

Comments deemed Critical by the Commenter, but not supported by a majority of the Committee

Section	Written Comments from Commenter #1	Written Comments from Commenter #2	Staff Comment & Recommendation
1.4 Level of Standards	Add a separate standing technical committee to review all standards and procedures, and have standards appeal able.		Standards are appealable per Section 6. Addition of standing committee will result in inflexibility on the part of the District and the Floodplain Administrator, resulting in delays for permitting and review. Staff will not support such an option.
Section 2 Definitions “Equal Degree of Encroachment”	Ordinance should match parameters that FEMA has mapped (1 foot rise). Otherwise mapping is rendered obsolete.	Keep at the existing ½ foot limit. Reducing standard may cause legal issues for the District.	Recommend keeping the limit at ½ foot. A review of most of the mapping indicates that the majority of the mapping already meets the ½ criteria and it is only at a relatively few river reaches where this criteria is exceeded in the mapping and would require additional engineering work. Keeping the limit would keep a higher standard that, in the long run, will help to reduce the future damages to property and the community from flood event.
Section 3.2. Areas of Special Flood Hazard and Regulatory Floodplains, Floodways Subsection D	Require all mapping be done by an Arizona Registered Professional Engineer and that mapping be non-arbitrary, scientifically based on sound engineering practices and completely subject to the appeals process.		The requirement that all mapping be based on engineering ignores the scientific fact that floodplains are geologic and geomorphological features, and would preclude the mapping of the geologic floodplain, which is the true area of risk, as there are no engineering procedures or standards for such mapping. Mapping work is already overseen by the General Manager of the Flood Control District (and County Engineer), which satisfies the proposed requirement in all other communities. Therefore the change is not recommended.
Section 3.7 Statutory Exemptions Subsection A	Change Subsection A.2 to only affect non-conforming structure.		This request is not supported by CFR (Code of Federal Regulations) and ARS (Arizona Revised Statutes).
Section 3.7 Statutory Exemptions Subsection E	Change to only affect Non-conforming Structures.		This request is not supported by CFR and ARS.
Section 4.2 Duties and Responsibilities of the Floodplain Administrator	Add : M. Assure that all areas in the County that are subject to this Ordinance get the full benefits of the Community Rating System points and flood insurance discounts.		Not legally possible as the Community Rating System requires each separate political entity (county, city, and town) apply and join the program separately. The Floodplain Administrator can do no more than to provide any and all assistance possible (which the District has been offering for a decade) but the appropriate political bodies must act to join the program.
Section 4.2 Duties and Responsibilities of the Floodplain Administrator	Add : N. Provide the most accurate and realistic floodplain mapping possible. Aggressively protest poor or inaccurate mapping.		Redundant and unnecessary as the Administrator already does this.
Section 4.2 Duties and Responsibilities of the Floodplain Administrator	P. Include detailed code citation that clearly justifies each and every redline requirement, violation, or other action.		In part, this is redundant and unnecessary as there is a standing requirement from the Board of Directors and Board of Supervisors that this be done, as well as existing state law. Furthermore, requests something be done that is not possible in all cases. Some Redlines are comments on spelling or citation on plans and do not have code references.
Section 4.3 Establishment of Floodplain Use Permit Subsection A	Alter Subsection A to exclude Conforming Structures		This request is not supported by CFR and ARS.
Section 5.1 Standards of Construction		Why increase the Freeboard from one to two feet.	Flood Insurance Rates are based upon the elevation of the lowest finished floor in relation to the Base Flood

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			Elevation. Insurance rates are based on the whole foot, rounded down. By requiring additional freeboard, new structures will benefit from lower flood insurance rates (estimated to be a couple of hundred dollars a year per \$100,000 of coverage), and the more restrictive requirement gains CRS Credit towards lower insurance rates. Credit estimate to increase from 100 points to 250 points by increasing one foot and adding compensatory storage for fill.
Section 5.3 Standard for Utilities		Want to keep requirements that systems must be outside floodplain/erosion hazard area when alternative locations are available and to require proper engineering to protect against flood and erosion damages from releasing untreated effluent.	Proposed language required that, but has been slightly altered to make it more apparent.
Section 5.5 Standards for Subdivision Subsection A	Remove "Land may not be parceled or subdivided in such a manner to create lots unsuitable for development because of flood or erosion hazards." Overreach of Authority, not appropriate to direct landowner/engineer on how property can be developed. Example sited is a public or green space.		This sentence is to ensure that a developer does not create parcels of land with the intent to sell them off to a buyer and profit from the land, when the land cannot be allowed to be constructed on due to flood and/or erosion hazards. The key word in the passage is "Development", which by definition is, in part, a man-made alteration of or construction on the proposed property. Open space and preservation uses are not necessarily "development". Added the word sellable to try to clarify.
Section 5.5 Standards for Subdivision Subsection C	Remove portion of Subsection C.1.C "If the site is filled above the base flood elevation, the final lowest floor and grade elevation shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator. As it is in the wrong location.		Keep. This is necessary to insure the proposed conditions approved by the District are actually constructed. Would be part of the "As Built" process typically required from the engineers after a development is completed.
Section 5.5 Standards for Subdivision Subsection C		Add "and to be minimally affected by the regulatory floodplain."	Comment #2, recommend inclusion.
Section 5.5 Standards for Subdivision Subsection E	Subsection E.1 add language to restrict to only parcels less than 5 acres in size.		The 44 th Code of Federal Regulations requires that if a split results in a parcel more than 5 acres in size, and the parent property was affected by an unnumbered Zone A Special Flood Hazard Area, that base flood elevations are to be provided. The requirement of having floodplains, erosion hazard boundaries, and the federally established boundaries illustrated serves to better inform future land owners and developers of the flood and flood related hazards on the property. Staff does not recommend altering the subsection to apply to only lots less than 5 acres.
Section 5.5 Standards for Subdivision Subsection I	"Keep in mind that State Law requires this "Taking" be purchased by the County." The structure of this section is poor and hard to follow.		Based on communications with the County Attorney's Office and other officials statewide, this is not considered a taking as it deals with public health, safety, or welfare.
Section 5.5 Standards for Subdivision Subsection J	Subsection J.2 Change "Floodplain Administrator to Flood Control District" because this involves a regulatory		Based on communications with the County Attorney's Office and other officials statewide, this is not

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	"Taking" and requires a level of Authority that can make this financial commitment.		considered a taking as it deals with public health, safety, or welfare.
Section 5.5 Standards for Subdivision Subsection K	Remove Subsection K.2 as there is already an improvement district for maintaining floodway – the Flood Control District. And it is already appropriately funded with our property taxes. We do not want to be creating an unorganized patchwork of improvement districts to be parallel the existing structure. Owner/Developer has no authority to control surrounding lands.		The language is intended to set up a separate stream of funding for the maintenance and upkeep of large scale projects on major watersheds that are constructed by private entities and then dedicated to the public from the areas that directly benefit of the project. Said projects are not in the normal budget of the District and may require special expenditures above and beyond the capacity of the budget without a dedicated revenue stream. Language does not allow the District to set up an improvement district for publically funded projects.
Section 5.5 Standards for Subdivision Subsection M	This is a "taking", is the District prepared and budgeted to purchase lands taken.		Based on communications with the County Attorney's Office and other officials statewide, this is not considered a taking as it deals with public health, safety, or welfare.
Subsection 5.11 Vehicular Access	Remove entire subsection, as unnecessary. By doing this we establish an expectation of nanny-state responsibility. This opens to door wide to additional liability. The expectation we want to foster is that each individual (property owner/citizen/driver/pedestrian) is responsible for their own safety and their own liability.		Language of the section assigns responsibility to the property owner and has them hold the County and Flood Control District harmless if there are injuries or damages resulting from traversing or attempting to travers a private vehicular access during times of flooding. County Attorney's Office disagrees with comment and recommends leaving as is.
Subsection 6.5 Hearing Requirements	Subsection 6.5.D, change time frame from 30 days to 10 days as the Board does not need that much time to come to a decision.		Language is in keeping with other jurisdictions. There is no State requirement for a time frame. If the Board wants to reduce the time frame for a decision that is their prerogative.
Proposed Appendix A.	The Committee expected to have an opportunity to review these standards as the District was proposing to incorporate them into the Ordinance. This opportunity never occurred. As such it is inappropriate to incorporate these un-reviewed standards as proposed in Section 1.4.		Appendix A was created at the request, in part, of the commenter, to hold all the Standards already in place and being utilized by the District. There has been no move by the District to alter or change the standards since they were developed by and at the direction of the General Manager of the District, at the time of creation of each standard, and under the review and guidance of the County Engineer, also at the time of creation. Appendix A was subsequently removed from the proposed Ordinance at the request of the Ordinance Review Committee.

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Comments that were categorized by the Commenter as “Nice to have, but not Critical”			
Section 3.6 Warning and Disclaimer of Liability	Remove the disclaimer of liability because language in rest of Ordinance has County assuming responsibility and liability		Language is in keeping with State Model Ordinance and removal is not recommended or supported by County Attorney’s Office.
Section 3.7 Statutory Exemptions Subsection A	Section mucks up the wording of the ARS. Just reference the ARS instead.		Language is in concurrence with the state model ordinance and other ordinances around the state. Inclusion of the language prevents people from having to go and look up the statute on their own, and is slightly modified to reflect the higher standards outlined within the Ordinance. County Attorney’s office recommends keeping as is.
Section 3.7 Statutory Exemptions Subsection A	Exemption to exemption is poor structure.		Exemption to exemption is keeping with the commonly used language in state model and other ordinance.
Section 3.7 Statutory Exemptions Subsection B	Remove subsection B.6, Public agency should not be exempt from rules.		Language is straight out of the ARS title and subsection referenced. County Attorney’s Office recommends leaving as is.
Section 3.9 Unlawful Acts	Remove Subsection B, duplicate of Subsection A.		County Attorney’s Office disagrees and recommends leaving as is.
Section 4.2 Duties and Responsibilities of the Floodplain Administrator	O. Advocate on behalf of the property owners to realize the maximum benefit of their property without negative impact on other properties.		Redundant, unnecessary, and improper use of District time and resources. The Administrator already supports property owners in the use of their property in the manner they seek, as long as the use conforms with the requirements of the Ordinance. This proposed section implies that the Administrator would have to intercede for the property owner in matters not related to the compliance with this ordinance, or expend public monies to the financial benefit of a single property owner, which is strongly discouraged by FEMA, the State of Arizona, and the County Attorney’s Office.
Section 5.5 Standards for Subdivision Subsection C	Remove Subsection C.1.A requiring engineering for subdivisions and other developments “Be consistent with the need to minimize flood damage.” as vague and unnecessary.		The language is clear, and directs that the engineering be consist with the need and desire to reduce flood damages in the community.
Section 5.5 Standards for Subdivision Subsection C	Remove Subsection C.1.D “Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damages.” As it is vague and unnecessary		Comment #1 This is necessary as there have been subdivisions and developments constructed in the past where public utilities have been constructed in such a manner as to be in the drainage ways and have resulted in damages to properties and the utilities.
Section 5.5 Standards for Subdivision Subsection D	Remove Subsection D.1 requiring “All tentative and/or preliminary plats and development plans shall show proposed grading and improvements for areas which are subject to flooding, erosion, or which have drainage problems, and shall also show a description and location of all facilities proposed to alleviate flooding, erosion, or drainage problems within or outside the boundaries of the		Subsection D.1 deals with what is required on the tentative/preliminary development plans and plats. Subsection D.2 deals with what is required on the grading plans and improvement plans that typically accompany the submittal of a tentative/preliminary development plan and/or plat. The two sections deal with different portions of the same submittal.

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	subdivision or development.” As it is essentially a duplicate of Subsection D.2.		
Section 5.5 Standards for Subdivision Subsection E	Remove “in a surveyable manner and certified” from the subsection as it is covered by the rules registered surveyors must operate under, and the ordinance should not tell a professional how to do their job.		The requirement is for what is to be submitted on the final plat and/or development plan. It is perfectly appropriate for the District to set forth the standards of documentation and information provided within the submittal, to ensure a uniformity of submissions to help streamline the approval process. Staff does not recommend removing the language.
Section 5.5 Standards for Subdivision Subsection E	Subsection E.2 remove “with a note contained on the final plat that the drainage areas and base flood peak discharges are provided by the owner for information purposes.” As the information is actually provided by the P.E. and not the owner, and is telling the PE how to do their job.		The requirement is for what is to be submitted on the final plat and/or development plan. It is perfectly appropriate for the District to set forth the standards of documentation and information provided within the submittal, to ensure a uniformity of submissions to help streamline the approval process. Staff does not recommend removing the language, but did remove “by the owner” from the subsection, and added a note that the information is subject to change as conditions change.
Section 5.5 Standards for Subdivision Subsection F	Remove “based upon low hazard to life and property” from the subsection.		No indication as to why the language should be removed. Staff believe that the demonstration of a low hazard to lives or property would be a valid exception to the requirement above in the subsection and therefore believes it should stay.
Section 5.5 Standards for Subdivision Subsection G	Subsection G.2, remove the following language from the subsection “shown as building envelopes where necessary at the direction of the Santa Cruz County Flood Control District”, and “Building Envelopes for”.	Relating to the entirety of Subsection G – Requirements make perfect sense from a public safety point of view”.	District staff disagrees with removal. It is not always known what the exact size and shape of a future building will be. Therefore the use of a building envelope, which is generally the area that can safely be built in, but does not constrain the property owner to a particular shape or size of building is more practical. Secondly building envelopes are not necessary in all cases. They have only been required in the past when proposed lots have areas outside the floodplain and/or erosion hazard areas that are suitable for construction and are then shown to limit the construction to those areas in the development process.
Section 5.5 Standards for Subdivision Subsection G	Subsection 7, “Poor construction, no parameter on how far away this applies.”		Construction of the requirement is identical to that required in other jurisdictions. Language states that is of “surrounding” floodwaters which indicates the area immediately around the proposed structure.
Section 5.5 Standards for Subdivision Subsection H	Remove “special engineering” from the language as it is undefined by the Arizona Board of Technical Registration.		Special engineering, in this case, refers to engineering not normally required or provided. In this case it refers to engineering necessary to deal with severe erosion hazards.
Section 5.5 Standards for Subdivision Subsection H	Remove “of the property owner or developer”		The language is specifying who will be responsible for providing the engineering. In this case the developer or owner is the party that should be responsible.

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Section 5.5 Standards for Subdivision Subsection J	Remove Subsection J.3. Redevelopment is not defined and is not necessary as redevelopment is not exempt from normal development requirements.		This is necessary as the requirements of all ordinances dealing with flood and erosion hazard management prior to Ordinance #2001-03 were never enforced in Santa Cruz County. Those developments, if redeveloped, are being asked to mitigate the increase of runoff from the property that should have been previously mitigated, the lack of which has had the effect of increasing both the discharge and flow velocities downstream of the development. If an existing, pre June 1, 2001, development redevelops, it is not subject under the existing ordinance to provide retention/detention unless it increase the impervious are on the lot.
Section 5.5 Standards for Subdivision Subsection J	Subsection J.8, “off-line systems” is not defined.		“Off-line systems” is common language in hydrology and hydraulics meaning that the system is not in the line of the channel. Definition can be added, but is not really required.
Section 5.6 Standards for Manufactured Homes and Manufactured Home Parks and Subdivisions	Subsection A.1 Very poor structure, needs to be rewritten.		Staff disagrees.
Section 5.6 Standards for Manufactured Homes and Manufactured Home Parks and Subdivisions	Subsection B.3, Do not think this is worded correctly. Did we intend to require two sets of anchors?		Flood anchoring does not necessarily meet the requirements of the State, or other political subdivision, for anchoring against wind forces, and visa versa. Language is intended to make clear that the anchoring for one does not necessarily satisfy the other.
Subsection 6.3 Conditions for Variances	Subsection 6.3.A, remove “As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.” As this is vague and probably not really appropriate in an ordinance.		This language is there because as the size of a lot increases, the likely hood that there are locations on the lot that can be used for the same purpose that are located outside any floodplain and/or erosion hazard area increases. If such areas exist, then the burden of justification should also increase.
Subsection 6.3 Conditions for Variances	Subsection 6.3.D, remove as it is a duplicate of Subsection 6.3.E.1		District disagrees. 6.3.D state that variance can only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. Subsection 6.3.E is a check list necessary for the determination that a variance is granted.