an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply to the Colorado River Floodway, in addition to the basic requirements of Section 151-16 thru Section 151-24.

- (A) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited. Necessary river control, water conservation, power, water quality structures and related works, and improvements and alterations to approved structures associated with allowed uses of the floodway under Section 151-28.B are excluded from this prohibition if they follow the NFIP Floodway Revision process described in the Code of Federal Regulations at 44CFR 65.12 for a Conditional Letter of Map Revision and the proposed project is reviewed and concurred with by the Bureau of Reclamation and approved

by the community. Within 6 months of the completion of the approved project, the as-built data for the project must be submitted for a Letter of Map Revision to assure the accurate depiction of the Colorado River Floodway on the FIRM.

- (B) Allowed uses of the floodway may include functions and uses that serve the public interest, that are compatible with the floodway operation, and that will not cause a rise in the Colorado River base flood elevation. These may include river control, water conservation and diversion, power and water quality structures and related works; remedial or corrective actions including, but not limited to, drainage facilities to assist in controlling adjacent high ground water conditions caused by flood flows; public and tribal roads; military activities; fish and wildlife enhancement projects; navigational aids; emergency action assistance; public health assistance; compatible public, private and tribal recreational developments such as parks, golf courses, docks and boat launching ramps; and compatible agricultural uses that do not include permanent crops which would constitute an obstruction to river flood flows.
- (C) The FPA shall require permits for proposed development that is allowed by Section 151-30.A. The proposed development must be reviewed and concurred with by the Bureau of Reclamation to assure compatibility with the floodway operation prior to approval of the permit(s).

§ 151-29 Colorado River Floodway Fringe.

The following provisions apply in addition to the basic requirements of Section 151-16 thru Section 151-24:

- (A) Fill, permanent structures or buildings, including residential structures, may be placed or erected in the Colorado River Floodway Fringe, provided, in the case of buildings, that the elevation of the lowest floor (including basements) is at least one foot above the Colorado River BFE.
- (B) Land may be filled, provided the top of the compacted fill shall at no point be below the Colorado River BFE for at least twenty-five feet beyond the limits of any structure erected or placed thereon.

§ 151-30 Flood-Related Erosion-Prone Areas Of The Colorado River.

- (A) The FPA shall require permits for proposed construction and other development within the floodway fringe area of the Colorado River. Such permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
- (B) If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

(C) A setback from the floodway is required for all new development to create a buffer and to provide access to the floodway for possible maintenance and improvements work. The buffer may consist of a natural vegetation or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rates in relation to the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as agriculture, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

(D) A waiver to the setback requirements may be granted if it can be demonstrated that adequate erosion and flow velocity protection can and will be constructed and maintained, and provided that the erosion protection meets the applicable parts of Volume 44, Code of Federal Regulations, section 65.5(a)(6). All plans for erosion and flow velocity protection must have the review and concurrence of the Bureau of Reclamation and be reviewed and approved by the FPA.

SECTION 2: That Ordinance 2359, which was codified at section 151-01 thru 151-15, 151-25 thru 151-30, 151-40, 151-41, 151-50 and 151-51, and Ordinance O2004-45, codified at 151-05 and 151-07, be repealed in their entirety.

Passed and adopted this 16th day of August, 2006.

APPROVED:



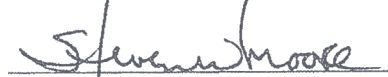
Lawrence K. Nelson
Mayor

ATTESTED:



Brigitta M. Kuiper
City Clerk

APPROVED AS TO FORM:



Steven W. Moore
City Attorney