

ORDINANCE NO. 2021-18

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, AMENDING CHAPTER 20 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 20-200 PERTAINING TO FLOODPLAIN MANAGEMENT; STATUTORY AUTHORIZATION; BY AMENDING SECTION 20-201 PERTAINING TO FLOODPLAIN MANAGEMENT; FINDING OF FACT; BY AMENDING SECTION 20-202 PERTAINING TO FLOODPLAIN MANAGEMENT; STATEMENT OF PURPOSE; BY AMENDING SECTION 20-205 PERTAINING TO FLOODPLAIN MANAGEMENT; DEFINITIONS; BY AMENDING SECTION 20-206 PERTAINING TO FLOODPLAIN MANAGEMENT; LANDS TO WHICH THIS ORDINANCE APPLIES; BY AMENDING SECTION 20-207 PERTAINING TO FLOODPLAIN MANAGEMENT; BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD; BY AMENDING SECTION 20-211 PERTAINING TO FLOODPLAIN MANAGEMENT; DISCLAIMER OF LIABILITY; BY AMENDING SECTION 20-212 PERTAINING TO FLOODPLAIN MANAGEMENT; STATUTORY EXCEPTIONS; BY AMENDING SECTION 20-213 PERTAINING TO FLOODPLAIN MANAGEMENT; UNLAWFUL ACTS; BY AMENDING SECTION 20-214 PERTAINING TO FLOODPLAIN MANAGEMENT; DECLARATION OF PUBLIC NUISANCE STATUTE; BY AMENDING SECTION 20-221 PERTAINING TO FLOODPLAIN MANAGEMENT; DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR; BY AMENDING SECTION 20-230 PERTAINING TO FLOODPLAIN MANAGEMENT; STANDARDS OF CONSTRUCTION; BY AMENDING SECTION 20-231 PERTAINING TO FLOODPLAIN MANAGEMENT; STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT; BY AMENDING SECTION 20-232 PERTAINING TO FLOODPLAIN MANAGEMENT; STANDARDS FOR UTILITIES; BY AMENDING SECTION 20-233 PERTAINING TO FLOODPLAIN MANAGEMENT; ADDITIONAL DEVELOPMENT STANDARDS, INCLUDING SUBDIVISIONS; BY AMENDING SECTION 20-236 PERTAINING TO FLOODPLAIN MANAGEMENT; FLOODWAYS; BY

AMENDING SECTION 20-241 PERTAINING TO  
FLOODPLAIN MANAGEMENT; APPEAL BOARD;  
AND PROVIDING FOR SEVERABILITY AND FOR AN  
EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-200 pertaining to Floodplain management; statutory authorization, which shall read as follows:

Sec. 20-200. – Floodplain management; statutory authorization.

In A.R.S. § 48-3610, the Arizona State Legislature enabled the City of Peoria, an Arizona, municipal corporation to assume the powers and duties for floodplain management and adopt regulations in conformance with A.R.S. § 48-~~3603-3609~~ designed to promote the public health, safety and general welfare of its citizenry.

SECTION 2. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-201 pertaining to Floodplain management; finding of fact, which shall read as follows:

Sec. 20-201. – Floodplain management; finding of fact.

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

SECTION 3. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-202 pertaining to Floodplain management; statement of purpose, which shall read as follows:

Sec. 20-202. – Floodplain management; statement of purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to 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 ~~s~~Special ~~f~~Flood ~~h~~Hazard Areas;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so 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. Participate in and Maintain eligibility for disaster relief and flood insurance.

SECTION 4. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-205 pertaining to Floodplain management; definitions, which shall read as follows:

Sec. 20-205. – Floodplain management; 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 ~~f~~Flood ~~h~~Hazard ~~a~~Area."

*Accessory structure.* A structure that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes accessory structures used for parking and storage:

- ~~1. Used solely for the parking of no more than two (2) cars; or limited storage (small, low cost sheds); and~~
- ~~2. Is smaller than two hundred (200) square feet floor area.~~

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

*Area of shallow flooding.* A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) 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 (1) percent or greater chance of flooding in any given year. These areas are designated as Zone A, AE, AR, AO, AH and A1-30 on the FIRM and other areas determined by the criteria adopted by the Director of the Arizona Department of Water Resources. See "Special flood hazard area")

*Base flood.* A flood which has a one (1) percent chance of being equaled or exceeded in any given year. This is also called the "100-year flood".

*Base flood elevation (BFE).* The computed elevation to which floodwater is anticipated to rise during the base flood. ~~shown on the Flood Insurance Rate Map for Zones AE, AH, AR and A1-30, that indicates the water surface elevation resulting from a flood that has a one (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."

*CLOMR.* Conditional Letter Of Map Revision. A Federal Emergency Management Agency process for proposing changes to the Flood Insurance Rate Maps.

*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 area within its jurisdictional boundaries. For the purposes of this ordinance "Community" means the City of Peoria.

*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 storage of equipment or materials.

*Dwelling Unit.* Any structure usable for residential purposes and which may be located in a single or multiple-dwelling building, which includes working, sleeping, eating, recreation facilities, or a combination thereof. This excepts structures used solely for storage purposes.

*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 process of the gradual wearing away of landmasses.

*FEMA.* The Federal Emergency Management Agency.

*FIA.* Federal Insurance Administration.

*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 by some similarly unusual and unforeseeable event which results in flooding as defined elsewhere in this definition.

*Flood Hazard Area.* See "Special Flood Hazard Area".

*Flood Insurance Rate Map (FIRM).* The official map on which the Federal Emergency Management Agency (FEMA) or ~~Federal Insurance Administration (FIA)~~ has delineated both the ~~areas of s~~Special Flood Hazards Areas and the risk premium zones applicable to the community.

*Flood Insurance Study (FIS).* The official report provided by the ~~Federal Insurance Administration (FIA)~~ or Federal Emergency Management Agency (FEMA) that includes flood profiles, Flood Insurance Rate Maps, Flood Boundary and Floodway Maps and the water surface elevation of the base flood.

*Floodplain or flood-prone area.* Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

*Floodplain Administrator.* The community official designated by title to administer and enforce the floodplain management regulations.

*Floodplain Board.* The City Manager or his designee acting as the Floodplain Board, at such times as the Floodplain Board 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.* This 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 non-residential structures which reduce or eliminate the risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents by means other than elevation.

*Flood-Related Erosion.* The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an

unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

*Floodway.* The 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 ~~Article VI~~Sections 20-240 through 20-242 of this ~~ordinance~~Code, meaning the exceptional hardship that would result from a failure to grant the requested variance. The City of Peoria 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:

1. 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;
2. 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;
3. 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
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- a. By an approved state program as determined by the Secretary of the Interior or
- b. Directly by the Secretary of the Interior in states without approved programs.

*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 (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". ~~For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers or other similar vehicles.~~

*Manufactured Home Park or Subdivision.* A parcel, or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

*Market value.* ~~Defined in the substantial damage and substantial improvement procedures Section 20-221.B~~ Replacement cost of a structure less depreciation since construction.

*Mean sea level.* For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*New construction.* For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after December 31, 1974, 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, berm, 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 (1) 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, this state or its agencies or political subdivisions.

*Recreational vehicle.* A vehicle which is:

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

*Regulatory Flood Depth (RFD).* An elevation one (1) foot above the depth number on a Flood Insurance Rate Map (FIRM), or two (2) feet above the highest adjacent grade, if no depth number is shown on the FIRM.

*Regulatory Flood Elevation (RFE).* An elevation one (1) foot above the base flood elevation ~~for a watercourse for which the base flood elevation has been determined and shall be determined by the criteria developed by the Director of the Arizona Department of Water Resources 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 one (1) percent or greater chance of flooding in any given year. It is shown on a Flood Insurance Rate Map as Zone A, AE, AH, AO, AR, A1-A30 or A99.

*Start of construction.* The date the building permit was issued, for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date the permit was issued. 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 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 fifty (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 fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, building, 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;
2. 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 National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

SECTION 5. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-206 pertaining to Floodplain management; Lands to which this ordinance applies, which shall read as follows:

Sec. 20-206. – Floodplain management; Lands to which this ~~ordinance~~ chapter applies.

This ~~ordinance~~ chapter shall apply to all areas of ~~s~~Special ~~f~~Flood ~~h~~Hazards within the corporate limits of the City of Peoria.

SECTION 6. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-207 pertaining to Floodplain management; basis for establishing the areas of special flood hazard, which shall read as follows:

Sec. 20-207. – Floodplain management; basis for establishing the ~~areas of~~ ~~s~~Special ~~f~~Flood ~~h~~Hazard Areas.

The ~~areas of~~ ~~s~~Special ~~f~~Flood ~~h~~Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Maricopa County, Arizona and Incorporated Areas dated October 16, 2013, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs) dated October 16, 2013, 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 Floodplain Board by the Floodplain Administrator. The Floodplain Board, within its area of jurisdiction, shall delineate (or may, by rule, require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources. The FIS and FIRM panels are on file at the City of Peoria, Engineering Department, Peoria, Arizona.

SECTION 7. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-211 pertaining to Floodplain management; disclaimer of liability, which shall read as follows:

Sec. 20-211. – Floodplain management; 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~~ ~~s~~Special ~~f~~Flood ~~h~~Hazards Areas 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 of Peoria, any officer or employee thereof, the State of Arizona or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 8. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-212 pertaining to Floodplain management; statutory exceptions, which shall read as follows:

Sec. 20-212. – Floodplain management; statutory exceptions.

~~The statutory exceptions in A.R.S. § 48-3609(H) and A.R.S. § 48-3613 apply to this chapter.~~

~~The exceptions contained in this A.R.S. § 48-3609(H) and A.R.S. § 48-3613 do not relieve any person from liability if that person's actions cause flood damage to any other person or property.~~

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

1. Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for twelve months, or destroyed to the extent of 50 percent of its market value, as determined by a competent appraiser, any further use shall comply with this article and regulations of the (governing body);
2. Reasonable repair or alteration of property for the purposes for which the property was legally used on August 3, 1984, or on the date any regulations affecting such property 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;
3. Reasonable repair of structures constructed with the written authorization required by A.R.S. § 48-3613;
4. Facilities constructed or installed pursuant to a Certificate of Environmental Compatibility issued pursuant to A.R.S. Title 40, Chapter 2, Article 6.2.

B. Before the following types of construction authorized by A.R.S. § 48-3613(B) begin, the responsible person must submit plans for the construction to the Floodplain Board for review and comment pursuant to A.R.S. § 48-3613(C):

1. The construction of bridges, culverts, dikes, and other structures necessary for the construction of public highways, roads, and streets intersecting or crossing a watercourse;
2. The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage to adjoining land if the structure will not divert, retard, or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by A.R.S. Title 45, Chapter 6;
3. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations that will divert, retard, or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the Floodplain Board pursuant to regulations adopted by the Floodplain Board under this chapter;
4. Other construction upon determination by the Floodplain Board that written authorization is unnecessary;
5. 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;
6. The construction of streams, waterways, lakes, and other auxiliary facilities in conjunction with development of public parks and recreation facilities by a public agency or political subdivision; and
7. The construction and erection of poles, towers, foundations, support structures, guy wires, and other facilities related to power transmission as constructed by any utility whether a public service corporation or a political subdivision.

C. In accordance with A.R.S. § 48-3613(D), in addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation, or obstruction of a watercourse has the right to commence, maintain, and prosecute any appropriate action or pursue any remedy to enjoin, abate, or otherwise prevent any person from violating or continuing to violate this section or regulations adopted pursuant to A.R.S. Title 48, Chapter 21, Article 1. If a person is found to be in violation of this Section, the court shall require the violator to either comply with this Section if authorized by the Floodplain 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 9. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-213 pertaining to Floodplain management; unlawful acts, which shall read as follows:

Sec. 20-213. – Floodplain management; ~~unlawful acts~~Violations.

- 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 misdemeanor. Each day that a violation continues shall be a separate offense punishable as hereinabove described. A person who violates Section 20-213 Section 3-8A is guilty of a class 2 misdemeanor pursuant to A.R.S. § 48-3615.~~
- C. A person who violates this Ordinance may be assessed a civil penalty not to exceed the fine chargeable for a class 2 misdemeanor, pursuant to A.R.S. § 48-3615, or, by agreement with the person in violation, a non-monetary penalty that serves the purposes of the community. Each day the violation continues constitutes a separate violation.
- D. A person who without written authorization damages or interferes with a facility that is owned, operated, or otherwise under the jurisdiction of the community is liable for both of the following:
  - 1. Any actual damages to persons or property that is caused by the damage or interference.
  - 2. Payment of costs to the community for remediating the damage or interference.
- E. Abatement of Violations.

Within 30 days of discovery of a violation of this Ordinance, the Floodplain Administrator shall submit a report to the Floodplain Board which shall include all information available to the Floodplain Administrator which is pertinent to said violation. Within 30 days of receipt of this report, the Floodplain Board shall either:

  - 1. Take any necessary action to affect the abatement of such violation; or

2. Issue a variance to this Chapter Ordinance in accordance with the provisions of Section 20-241 6.0 herein; ; or
3. Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the Floodplain Administrator within 5 days of such order and the Floodplain Administrator shall submit an amended report to the Floodplain Board within 10 days. At the next regularly scheduled public meeting, the Floodplain Board shall either order the abatement of said violation or they shall grant a variance in accordance with the provisions of Section 20-241 herein; or
4. Submit to the Federal Emergency Management Agency 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.

SECTION 10. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-214 pertaining to Floodplain management; declaration of public nuisance statute, which shall read as follows:

Sec. 20-214. – Floodplain management; declaration of public nuisance statute.

All development located or maintained within any ~~area of a~~ Special Flood Hazard Area after August 8, 1973, in violation of ~~this ordinance~~ floodplain regulations established by the Floodplain Board, and without written authorization from the Board, is a public nuisance per se and may be abated, prevented or restrained by action of ~~the City~~ this State or any of its political subdivisions.

SECTION 11. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-221 pertaining to Floodplain management; duties and responsibilities of the floodplain administrator, which shall read as follows:

Sec. 20-221. – Floodplain management; duties and responsibilities of the floodplain administrator.

Duties of the Floodplain Administrator 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 base flood elevations 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.*

Review all development permits for improvements and/or damages to existing structures to determine if the application of the substantial improvement rules apply, including establishing a definition of market value determination and verifying that the estimated improvement and/or repair costs are less than 50% of the market value of the structure.

- ~~1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," 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 base flood elevation data has not been provided in accordance with Section 20-207, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Sections 20-230—20-236. Any such information shall be consistent with the requirements of the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources and shall be submitted to the Floodplain Board for adoption.

*D. Obtain and Maintain for Public Inspection.*

1. The certified regulatory flood elevation required in Section 20-230.C.1 and 20-234;
2. The flood proofing certification required in Section 20-230.C.2;
3. The flood vent certification required in Section 20-230.C.3.a;
4. The elevation certification required for additional development standards, including subdivisions, in Section 20-233.A.2;
5. The floodway encroachment certification required in Section 20-236.A;
6. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued;
- ~~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 Arizona Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency through appropriate notification means; and
    - b. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.
  2. Base flood elevation and rate of flow due to physical alterations:
    - a. Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
    - 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 Arizona Department of Water Resources.
  3. Corporate Boundary Changes:
    - a. Notify the Federal Emergency Management Agency ~~and the Arizona Department of Water Resources~~ 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 s~~Special ~~f~~Flood ~~h~~Hazards Areas (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 Sections 20-240 through 20-242.

- G. *Remedial Actions.* Take actions on violations of this ordinance as required in Section 20-215 herein.

SECTION 12. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-230 pertaining to Floodplain management; standards of construction, which shall read as follows:

Sec. 20-230. – Floodplain management; standards of 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 flotation, 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 anchoring standards of section 20-234.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, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; 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 regulatory flood elevation, 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 regulatory flood elevation or be elevated in

accordance with the criteria ~~developed by the Director of the Arizona Department of Water Resources~~established in Section 20-221.C.

- c. In Zones AE, AH and A1-30, elevated to or above the regulatory flood elevation.

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 Floodplain Administrator.

2. *Nonresidential construction.* Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 20-230.C.1 or together with attendant utility and sanitary facilities: basement,
  - a. Be floodproofed below the elevation recommended under Section 20-230.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 Floodplain Administrator.
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 automatic entry and exit of floodwater. Designs for meeting this requirement must meet or exceed the following criteria:
  - a. For non-engineering openings:
    1. Have a minimum of two openings, on different sides of each enclosed area, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    2. The bottom of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or
  - b. Engineered openings (or covers and devices) that are specifically designed and certified by a registered engineer or architect as meeting the required performance and design requirements ~~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.~~
  - c. Engineered openings (or covers and devices) for which an Evaluation Report has been issued by the International Code Council (ICC) Evaluation Service, Inc. (ICC-ES), a subsidiary of the International Code Council, Inc.
4. *Manufactured homes.* Manufactured homes shall also meet the standards in Section 20-234.
5. *Garages and low cost accessory structures.*
  - a. *Attached garages.*
    1. A garage attached to a residential structure, constructed with the garage floor slab below the regulatory flood elevation, must be designed to allow for the automatic entry of flood waters. See Section 20-230.C.3.

Areas of the garage below the regulatory flood elevation must be constructed with flood resistant materials. See Section 20-230.B.
    2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed.
  - b. *Detached garages and accessory structures.*
    1. "Accessory structure" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 20-205, may be constructed such that its floor is below the regulatory flood elevation, provided the structure is designed and constructed in accordance with the following requirements:
      - a) Use of the accessory structure must be limited to parking or limited storage;

- b) The portions of the accessory structure located below the regulatory flood elevation must be built using flood-resistant materials;
- c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
- d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the regulatory flood elevation;
- e) The accessory structure must comply with floodplain encroachment provisions in Section 20-236; and
- f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 20-230.C.3.

- 2. Detached garages, storage structures and other accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 20-230 C.1.

SECTION 13. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-231 pertaining to Floodplain management; standards for storage of materials and equipment, which shall read as follows:

Sec. 20-231. – Floodplain management; 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.

SECTION 14. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-232 pertaining to Floodplain management; standards for utilities, which shall read as follows:

Sec. 20-232. – Floodplain management; standards for ~~utilities~~ water supply and waste disposal systems.

- A. All new or replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

- B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- C. Waste disposal systems shall not be installed wholly or partially in a regulatory floodway

SECTION 15. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-233 pertaining to Floodplain management; additional development standards, including subdivisions, which shall read as follows:

Sec. 20-233. – Floodplain management; additional development standards, including subdivisions.

- A. All new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions), greater than 50 lots or 5 acres, whichever is the lesser, shall:
  - 1. Identify the ~~area of the s~~Special f~~Flood h~~Hazard aArea and the elevation of the base flood
  - 2. Identify on the final plans the elevation(s) of the proposed structure(s) and pads. If the site is filled above the base flood elevation, the 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.

SECTION 16. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-236 pertaining to Floodplain management; floodways, which shall read as follows:

Sec. 20-236. – Floodplain management; floodways.

Located within ~~areas of s~~Special f~~Flood h~~Hazard Areas established in Section 20-207 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 20-236 is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this code.

SECTION 17. Chapter 20 of the Peoria City Code (1992) is amended by amending Section 20-241 pertaining to Floodplain management; appeal board, which shall read as follows:

Sec. 20-241. – Floodplain management; appeal board.

- A. The Floodplain Board of the City of Peoria shall hear and decide appeals and requests for variances from the requirements of this ordinance
- B. The Floodplain Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- C. In ~~passing upon~~considering such applications, the Floodplain Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger of life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the 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 20-241(C) and the purposes of this ordinance, the Floodplain Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- 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 coverage, and
  2. Such construction below the ~~base~~ regulatory flood level elevation 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 Maricopa 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 Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance and report such variances issued.

SECTION 18. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

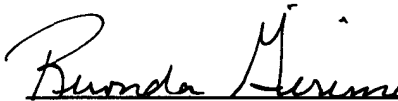
SECTION 19. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 15th day of June, 2021.

  
Cathy Carlat, Mayor

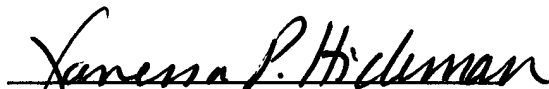
6-21-21  
Date Signed

ATTEST:

  
Rhonda Geriminsky, City Clerk



APPROVED AS TO FORM:

  
Vanessa P. Hickman, City Attorney

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