

HANDBOOK FOR ARIZONA COMMUNITIES
On Floodplain Management and the National Flood
Insurance Program

APPENDIX C

48-3601. Definitions

In this article, unless the context otherwise requires:

1. "Area of jurisdiction" means the incorporated and unincorporated areas of the county, including public lands, excluding those incorporated areas of cities or towns which have elected to assume floodplain management powers and duties pursuant to section 48-3610.

2. "Board" means the board of directors of a flood control district organized under this article.

3. "District" means a flood control district organized pursuant to this article.

4. "Flood" or "floodwaters" means a temporary rise in water level including groundwater or overflow of water onto lands not normally covered by water.

5. "Floodplain" means the areas adjoining the channel of a watercourse including areas where drainage is or may be restricted by man-made structures which have been or may be covered partially or wholly by floodwater from the one hundred-year flood.

6. "Floodplain regulations" means the codes, ordinances and other regulations adopted pursuant to this article relating to the use of land and construction within the floodway and floodplain areas.

7. "Floodway" means the channel of a river or other watercourse and the adjacent land areas necessary in order to discharge the one hundred-year flood without cumulatively increasing the water surface elevation more than one foot.

8. "One hundred-year flood" or "base flood" means a flood that has a one per cent chance of being equalled or exceeded in a one year period, based on the criteria established by the director of water resources.

9. "Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

10. "Regulatory flood elevation" means the elevation which is one foot above the base flood elevation for a watercourse for which the base flood elevation has been determined and shall be as determined by the criteria developed by the director of water resources for all other watercourses.

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

48-3602. Organization of county flood control district

A. Each county shall organize a county flood control district to include and govern its area of jurisdiction.

B. The county board of supervisors shall be the board of directors of the district. The directors shall not receive compensation for their services as such but are entitled to reimbursement for their necessary expenses in attending district meetings and for necessary expenses incurred in traveling within and without this state if necessary to carry on the affairs of the district.

C. County flood control districts are in addition to any flood protection district organized pursuant to chapter 18, article 10 of this title, and the mere existence of a

county flood control district does not of itself affect the existence or operation of any flood protection district organized pursuant to chapter 18, article 10 of this title.

**48-3603. Powers, duties and immunities of district and board:
exemption**

A. A county flood control district organized under this article is a political taxing subdivision of this state and has all the powers, privileges and immunities granted generally to municipal corporations by the constitution and laws of this state including immunity of its property and bonds from taxation.

B. The board of directors shall exercise all powers and duties in the acquisition and operation of the properties of the district and in carrying out its regulatory functions under this article as are ordinarily exercised by the governing body of a municipal corporation.

C. A district organized under this article, acting through its board of directors, may:

1. Acquire by eminent domain, purchase, donation, dedication, exchange or other lawful means rights-of-way for and construct, operate and maintain flood control works and storm drainage facilities within or without the district for the benefit of the district.

2. Acquire by eminent domain, purchase, donation, dedication, exchange or other lawful means and dispose of by sale, exchange or other lawful means real and personal property within the boundaries of the district.

3. Contract and join with this state, the United States or any other flood control district or floodplain board, municipality, political subdivision, governmental agency, irrigation or agricultural improvement district, association, corporation or individual in acquiring, constructing, maintaining and operating flood control works, and regulating floodplains.

4. Enter into contracts of indemnity to indemnify this state, the United States or any other flood control district, municipality, political subdivision, governmental agency, irrigation or agricultural improvement district, association, corporation or individual against liability by virtue of injuries, losses or damages occurring through the use of their facilities, structures, streets, rights-of-way or properties in connection with the operation of a flood control district and the regulation of floodplains.

5. Acquire and maintain existing flood control and drainage facilities within the district for the benefit of the district if mutually agreeable to the owners of such facilities.

6. Acquire, convert and maintain surplus irrigation facilities as storm drainage facilities if mutually agreeable to owners of such facilities.

7. Construct, maintain and operate flood control and storm drainage facilities and regulate floodplains in the district by agreement with this state, counties, other municipal corporations, political subdivisions and other persons and reimburse such agencies or persons for the cost of the work.

8. On the dissolution of any other flood control district, assume the assets and obligations of the other district.

9. Enter into intergovernmental agreements with other public agencies pursuant to title 11, chapter 7, article 3 to carry out the objects and purposes of the district.

10. Apply for, obtain, expend and repay flood control loans pursuant to title 45, chapter 8, article 5.

11. Apply to the director of water resources for alternative flood control assistance for flood control projects pursuant to section 45-1471, except that the director shall not

grant any such assistance for any project unless he has approved the project in advance of planning.

12. Sue and be sued, enter into contracts and generally do all things which may be necessary to construct, acquire and maintain facilities, operate the district and perform its regulatory functions and which are in the interests of the district.

13. Adopt such rules and bylaws for its orderly operation as it sees fit.

14. Appoint a chief engineer and general manager, who may be the county engineer.

15. Appoint a treasurer, who may be the county treasurer, an attorney, who may be the county attorney, and other employees it considers desirable and necessary to carry out the purposes of the district. Any other work required by the district may be performed by regular employees of the county on assignment by the board of supervisors, except that regular county employees shall not undertake construction projects with an estimated cost of five thousand dollars or more.

16. Allow variances from the terms or regulations adopted pursuant to this article to the extent permitted by section 48-3609, subsection B, paragraph 7 and if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting the variance the general intent and purposes of this article and the regulations will be preserved.

17. Construct, operate and maintain artificial groundwater recharge facilities, and, if organized in a county having a population of more than one million five hundred thousand persons according to the most recent United States decennial census, underground storage and recovery facilities, if they have flood control benefits, and contract and join with the United States, this state and other governmental units for the purpose of constructing, operating and maintaining multipurpose groundwater recharge, underground storage and recovery and flood control facilities, except that a district shall not expend district funds for any underground storage and recovery facility that does not have flood control benefits.

18. Acquire real property by purchase, donation, dedication, exchange or other lawful means, except by eminent domain, in areas suitable for groundwater recharge projects.

19. Cooperate and join with other entities that engage in underground water storage and recovery projects under title 45, chapter 3, including multi-county water conservation districts and other political subdivisions.

D. The board shall adopt and enforce floodplain regulations as provided in section 48-3609.

E. The board may adopt a fee schedule for review of applications for permits and variances from or interpretations of the floodplain regulations.

F. The affirmative vote of a majority of the board of directors is necessary to approve any measure. One member may adjourn any meeting at which a quorum is not present.

G. The board shall keep a proper written record of all of its proceedings, which shall be open to public inspection.

H. The accounts of the district are subject to annual and other audits as provided by law.

I. The provisions of section 9-403 do not apply to a flood control district organized under this article.

48-3604. Establishing zones in the district

A. The board may divide the area of jurisdiction into two or more zones, the boundaries of which shall be described in a resolution adopted at a hearing held pursuant to subsection C.

B. The board may alter the boundary lines of any previously established zone or zones pursuant to subsection C.

C. Before establishing zones or altering their boundary lines, the board shall fix a date for a hearing, which shall be not less than twenty-one days nor more than forty days from the date of the resolution. Any interested citizen may appear at the hearing and be heard on any matter relating to the reasonableness of establishing the zones. Notice of the hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation in the area of jurisdiction and zone and shall be posted in not less than thirty public places in the zone. The posting and the first date of the publications shall be not less than three weeks before the date of the hearing.

D. The board shall meet at the time and place fixed for the hearing and may adjourn the hearing from time to time. At the hearing any interested owner of real property in the proposed zone may appear and be heard on any matter relating to the establishment of the zone and may allege that his real property in the proposed zone will not be benefited by the proposed improvements. If after the hearing it appears to the board that the establishment of the zone is necessary and desirable to carry out the objects and purposes of the district in the proposed zone and that all property in the zone will benefit by the establishment of the zone, the board shall establish the zone. If the board determines that any property in the proposed zone is not benefited, it shall delete the property from the zone. Thereupon the board shall adopt a resolution establishing the zone and shall file with the county recorder, the county assessor and the department of revenue a certified copy of the resolution and a map showing the zone and its boundaries. The board shall publish a copy of the resolution once a week for three consecutive weeks in a newspaper of general circulation in the area of jurisdiction and zone and shall post a copy of the resolution in not less than thirty public places in the zone.

E. A party aggrieved by action of the board in establishing a zone may bring an action in the superior court in the county in which the area of jurisdiction is located to set aside the action of the board. The action shall be heard in a trial de novo. The action must be instituted not more than thirty-five days after the last publication or date of posting, whichever is later, of the copy of the resolution establishing the zone.

48-3605. Assistance for floodplain delineations; duties of director

A. The director of water resources shall develop and adopt criteria for establishing the one hundred-year flood and delineating floodplains.

B. If a district is required to delineate a floodplain pursuant to section 48-3609 and the floodplain has not been delineated with sufficient accuracy to allow adoption of regulations pursuant to section 48-3609, the district may request the director for assistance in delineating the floodplain.

C. If sufficient monies have been appropriated, the director may either provide the engineering and technical services necessary to delineate the floodplains and floodway and determine water surface profile data associated with such delineations or disburse monies for such services to the requesting district.

D. If a district chooses to be reimbursed for costs incurred to have floodplains delineated after August 3, 1984, monies appropriated to the director shall be disbursed on order of the director after application by the district showing the necessity and purpose of the expenditures for which reimbursement is required.

E. The director may refuse to provide financial or technical assistance allowed by this section if, in the opinion of the director, such assistance is not necessary for the district to comply with section 48-3609.

48-3606. Assistance for topographic mapping

If sufficient monies have been appropriated, state monies or assistance allowed by this chapter may be provided to a district to aid in preparing topographic maps or to gather other elevation or channel cross-sectional data necessary, as determined by the director, for making hydraulic and hydrologic computations for determining floodplain and floodway limits.

48-3607. Director may contract for work

The director may contract with private persons, firms or other governmental agencies to carry out his duties under this article.

48-3608. Assistance in flood insurance program

A. The director is designated as the state coordinator of the national flood insurance program to assist local jurisdictions in complying with the requirements of such program and state law.

B. The director is designated as the state coordinator of the United States army corps of engineers floodplain management services program and shall coordinate floodplain information studies of federal, state and local agencies and make recommendations to such agencies.

48-3609. Floodplain delineation; regulation of use

A. Except as provided in section 48-3610, the 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 director of water resources.

B. Except as provided in section 48-3610, the board shall adopt and enforce regulations governing floodplains and floodplain management in its area of jurisdiction which shall include the following:

1. Regulations for all development of land, construction of residential, commercial or industrial structures or uses of any kind which may divert, retard or obstruct floodwater and threaten public health or safety or the general welfare.

2. Regulations which establish minimum flood protection elevations and flood damage prevention requirements for uses, structures and facilities which are vulnerable to flood damage. Regulations adopted under this section shall comply with state and local land use plans and ordinances, if any.

3. Regulations which provide for coordination by the district with all other

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interested and affected political subdivisions and state agencies.

4. Regulations that require any residential structure built in a floodplain to be constructed so as to place the lowest floor elevation of the structure at or above the regulatory flood elevation, that require commercial or industrial structures to be flood proofed or elevated to or above the regulatory flood elevation and that prohibit any activity in a designated floodway, including fill, that would increase the water surface elevation during a base flood.

5. Regulations to allow a mobile home located in a floodplain on August 3, 1984 to be replaced by another mobile home if:

(a) The mobile home to be replaced was not damaged by a flood to more than fifty per cent of its value before the flood.

(b) The replacement mobile home is elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the regulatory flood elevation.

6. Regulations that require all new placement of mobile homes to be anchored to prevent flotation, collapse or movement.

7. Variance procedures to permit variances from the regulations that do not result in danger or damage to persons or property in floodplains in the area of jurisdiction. Variances may be granted only if special circumstances, such as size, shape, topography, location or surroundings of the property, would cause the strict application of the regulations to deprive the property of privileges enjoyed by similar property in the floodplain. A variance is subject to conditions to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations on similar property in the floodplain.

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

D. Water supply, water treatment and sewage collection and disposal systems built in a regulatory floodplain shall be designed to prevent or minimize floodwater infiltrating the systems and to prevent or minimize floodwater contamination during the base flood.

E. Floodplain regulations enacted pursuant to this article may only be adopted after a public hearing at which parties in interest and other citizens have an opportunity to be heard. At least thirty days before the hearing, a notice of the time and place of the hearing shall be published in a newspaper of general circulation within the county or, if no newspaper of general circulation is regularly published, in a newspaper of general circulation nearest the area of jurisdiction. A notice of any hearing accompanied by a copy of each of the proposed regulations shall be furnished to the director at least thirty days before the date of the hearing. A copy of any regulation adopted by a district pursuant to this article shall within five days thereafter be filed with the director and with each political subdivision and municipal corporation in the area of jurisdiction.

F. All development of land, construction of residential, commercial or industrial structures or future development within delineated floodplain areas is prohibited unless floodplain regulations have been adopted pursuant to this article for such floodplain area and are in full force and effect.

G. Before adopting regulations the board may issue a special permit authorizing construction or development if the board finds that construction or development is not a danger to persons or property.

H. Unless expressly provided, this article and any regulations 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 fifty per cent of its value, as determined by a competent appraiser, any further use shall comply with this article and regulations of the district.

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 take 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 per cent 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 section 48-3613.

4. Facilities constructed or installed pursuant to a certificate of environmental compatibility issued pursuant to title 40, chapter 2, article 6.2.

I. Within one hundred twenty 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.

J. On the granting of a variance, permit or waiver for the construction of a structure which is otherwise contrary to the adopted floodplain regulation of the area, the board shall provide written notice to the grantees of such variance, permit or waiver that, if the structure is a dwelling unit or business as defined by section 26-321, the land on which the structure is located is ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided for by title 26, chapter 2, article 2. The board shall record a copy of the notice in the office of the county recorder in a manner so that it appears in the chain of title of the affected parcel of land.

K. A flood control district or appropriate public agency which has failed to adopt or enforce floodplain regulations required by this section shall not be eligible for disaster relief identified by section 35-192, subsection D, paragraphs 3 and 5. The director of water resources shall advise the director of the division of emergency management within the department of emergency and military affairs of such failure to comply.

48-3609.01. Watercourse master plans; definition

A. If a district organized pursuant to this chapter has completed a watercourse master plan which includes one or more watercourses, and if the plan has been adopted by the board or by any other jurisdiction in that river or drainage system, then the board and the governing body of each jurisdiction may adopt and shall enforce uniform rules for that river or drainage system within the jurisdiction using criteria that meet or exceed criteria adopted by the director of water resources pursuant to section 48-3605, subsection A.

B. During the preparation of a watercourse master plan, record owners of real property in and immediately contiguous to the watercourse or watercourses included in the planning shall be publicly notified by the board or its agents so that the owners may

have input to the planning process. In addition, sand and gravel recommendation committees organized pursuant to section 11-830, subsection D, if any, shall be notified.

C. All watercourse master plans shall consider recharge techniques including gabions, swales, dry wells, sand tanks and small dams.

D. This section does not apply to any city or town which has adopted a resolution assuming floodplain management and regulation within its area of jurisdiction as provided in section 48-3610 prior to July 1, 1990.

E. A "watercourse master plan" means a hydraulic plan for a watercourse that examines the cumulative impacts of existing development and future encroachment in the floodplain and future development in the watershed on potential flood damages, and establishes technical criteria for subsequent development so as to minimize potential flood damages for all flood events up to and including the one hundred-year flood.

**48-3610. Assumption of powers and duties by cities and towns;
resolution; definitions**

A. The powers and duties prescribed by section 48-3609 for floodplain management may be assumed by the governing body of an incorporated city or town within its area of jurisdiction if the incorporated city or town declares by resolution that it intends to assume the powers and duties, including the adoption of floodplain management regulations, pursuant to this article. An incorporated city or town currently engaged in floodplain management may continue to exercise the floodplain management powers and duties pursuant to this article in its area of jurisdiction by passing a resolution declaring its intent to do so before August 3, 1984.

B. If the assumption of powers and duties under this section occurs:

1. The city or town shall advise the district and any adjacent jurisdiction having responsibility for floodplain management in writing and provide a copy of any development plan of all applications for floodplain use permits or variances to develop land in a floodplain or floodway within one mile of the boundary between the city's or town's area of jurisdiction and the area of jurisdiction of the district. The city or town shall also advise the district and any adjacent jurisdiction having responsibility for floodplain management 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 outside the city's or town's area of jurisdiction. Written notice and a copy of the plan of development shall be sent to any adjacent jurisdiction no later than three working days after having been received by the city or town.

2. The district shall advise the city or town in writing and provide a copy of any development plan of any application for a floodplain use permit or variance to develop land in a floodplain or floodway within one mile of the boundary between the district's area of jurisdiction and that of the city or town. The district shall also advise the city or town 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 city's or town's area of jurisdiction. Written notice and a copy of the plan of development shall be sent to any adjacent jurisdiction no later than three working days after having been received by the district.

C. Nothing in this section shall act to delay approval of a development plan by a city, town, county or district.

D. If the city or town assuming the floodplain management and regulation function

declares by resolution that it no longer wishes the powers and duties, then the powers and duties shall be assumed by the district.

E. If the assumption of powers and duties occurs under this section, for purposes of applying this article to the city or town:

1. "Area of jurisdiction" means the lands within the municipal boundaries of the city or town.

2. "Board" means the governing body of a city or town.

48-3611. Citizens' flood control advisory board; qualification; functions

A. The board of supervisors may appoint a citizens' flood control advisory board consisting of seven members. Five members shall be resident taxpayers and qualified electors of the district, at least three of whom shall be residents of the cities in the district. At least one of the board members who are residents of cities shall be a resident of the largest city in the district. The city engineer of the largest city in the district and the chief engineer or manager of a major irrigation or agricultural improvement district, or their representatives, shall be ex officio members of the advisory board with all rights and privileges granted to other board members.

B. In appointing members of the advisory board the board of supervisors shall designate which appointive member shall serve for one year, which for two years, which for three years, which for four years and which for five years. Thereafter the term of each appointive member is five years except for a member appointed to an unexpired term.

C. The citizens' flood control advisory board may request information from the chief engineer and general manager and his staff, engineering personnel from cities in the district and any other person with a knowledge of flood control practices. They may recommend the employment of consultants for the purpose of obtaining technical information and recommendations regarding flood control and floodplain management practices.

D. The advisory board shall study the flood control, floodplain regulation, drainage and water conservation needs of the district, shall meet with and advise the board as requested by the board and may submit to the board reports and recommendations relating to such studies, but the recommendations are advisory only.

48-3612. Board of review

A. The board of supervisors may establish a board of review, which may be the advisory board or a committee of the advisory board to sit in review and make decisions as follows:

1. Interpret regulations adopted pursuant to this article if the meaning of a word, phrase or section is in doubt, if there is dispute between the appellant and district employees or if location of a floodway or floodplain is in doubt.

2. Allow variances from the terms or regulations adopted pursuant to this article to the extent permitted by section 48-3609, subsection B, paragraph 7 if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of this article and the regulations will be preserved.

B. Appeals to the review board may be taken by any person who feels that there is error or doubt in the interpretation of the regulation or that due to unusual circumstances attaching to his property an unnecessary hardship is being inflicted on him. The appeal shall state whether it is a plea for an interpretation or a variance and the grounds for the appeal.

C. A person aggrieved in any manner by an action of the review board may within thirty days appeal to the district board.

48-3613. Authorization required for construction in watercourses; exceptions; enforcement

A. Except as provided in section 48-3625 and in this section, a person shall not construct any structure which will divert, retard or obstruct the flow of waters in any watercourse without securing written authorization from the board of the district in which the watercourse is located. Where the watercourse is a delineated floodplain, no structure shall be constructed in the floodplain without written authorization from the board of the district in which the floodplain is located.

B. Written authorization is not required nor shall the board prohibit:

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 and 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 title 45, chapter 6.

3. Construction of tailing dams and waste disposal areas used in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations which will divert, retard or obstruct the flow of waters in a watercourse from complying with and acquiring authorization from the board pursuant to regulations adopted by the board under this article.

4. Other construction if it is determined by the 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 this article.

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.

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. Before any construction authorized by subsection B of this section may begin, the person must submit plans for the construction to the board for review and comment.

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 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 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.

48-3614. Declaration of public nuisance; abatement

Every new structure, building, fill, excavation or development located or maintained in a floodplain since August 8, 1973 in violation of this article or of floodplain regulations established by the board and without written authorization from the board is a public nuisance per se and may be abated, prevented or restrained by action of this state or any of its political subdivisions.

48-3615. Violation; classification

A. It is unlawful for a person 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 section 48-3613. Where the watercourse is a delineated floodplain, it is unlawful to excavate or build any structure affecting the flow of waters without securing written authorization required by section 48-3613.

B. A person who violates this section is guilty of a class 2 misdemeanor.

48-3616. Survey and report of flood control problems and facilities; comprehensive program; adoption by board; hearing

A. After a flood control district has been established in a county having a population of over three hundred thousand persons according to the latest federal decennial census, the board shall cause the chief engineer to make or have made by the flood control engineer or by qualified private engineers a survey of the flood control problems of the district and to prepare a report describing existing flood control facilities in the area, recommendations as to cooperation between the district and the owner or owners of existing facilities, recommendations and a preliminary plan for the construction or other acquisition of facilities to carry out the purpose of the district, a description of the property proposed to be acquired or damaged in performing the work, a program for carrying out the regulatory functions, a map showing the district boundaries and location of the work proposed to be done and property taken or damaged, an estimate of the cost of the proposed work and such other things as the board of directors may request. Before submission to the board of directors the report shall be submitted to the citizens' advisory board if one is established for its review and recommendations. The report shall be prepared at least every five years beginning in 1985 and shall indicate the past efforts of the district in eliminating or minimizing flood control problems and state the planned future work of the district to eliminate or minimize flood control problems.

B. The chief engineer and his staff shall then prepare a comprehensive program of flood hazard mitigation, taking into consideration the recommendations submitted in the report. When a comprehensive program satisfactory to the board is available, the board shall tentatively adopt and schedule a public hearing on the program and the performance of the proposed work. The comprehensive program shall be reviewed and

modified as necessary to reflect the past and future planned flood control works of the district. Notice of the hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the area of jurisdiction, the first of which shall be at least ten days before the date fixed for the hearing.

C. The chief engineer and his staff shall prepare and submit to the board a five year capital improvement program in a form approved by the board. The program and annual extensions shall be submitted to the board at least three months before the final date for submission of the annual budget. The program shall separately identify capital improvements for engineering, rights-of-way and land acquisition and construction with such supporting explanations, cost estimates and completion schedules as the board may require. The program shall be annually reviewed for endorsement by the citizens' advisory board if one is established.

D. After a flood control district has been established in a county with a population of fewer than three hundred thousand persons, the chief engineer may conduct a survey of flood control problems, prepare a comprehensive program for flood control and a five year capital improvement program pursuant to this section. He shall at least make an assessment of flood control problems in the area of jurisdiction and make an annual report of his findings and recommendations for dealing with them to the board.

48-3617. Development of flood control plan by director of water resources

A. On the application of a district organized pursuant to this article, and subject to available appropriations, the director of water resources shall conduct a study and, if deemed justified by the director, develop a flood control plan to address any flood control problem in the area of jurisdiction of the district.

B. The director shall conduct such studies and develop such plans for counties having a population of fewer than one million persons. If personnel are available and if monies are specifically authorized by the legislature, the director may conduct such studies and develop such plans for counties having a population of one million or more persons. The director shall perform his responsibilities under this section in such a manner as to spread the benefits of such assistance among all counties of this state.

C. In operating pursuant to this section, the director may utilize his own engineers and resources or may contract for outside consulting engineers and resources.

D. Any plan developed by the director pursuant to this section shall, to the extent practicable, resolve the particular flood control or regulation problem. The practicality of any solution to a flood control or regulation problem shall be determined jointly by the director and the flood control district based on cost effectiveness and design criteria developed by the director.

48-3618. Resolution calling for bond election; notice; manner of conducting election

A. After a county flood control district has been established pursuant to this article, the board may order that facilities be acquired, constructed, operated and maintained from available monies of the district. If sufficient monies are not available, the board may call an election of the electors of the district qualified to vote under article VII, section 13, Constitution of Arizona, to obtain approval for incurring bonded indebtedness

of the district to obtain revenue to acquire by purchase, construction or otherwise all or any portion of such facilities.

B. After authority has been acquired for instituting a project within a zone or a joint project by two or more contiguous zones in a district established under this article, the board may order that the facilities approved in the project or joint project be acquired, constructed, operated and maintained from the monies held by the district treasurer for expenditure in the respective zone or zones. If sufficient monies are not available, the board may call an election of the electors of the zone, or of the zones for which a joint project has been authorized, who are qualified to vote under article VII, section 13, Constitution of Arizona, to obtain approval for incurring bonded indebtedness, to obtain revenue to acquire by purchase, construction or otherwise all or any portion of the facilities.

C. The board resolution shall set forth the purpose of the indebtedness, the amount of the indebtedness, the maximum number of years for which the indebtedness is to be incurred, the maximum rate of interest to be paid and the date of the election and shall list the voting places to be used at the election. The resolution constitutes a notice of the election and shall be published once each week for three consecutive weeks in a newspaper of general circulation in the area of jurisdiction, or if there is no such newspaper, then notice shall be posted in not less than three public places within the area of jurisdiction, the first of which publications shall be not less than twenty days before the date fixed for the election. Publication on the same day of each week is sufficient whether or not a daily newspaper is used for the publication.

D. Except as otherwise expressly provided, the election shall be called and held and the results canvassed in the manner provided by the laws of this state for holding elections on the issuance of bonds by counties for general county purposes. The board may for purposes of the election treat the entire district as a single precinct or may divide the district into such precincts and fix such polling places as it may see fit.

E. If a majority of the votes cast on the proposition is in favor of incurring the bonded indebtedness proposed, the bonds so authorized may be sold and issued by the board of directors either at one time or in blocks.

48-3619. Form, issuance and sale of bonds; limitation on bonded indebtedness; payment of bonds and interest

A. The bonds authorized pursuant to section 48-3618 shall be issued for the general purpose or purposes provided in the voted proposition, which may be the acquisition by purchase, construction or otherwise of any facilities designed to further the objects or purposes of the district or for improving and extending any such facilities, or any combination of such purposes, and may include the payment of all legal, engineering and fiscal expenses reasonably incurred in connection with the authorized purposes of the bonds and with the authorization and issuance of the bonds as well as expenses incurred in connection with the original organization of the district. The bonds shall be fully negotiable for all purposes and shall never be issued in an amount which:

1. Together with all other existing bonded indebtedness of the district then outstanding, exceeds in total principal amount five per cent of the assessed valuation of taxable property in the district as computed from the last assessment roll for county purposes completed before issuing the bonds.

2. Together with all other existing bonded indebtedness of a zone then

outstanding for which the property of a zone is subject to tax under this article, exceeds in total principal amount five per cent of the assessed valuation of taxable real property in the zone as computed from the last assessment roll for county purposes completed before issuing the bonds.

B. The limitation on bonded indebtedness does not apply in those districts or zones which embrace portions of two or more irrigation districts which have water delivery contracts with the United States pursuant to federal reclamation laws.

C. The bonds are the general obligations of the district, zone or zones and the full faith, credit and resources of the district, zone or zones shall be pledged for their payment. The board shall certify to the board of supervisors to levy annually on all taxable real property in the district, zone or zones secondary property taxes fully sufficient without limitations as to rate or amount to pay principal of and interest on such bonds as principal and interest fall due.

D. The bonds shall mature at such time or times not more than forty years from their date, shall bear interest at such rate or rates set by the accepted bid which shall not exceed the maximum rate of interest stated in the resolution calling the election, shall be payable at such place or places within or without this state and generally shall be issued in such manner and with such details as may be provided in the resolution. The bonds may be made callable on any interest payment date at a premium not to exceed three per cent of their face amount. If the district has any source of revenues other than from the proceeds of taxes, all or such part of the revenues as the board of directors may deem advisable may, in the discretion of the board, be pledged to the payment of the bonds.

E. The board may provide in the resolution authorizing bonds that the bonds shall recite that they are issued under authority of this article. Such recital conclusively imports full compliance with this article and all bonds issued containing the recital are incontestable for any cause whatsoever after their delivery for value.

F. The board may provide for the publication of any resolution or other proceeding adopted by the board in a newspaper of general circulation in the area of jurisdiction. For a period of thirty days after the date of publication any person in interest may contest the legality of the resolution or proceedings of any bonds which may be authorized, or the provisions made for the security and payment of the bonds, and after such time no person has any cause of action to contest the regularity, formality, legality or source of payment for any cause whatsoever.

G. Subject to this section, the board shall declare by resolution its intention to sell such bonds and shall fix the date, hour and place of sale and shall give notice of the sale of the bonds by publication for at least ten days in a newspaper of general circulation in the area of jurisdiction and in any other newspaper as the board directs. The notice shall state that sealed bids only will be received by the board for the purchase of the bonds, and the bonds will be awarded to the highest responsible bidder at a price of not less than par and accrued interest, and that a good faith check equal to two per cent of the principal amount of bonds to be sold must accompany all sealed bids. The board may reject any and all bids. The bonds may be in denominations or multiples of one thousand dollars and shall be signed by such officers of the board as are designated by resolution adopted by the board. Any bonds bearing the signature of officers in office at the date of signing are valid and binding for all purposes, notwithstanding that before their delivery any such person whose signature appears on the bonds may no longer be an officer.

H. Bonds may be issued by the district after the issuance of all of the first bonds but must be issued pursuant to the making of a supplemental engineer's program and a

hearing as prescribed in this section.

I. Bonds issued under authority of this article do not enjoy a priority over other bonds issued under this article by reason of time of authorization or issuance. Bonds issued under this article are not taxable by this state or by any county, city, town or other political subdivision of this state.

J. All bonds issued under this article are legal investments for all trust funds, including those under jurisdiction of this state, and for the funds of all insurance companies, banks and trust companies, for the investment of state monies and for all sinking funds under the control of this state and political subdivisions of this state.

48-3620. Certification and levy of taxes; limitation

A. The district shall annually, not less than fifteen days before the first day of the month in which the county board of supervisors is required by law to levy county taxes, certify to the board of supervisors:

1. The amount of taxes to be levied in each year on the taxable real property in the district as it considers necessary or appropriate to pay the expenses of administering the district and maintaining and operating the district's flood control system, to carry out its regulatory functions and to carry out any of the objects and purposes of this article of common benefit to the district. The maintenance and operation tax proceeds not used for current expenses of maintenance and operation may either be paid into a reserve to be accumulated for such purpose or may be used for extending, improving and constructing the flood control system including acquiring rights-of-way.

2. The amount of taxes to be levied in each year on all taxable real property in each zone or in any of the zones into which the district has been divided, according to the benefits derived or to be derived by the respective zones, to pay the cost and expenses of carrying out any of the objects or purposes of this article of special benefit to the respective zones, including acquiring, constructing, maintaining, operating, extending, repairing or otherwise improving any or all flood control works or improvements in the respective zones and including acquiring rights-of-way. No revenues derived from any of the several zones from the taxes levied under this section may be expended for acquiring, constructing, maintaining, operating, extending, repairing or otherwise improving any works or improvements located in any other zone, except under section 48-3620.01.

3. The amount of secondary property taxes necessary to be levied to pay the principal and interest falling due during the ensuing year on, or to provide a sinking fund for, any bonds issued pursuant to section 48-3619.

B. The taxes collected pursuant to this section shall be paid to the district treasurer and used solely for the purpose for which they were levied.

C. The board of supervisors at the time of levying general county taxes shall levy and cause to be collected in the manner prescribed by law for county taxes a property tax or taxes on the taxable real property in the district, zone or zones sufficient to provide the amounts set forth in subsection A of this section.

D. If the district fails to certify to the board of supervisors any of the amounts of taxes necessary to be levied as required by this section, the board of supervisors shall ascertain the amount which should have been certified and shall levy the tax sufficient to produce such amount.

E. If a district is located in a county having a population of less than six hundred thousand persons according to the most recent United States decennial census, beginning

with the 1993 tax year, the aggregate taxes levied in any year under this article by the district for the purposes listed in subsection A, paragraph 1 of this section shall not exceed twenty per cent of the county primary property tax rate exclusive of the county equalization assistance for education rate or fifty cents per one hundred dollars of assessed valuation, whichever is greater. The aggregate taxes levied for any year under this article on property in a zone for the purposes listed in subsection A, paragraph 2 of this section in a district located in a county having a population of less than six hundred thousand persons according to the most recent United States decennial census, if added to the aggregate taxes, if any, levied for the purposes listed in subsection A, paragraph 1 of this section, shall not exceed twenty per cent of the county primary property tax rate exclusive of the county equalization assistance for education rate or fifty cents per one hundred dollars of assessed valuation, whichever is greater. The taxes levied under this article in a district located in a county having a population of less than six hundred thousand persons according to the most recent United States decennial census may exceed the limits prescribed by this subsection if approved by a majority of the qualified electors of the district voting in a regular general election held pursuant to title 16, chapter 2, article 2 or at a special election held pursuant to title 16, chapter 2, article 3. The ballot for the election shall specifically state the proposed rate and the fiscal year or years in which the excess tax levies are proposed to be assessed.

48-3620.01. Joint projects by zones

The board of directors may institute joint projects by two or more contiguous zones for acquiring, financing, constructing, maintaining, operating, extending, repairing or otherwise improving any flood control work or improvement located or to be located in one or more of such zones and of common benefit to the zones.

48-3620.02. Authority for zone projects

A. For the purpose of acquiring authority to proceed with any project of special benefit to a zone, as well as for the purpose of acquiring authority to proceed with any joint project by any two or more contiguous zones, as provided by section 48-3620.01, the board of directors shall adopt a resolution stating its intention to undertake the zone project or joint project, together with the engineering estimates of the project's cost to be borne by any participating zones, fixing a time and place for a public hearing on the resolution once a week for two consecutive weeks in a newspaper of general circulation in the affected zone or zones, the first of which publications shall be at least ten days before the date fixed for the hearing or, if there is no such newspaper, by posting the notice for two consecutive weeks before the hearing in three public places in each of the affected zones. The notice shall designate a public place in each of the zones where a copy of the map or maps of any joint project may be seen by an interested person.

B. At the time and place fixed for the hearing or at any time to which the hearing may be continued, the board shall consider all written and oral objections to the proposed project or joint project. On the conclusion of the hearing, the board may abandon or proceed with the proposed project or joint project unless written protests against the proposed project or joint project, signed by a majority in number of the electors, as defined in article VII, section 13, Constitution of Arizona, of the project zone or any of the zones in a proposed joint project, are filed with the board of directors before the conclusion of the hearing, in which event the project or joint project shall be abandoned.

C. After a zone project or a joint project has been authorized and adopted, the

board may, without the necessity of any further hearing, make such changes in the project as it may deem desirable to facilitate the program, consistent with the objects, purposes and powers of the district prescribed by section 48-3603.

48-3621. Right-of-way

A right-of-way in, under, along or across a public highway, public street or public property within a flood control district shall be granted to the district if found by the board to be necessary or convenient for performing any work authorized by this article and if designs for district works and designs for highway, street and public property improvements are mutually satisfactory to controlling public agencies. If necessary to carry out such work, the board may bring actions to condemn any needed property, which suits may be brought under any statute applicable to the bringing of condemnation suits by municipal corporations or other political subdivisions of this state.

48-3622. Permission required to connect to storm water drain; fee; violation; classification

A person desiring to make a connection to any storm water drain of a flood control district or to cause floodwaters or storm or other waters to be emptied into any ditch or drain of the district shall first apply to the district for permission to make the connection. The district may require the connection to be made in such manner as it directs and may impose reasonable conditions and such reasonable connection fee as it deems proper or, if reasonably justified by the circumstances, may refuse permission. In addition, the district may require any action or impose any restriction that the district considers reasonably necessary to meet the district's obligations, if any, to comply with local, state or federal water quality laws. A person making a connection which causes floodwaters to be so discharged without first having obtained permission is guilty of a class 2 misdemeanor.

48-3623. Authority to issue refunding bonds; procedure; disposition of proceeds

Any bond issued under this article may be refunded pursuant to resolution adopted by the board of directors in the manner provided in this article for the issuance of other bonds, except that an engineer's report or hearing need not be obtained or held, and it is not necessary to submit the question of the issuance of the refunding bonds at an election. Refunding bonds so authorized may be sold and the proceeds of sale applied to or escrowed for the payment of the bonds to be refunded in such manner as may be provided in the authorizing resolution, or may be delivered in exchange for the bonds to be refunded, or may be in part sold and in part exchanged. No bonds may be refunded under this section unless they either mature or are callable for redemption under their terms within twelve months from the date of the issuance of the refunding bonds or unless the holders voluntarily surrender them for exchange or payment.

48-3624. Cooperation in flood control projects

A district may cooperate with the United States and this state or any

instrumentality, department, agency or political or municipal subdivision of either in the construction, maintenance and operation of flood control projects and the enforcement of this article and regulations adopted pursuant to it. To that end, the district may:

1. Enter into appropriate agreements.
2. Acquire and provide without cost to the cooperating entity land, easements, rights-of-way and services necessary for the construction of flood control projects and the regulation of floodplains.
3. Hold and save any cooperating entity free from any claim for damages arising from the construction, maintenance and operation of flood control projects and the regulation of floodplains.
4. Maintain and operate all works according to regulations prescribed by the cooperating entity.
5. Establish and enforce flood channel limits and floodplain regulations, if any, satisfactory to the cooperating entity.

48-3625. Limitation on powers

A county flood control district may not exercise any power or authority granted by this article, nor may it undertake or cooperate in planning, authorizing, constructing, acquiring, extending, improving, maintaining or operating any flood control structures, dam systems or projects on any portion of a watershed supplying water to any dam and reservoir existing within this state having a designed water storage capacity of fifty thousand acre feet or more, or to any existing diversion dam and canal system having facilities within this state designed to divert and carry not less than one thousand cubic feet per second, without first obtaining the written consent of the agency, district, association, company or organization owning or operating or being served by such dam, reservoir, diversion dam or canal system. Such consent, however, is only required from irrigation districts and agricultural improvement districts organized pursuant to the laws of this state and defined under this title, and any other associations or organizations operating such dams, reservoirs, diversion dams and canal systems as part of a federal reclamation project. This section does not prohibit the district from adopting and enforcing such regulations as are duly enacted pursuant to this article.

48-3626. Compliance; enforcement

If any board, district or governing body fails to comply with or violates the requirements of this article, the attorney general shall take prompt and appropriate legal action to compel compliance by the jurisdiction and its elected officials. The attorney general may, in his discretion, seek the following remedies under this section:

1. An order compelling the offending jurisdiction and its elected officials to comply with the requirements of this article or cease the violation.
2. An order vesting the powers and duties under this article in the district in the event that an incorporated city or town has assumed the powers and duties pursuant to section 48-3610.

48-3627. Reimbursement for county services

Services provided by a county to a county flood control district are subject to

reimbursement pursuant to section 11-251.06.