RESOLUTION NO. 4742 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK OF THE CITY OF GLENDALE AND ENTITLED "CHAPTER 17, FLOODPLAIN MANAGEMENT."

WHEREAS, State Law permits cities to declare documents a public record for the purpose of incorporation into city ordinances; and

WHEREAS, the City of Glendale wishes to incorporate by reference amendments to Chapter 17, Floodplain Management, of the Glendale City Code, by first declaring said amendments to be a public record.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That certain document entitled "Chapter 17, Floodplain Management," attached as Exhibit A, three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record. Said copies are ordered to remain on file with the City Clerk for public use and inspection.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 13th day of November, 2013.

MAYOR

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager

Exhibit A

CHAPTER 17
FLOODPLAIN MANAGEMENT

SECTION 1. Glendale City Code Chapter 17, (Floodplain Management), Article I is hereby deleted in its entirety and replaced with the following:

ARTICLE I. IN GENERAL

Sec. 17-1. Short Title.

This chapter shall be known as the Floodplain Management Ordinance of the City of Glendale with Rules and Regulations pursuant to the provisions of *The Flood Disaster Protection Act* and *The National Flood Insurance Act,* as amended.

Sec. 17-2. Statutory authorization.

Through A.R.S. § 48-3610, the Arizona State Legislature enabled the city to adopt regulations in conformance with A.R.S. § 48-3603 designed to promote the public health, safety, and general welfare of its citizenry.

Sec. 17-3. Findings of fact.

(a) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruptions 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 are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise, from flood damage also contribute to the flood loss.

Sec. 17-4. Purpose.

(a) The purpose of this chapter is to provide floodplain management regulations for all subdivision of land, construction of dwelling, commercial or industrial structures, or uses which may divert, retard or obstruct floodwater and threaten public health, safety or the general welfare, and provide for the establishment of minimum flood protection elevations and flood damage prevention requirements for uses, structures and facilities which are vulnerable to flood damage; provide for the coordination by the council with all other interested and affected political subdivisions and state agencies, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

(6) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7) To insure that potential buyers are notified that property is in an area of special flood hazard;

(8) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions; and,

(9) To maintain eligibility for state disaster relief.

(b) In order to accomplish its purposes, this chapter includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and,

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(6) These regulations take precedence over any less restrictive conflicting local laws, ordinances and codes.

Sec. 17-5. Definitions.

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

Accessory Structure, low-cost and small:

(1) A structure that is solely for the parking of no more than two (2) cars; or limited storage (small, low cost sheds).

(2) One hundred twenty (120) square feet or less.

Administrative Appeals Board: A board authorized to hear and decide appeals and requests for variances from the requirements of this chapter. Any variance granted by the Administrative Appeals Board must be approved by the Floodplain Board.

Appeal: A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter 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 (1%) 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 percent (1%) or greater chance of flooding in any given year. This area is designated as zone A, AE, AO, AH, and A1-30 on the FIRM and other areas determined by the criteria adopted by the city's director of water resources (see "Special Flood Hazard Area").

Base flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): The elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicate the water surface elevation resulting from a flood that has a one percent (1%) 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.

Breakaway walls: Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is so designed as to breakaway, during the base flood, without damage to the structural integrity of the building on which it is used or any structure to which it might be carried by flood waters.

Building: See "Structure."

Critical feature: An integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be compromised.

Delineated floodplain: That area delineated and mapped as floodplain, as approved by the Federal Insurance Administration and as shown on the official flood insurance rate map of the city.

Development: Any manmade 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 located within the area of special flood hazard.

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.

Existing manufactured home park or manufactured home subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to

be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before December 6, 1984.

Expansion to an existing manufactured home park or manufactured home subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

Financial assistance: Any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance, other than general or special revenue sharing or formula grants made to states.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of flood waters; and/or

(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.

Flood Insurance Rate Map (FIRM): The official map on which the Federal Emergency Management Agency (FEMA) 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 the Federal Emergency Management Agency (FEMA) that includes flood profiles, the flood boundary floodway map, and the water surface elevation of the base flood.

Floodplain: Any land area susceptible to being inundated by water from any source. See "flood or flooding."

Floodplain Administrator: The public works administrator or his designee who is assigned to administer and enforce the floodplain management regulations.

Floodplain Board: The City Council of the City of Glendale shall be the Floodplain Board. In the event the Floodplain Board must recuse itself from deciding a matter, the Board of Directors of the Flood Control District of Maricopa County shall hear such Floodplain disputes or variances to provide the appropriate enforcement of this ordinance.

Floodplain management regulations: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofed: Watertight with walls substantially impermeable to the passage of water and with structural components having the capability of restricting hydrostatic and hydrodynamic loads and effects of buoyancy.

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 protection system: Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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.

Flood-related erosion area or Flood-related erosion-prone area: A land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

Flood-related erosion area management: The operation of an overall program of corrective and preventative measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

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

Fraud and victimization: As related to Section 17-29 of this ordinance, means that the variance granted must not cause fraud on, or victimization of, the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

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, but 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 referenced in Section 17-29 of this ordinance, the definition of exceptional hardship is the hardship that would result from a failure to grant the requested variance. The Floodplain Board requires that the variance be exceptional, 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. The problems listed may be resolved, or may be required to 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 difference use other 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 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.

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

Levee system: A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor: The lowest floor of the lowest enclosed area (including 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 chapter.

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 connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes mobile homes, park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for sale or rent.

Market value: Defined in the substantial damage and substantial improvement procedures.

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 6, 1984, and includes any subsequent improvements to such structure.

New manufactured home park or manufactured home subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after December 6, 1984.

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

One-hundred-year flood or 100-year flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year. See "Base flood".

Person: Any individual or his agent, firm, partnership, association, corporation, or agent of the aforementioned groups, or the state of any agency or political subdivision thereof.

Program: The national flood insurance program authorized by 42 U.S.C. §§ 4001-4128, as amended.

Program deficiency: A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards.

Public safety and nuisance: As related to Section 17-12 of this ordinance, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Reach: The longitudinal segments of a stream, wash or watercourse which may include, but not be limited to, the segment of the flood hazard area where flood heights are primarily controlled by man-made or natural obstructions or constrictions.

Recreational vehicle. For purposes of this Article only, a recreational vehicle is defined as a vehicle which is:

(1) Built on a single chassis;

(2) 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 a temporary living quarters for recreational, camping travel, or seasonal use

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.

Remedy a violation: To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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 percent (1%) or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, A1-30, AE, A99 or AH.

Start of construction: Includes substantial improvement and other proposed new development and means the date 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 date means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs 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, footing, 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 as 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, including a gas or liquid storage tank that is principally above ground; a manufactured home is a structure.

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 percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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. However, the term does not include either:

(1) Any project for improvement of a structure required to comply with existing violations or to comply with 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

(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 chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

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

Watercourse: Any lake, river, creek, stream, wash or other body of water having banks and beds through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur.

Water Surface Elevation (WSE): The height, in relation to the National Geodetic Vertical Datum (NVGD) 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.

Sec. 17-6. Interpretation.

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of Council direction and policy; and

(3) Deemed neither to limit nor expand any other powers granted under state statutes.

Sec. 17-7. Jurisdictional Applicability.

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

Sec. 17-8. 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 chapter and other applicable regulations.

Sec. 17-9. Statutory Exceptions.

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

(1) Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for twelve months, or destroyed to the extent of 50 percent of its value as determined by a competent real estate appraiser, any further use shall comply with this article and regulations of the City of Glendale;

(2) 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 fifty percent (50%) or more shall be either floodproofed 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, as amended; and

(4) Facilities constructed or installed pursuant to a Certificate of Environmental Compatibility issued under A.R.S. § 40-360 *et seq.*, as amended.

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

(1) The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse;

(2) The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage to adjoining land if the structure will not divert, retard or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by A.R.S. § 45-1201 *et seq.*, as amended;

(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 article;

(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. § 48-3601 et seq., as amended;

(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; or

(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 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 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.

Sec. 17-10. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific engineering report entitled The Flood Insurance Study (FIS) for Maricopa County, Arizona and Incorporated Areas, dated September 30, 2005, with accompanying Flood Insurance Rate Maps (FIRMS) dated September 30, 2005, and all subsequent amendments and/or revisions, are adopted by reference and declared a part of this chapter. 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) areas where development is ongoing or imminent, and thereafter as development becomes imminent, delineate 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 office of the city clerk and a copy is on file in the office of the city engineer.

Sec. 17-11. Warning and disclaimer of liability.

(a) The degree of flood protection required by this chapter 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 chapter 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 chapter shall not create liability on the part of the city, any officer or employee thereof or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

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

Sec. 17-12. Declaration of public nuisance.

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 the city.

Sec. 17-13. Abatement of violations.

Within thirty (30) days of discovery of a violation of this chapter, the Floodplain Administrator shall submit a report to the Floodplain Board which shall include all information available to the Floodplain Administrator which is pertinent to said violation. Within thirty (30) days of receipt of this report, the Floodplain Board shall, after all administrative appeals are exhausted, either:

(1) Take any necessary action to effect the abatement of such violation; or

(2) Issue a variance to this chapter in accordance with the provisions of this chapter; 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 thirty (30) days of such order, and he shall submit an amended report to the Floodplain Board within twenty (20) days. At its next regularly scheduled public meeting, the Floodplain Board shall either order the abatement of said violation or shall grant a variance in accordance with the provisions of this chapter;

(4) Submit to the Floodplain Administrator of Federal Emergency Management Agency a declaration for denial of insurance, stating that the property is in violation of a state or local law, regulation or ordinance, under Section 1316 of the National Flood Insurance Act of 1968, as amended;

(5) A party aggrieved by a final decision of the City Council acting as the Floodplain Board may appeal to the Superior Court.

Sec. 17-14. Severability.

This chapter and the various sections hereof are hereby declared to be severable. Should any section of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the sections so declared to be unconstitutional or invalid.

Secs. 17-15—17-25. Reserved.

SECTION 2. Glendale City Code Chapter 17, (Floodplain Management), Article II is hereby deleted in its entirety and replaced with the following:

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 17-26. Floodplain Administrator.

(a) The Floodplain Administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(b) The duties of the Floodplain Administrator shall include, but not be limited to:

(1) Permit review:

a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

c. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of this chapter, "adversely affects" 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 (1) foot at any point.

d. Determine that the site is reasonably safe from flooding.

(2) Use of other base flood data:

a. When Base Flood Elevation data has not been provided in accordance with Section 17-10, the Floodplain Administrator shall obtain, review, and reasonably use any base flood elevation data available from a federal, state or other source, in order to administer this chapter. 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.

b. 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 44 CFR § 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.

(3) Information to be obtained and maintained: The city shall obtain and maintain for public inspection and make available as needed for flood insurance policies:

a. The certified Regulatory Flood Elevation required in Section 17-43;

b. The elevation certification required for additional development standards, including subdivisions, required in Section 17-43 and 17-46;

c. The floodproofing certification required in Section 17-43 and 17-46;

d. The certified elevation required in Section 17-43 and 17-46;

e. The flood vent certification required in Section 17-43;

f. The floodway encroachment certification required in Section 17-48;

g. A complete record of all variance actions, including justification for their issuance; and,

h. A record of improvement calculations, as required in Section 17-26.

(4) Alteration of watercourses:

a. Notify adjacent communities and the Arizona Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency; and

b. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

(5) Interpretation of FIRM boundaries: Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, 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 17-29;

(6) Abate violations: Take actions on violations of this chapter as required in Section 17-13;

(7) Notice to flood control district:

a. Advise in writing the County Flood Control District and any adjunct jurisdiction having responsibility for floodplain management and provide a copy of the development plans of all applications for floodplain use permits or variances to develop land in a floodplain or floodway within one mile of the corporate limits of the city.

b. Advise the County Flood Control District in writing and provide a copy of any development plan of any major development proposed within a floodplain or floodway which could affect floodplains, floodways or watercourses within the district's area of jurisdiction.

c. Written notice and a copy of the plan of development shall be sent to the County Flood Control District no later than three (3) working days after the city receives the plan.

(8) Changes in rate of flow: 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 water resources.

(9) Substantial improvement and substantial damage procedures:

a. Develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."

b. Assure procedures are coordinated with other departments and divisions and implemented by community staff.

(10) Corporate boundary changes: 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.

(11) Biennial report: Complete and submit a Biennial Report to the Federal Emergency Management Agency.

Sec. 17-27. Recommendations.

Hydrologic-related floodplain regulations and engineering matters pertaining to the administration and direction of these regulations shall be officially referred to the Administrative Appeals Board which shall be responsible for advice and recommendations to the Council.

Sec. 17-28. Permits.

(a) The city shall require permits for all proposed construction and other development (including placement of prefabricated buildings and manufactured homes) on properties in any special flood hazard area.

(b) The city shall require that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law.

(c) 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 17-10. Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations 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 structures 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 17-43; and

(4) Obtain a concise description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(5) All new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions), greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall:

a. Identify the area of the special flood hazard area and the elevation of the base flood; and

b. 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.

Sec. 17-29. Variance Procedures; Nature of Variances; Appeals.

(a) 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.

(b) It is the duty of the City of Glendale to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the regulatory flood elevation are so serious that variances from the flood elevation or from other requirements in the flood ordinance are 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.

(c) Administrative Appeals Board.

(1) The Administrative Appeals Board of the City of Glendale shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) The Administrative Appeals 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.

(3) In passing upon such applications, the Administrative Appeals Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger of life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in time of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,

k. 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.

(4) Upon consideration of the factors of Section 17-29(c) and the purposes of this ordinance, the Administrative Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

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

a. 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

b. Such construction below the base flood level increases risks to life and property; and

c. 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. § 26-301 *et seq.*, as amended. 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.

(6) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance and report such variances issued in its biennial report submitted to Federal Emergency Management Agency.

(d) Conditions for variances.

(1) 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 base flood elevation, provided the procedures of Articles II and III 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.

(2) 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.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon a:

a. Showing of good and sufficient cause;

b. Determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. 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 17-5 of this ordinance in the definition of "Functionally Dependent Use"; and,

d. 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.

e. Any variance granted must be recommended to, and approved by, the City Council acting as the Floodplain Board.

Secs. 17-30—17-40. Reserved.

SECTION 3. Glendale City Code Chapter 17, (Floodplain Management), Article III is hereby deleted in its entirety and replaced with the following:

ARTICLE III. PROVISIONS AND STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 17-41. Anchoring.

(a) 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

(b) All manufactured homes shall meet the anchoring standards of Section 17-47.

Sec. 17-42. Construction materials and methods.

(a) Materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvement shall be constructed using methods and practices that minimize flood damage.

(c) All new construction and 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,

(d) Within Zones AH or AO, adequate drainage paths shall be constructed around structures on slopes to guide floodwaters around and away from proposed structures.

Sec. 17-43. Elevation and floodproofing.

(a) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the regulatory flood elevation. Nonresidential structures may meet the standards in paragraph (c) below. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor and provided to the administrator.

(b) New construction and substantial improvement of any structure in zone AO shall have the lowest floor, including basement, higher than the highest adjacent grade at least one (1) foot higher than the depth number on the FIRM, or at least two (2) feet if no depth number is specified. Nonresidential structures may meet the standards in paragraph (c),

below. Upon completion of the structure a registered professional engineer shall certify to the administrator that the elevation of the structure meets this standard.

(c) Nonresidential construction shall either be elevated in conformance with paragraphs (a) or (b), above, or together with attendant utility and sanitary facilities:

(1) Be floodproofed so that below the Regulatory Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.

(d) For 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 floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria:

(1) A minimum of two (2) openings, on different sides of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one (1) 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 floodwaters.

(4) 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.

(e) Manufactured homes shall meet the above standards and also the standards in Section 17-47.

Sec. 17-44. Standards for storage of materials and equipment.

(a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

(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.

Sec. 17-45. Standards for utilities.

(a) All new and 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 floodway.

Sec. 17-46. Standards for subdivisions.

(a) All new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions), greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall:

(1) Identify the flood hazard area 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.

(3) Be consistent with the need to minimize flood damage. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(4) Be reviewed to assure that adequate drainage is provided to reduce exposure to flood hazards.

Sec. 17-47. Standards for manufactured homes.

(a) All new and replacement manufactured homes and additions to manufactured homes shall be anchored to resist flotation, collapse or lateral movement by one of the following methods:

(1) By providing an anchoring system designed to withstand horizontal forces of twenty-five (25) pounds per square foot and uplift forces of fifteen (15) pounds per square foot;

(2) By providing over the top and frame ties to ground anchors, specifically:

a. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, except that manufactured homes less than fifty (50) feet long require only one (1) additional tie per side;

b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that manufactured homes less than fifty (50) feet long require only four (4) additional ties per side; and,

c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.

(b) The following standards are required for all new and replacement manufactured homes and additions to manufactured homes:

(1) Adequate surface drainage and access for a hauler shall be provided.

(2) All manufactured homes shall be placed on pads or lots elevated on compacted fill or piling so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation. If elevated on pilings:

a. The lots shall be large enough to permit steps;

b. The pilings shall be placed in stable soil no more than ten (10) feet apart; and

c. Reinforcement shall be provided for pilings more than six (6) feet above the ground level.

Sec. 17-48. Regulatory floodways.

Located within areas of special flood hazard established in Section 17-10 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 to all adopted regulatory floodways:

(1) 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.

(2) If Section 17-48(1) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard provisions of this ordinance.

Sec. 17-49. Areas of shallow flooding.

For areas designated as shallow flooding, the provisions of Section 17-43 shall apply.

Sec. 17-50. 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, as amended. 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, as amended.

(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.

Sec. 17-51. 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. Areas of the garage below the Regulatory Flood Elevation must be constructed with flood resistant materials (Sections 17-42 and 17-43).

(2) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed.

b. Detached garages and accessory structures. "Accessory structures" used solely for parking two (2)-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 17-5, may be constructed such that the floor is below the Regulatory Flood Elevation, provided the structure is designed and constructed in accordance with the following requirements:

(1) Use of the accessory structure must be limited to parking or limited storage;

(2) The portions of the accessory structure located below the Regulatory Flood Elevation must be built using flood-resistant materials;

(3) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;

(4) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the Regulatory Flood Elevation;

(5) The accessory structure must comply with floodplain encroachment provisions in Section 17-48; and

(6) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 17-43.

Sec. 17-52. Standards for recreational vehicles.

For purposes of this Article, all recreational vehicles placed on site shall:

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

(2) 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

(3) Meets the permit requirements of 17-28 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 17-47.