ORDINANCE 2023 – FC_____

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE PIMA COUNTY FLOOD CONTROL DISTRICT AMENDING THE FLOODPLAIN MANAGEMENT ORDINANCE BY AMENDING CHAPTER 16.30 (WATERCOURSE AND RIPARIAN HABITAT PROTECTION AND MITIGATION REQUIREMENTS), SECTION 16.30.050 (MITIGATION) TO REPEAL THE REQUIREMENT THAT MITIGATION PLANS USING AND IN-LIEU FEE BE APPROVED AND THE BOARD OF DIRECTORS AND TO ADD A REQUIREMENT FOR THE CHIEF ENGINEER TO PROVIDE THE BOARD OF DIRECTORS WITH QUARTERLY REPORTS OF APPROVED MITIGATION PLANS.

THE BOARD OF DIRECTORS OF THE PIMA COUNTY FLOOD CONTROL DISTRICT, ARIZONA FINDS THAT:

1. Section 16.30.050(A) of the Floodplain Management Ordinance of the Pima County Code requires that "If an applicant demonstrates to the satisfaction of the District that alteration of regulated riparian habitat areas cannot reasonably be avoided, a mitigation plan shall be submitted to the District for approval when more than 1/3 of an acre of regulated riparian habitat is disturbed.";

2. Section 16.30.050(B) requires that "Mitigation plans shall be approved by the Board for disturbance of hydroriparian, mesoriparian and/or Important Riparian Areas whenever more than 5% of a property's regulated riparian habitat is disturbed, except for those disturbances that are less than 1/3 acre.";

3. Section 16.30.050(D) allows "At the request of the property owner, and with Board approval, the mitigation plan requirement under this chapter may be waived by contributing funds to an account established and administered by the District for the purposes of offsetting damage to riparian habitat."

4. To reduce the regulatory burden on property owners, this ordinance repeals the requirement for Board approval of mitigation plans in Section 16.30.050(B) and repeals the requirement that a waiver of mitigation plan be approved by the Board;

5. This ordinance does not affect the requirement under Section 16.30.050(A) that a property owner obtain the approval of the District for all mitigation plans;

6. This ordinance adds a requirement for the Chief Engineer to provide the Board with a quarterly report of mitigation plans approved during the previous quarter;

7. This ordinance does not create new restrictions on the use of property, and this ordinance is not intended to, nor should it be construed to reduce any existing rights to use, divide, sell, or possess private real property.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE PIMA COUNTY FLOOD CONTROL DISTRICT AS FOLLOWS:

SECTION 1. Pima County Code Chapter 16.30, Section 16.30.050 is amended as follows:

Chapter 16.30
WATERCOURSE AND RIPARIAN HABITAT PROTECTION AND MITIGATION REQUIREMENTS

…

16.30.050 Mitigation.

…

~~B. Mitigation plans shall be approved by the Board for disturbance of hydroriparian, mesoriparian and/or Important Riparian Areas whenever more than 5% of a property's regulated riparian habitat is disturbed, except for those disturbances that are less than 1/3 acre.~~

B. The Chief Engineer shall provide a quarterly report to the Board that provides the number of Riparian Habitat Mitigation Plans that the Chief Engineer approved during the previous quarter. The quarterly report must include the number of approved plans that used mitigation banking and the number of approved plans that disturbed more than 5% of Important Riparian Area on a property.

…

D. Mitigation Banking, or other alternative mitigation measures as approved by the Board. At the request of the property owner, ~~and with Board approval,~~ the mitigation plan requirement under this chapter may be waived by contributing funds to an account established and administered by the District for the purposes of offsetting damage to riparian habitat.

SECTION 2. This Ordinance is effective 30 days from the date of adoption of this Ordinance.

PASSED AND ADOPTED by the Board of Directors, Pima County, Arizona, this X day of X 2023.

ATTEST:

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Adelita Grijalva, Chair
Pima County Board of Directors

Melissa Manriquez, Clerk of the Board

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Eric Shepp, Director and Chief Engineer
Pima County Flood Control District

APPROVED AS TO FORM:

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County Attorney