TITLE 10

FLOOD CONTROL

CHAPTER 1

FLOOD DAMAGE PREVENTION

SECTION:

10-1-1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES:

A. Statutory Authority: The legislature of the state of Idaho, pursuant to Idaho Code sections 46-1020 through 46-1024, authorizes local governments to adopt floodplain management ordinances that identify floodplains and minimum floodplain development standards to minimize flood hazards and protect human life, health, and property. Therefore, the board of county commissioners of Benewah County, Idaho, does hereby ordain as follows.

B. Findings Of Fact:

1. The flood hazard areas of Benewah County are subject to periodic inundation that results in:

a. Loss of life and property;

b. Health and safety hazards;

c. Disruption of commerce and governmental services;

d. Extraordinary public expenditures for flood relief and protection; and

e. Impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

C. Statement Of Purpose: The purpose of this chapter is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life, health, and property;

2. Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;

3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;

4. Minimize expenditure of public money for costly flood control projects;

5. Minimize the need for rescue and emergency services associated with flooding, generally undertaken at the expense of the general public;

6. Minimize prolonged business interruptions;

7. Ensure potential buyers are notified the property is in an area of special flood hazard; and

8. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Objectives And Methods Of Reducing Flood Losses: In order to accomplish its purpose, this chapter includes methods and provisions to:

1. Require that development which is vulnerable to floods, including structures and facilities necessary for the general health, safety, and welfare of citizens, be protected against flood damage at the time of initial construction;

2. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

3. Control filling, grading, dredging, and other development which may increase flood damage or erosion;

4. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands;

5. Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store floodwaters. (Ord. 2017-137, 2-9-2017)

10-1-2: DEFINITIONS:

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

ACCESSORY STRUCTURE: A structure on the same lot or parcel as a principal structure, the use of which is incidental and subordinate to the principal structure.

ADDITION (To An Existing Building): An extension or increase in the floor area or height of a building or structure.

APPEAL: A request for review of the floodplain administrator's interpretation of provisions of this chapter or request for a variance.

AREA OF SHALLOW FLOODING: A designated AO 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 to three feet (3') 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: See definition of Special Flood Hazard Area (SFHA).

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

BASE FLOOD ELEVATION (BFE): A determination by the federal insurance administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year. When the BFE has not been provided in a special flood

hazard area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the flood protection elevation.

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING: See definition of Structure.

CRITICAL FACILITIES: Facilities that are vital to flood response activities or critical to the health and safety of the public before, during, and after a flood, such as a hospital, emergency operations center, electric substation, police station, fire station, nursing home, school, vehicle and equipment storage facility, or shelter; and facilities that, if flooded, would make the flood problem and its impacts much worse, such as a hazardous materials facility, power generation facility, water utility, or wastewater treatment plant.

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.

DEVELOPMENT ACTIVITY: Any activity defined as development which will necessitate a floodplain development permit; such as: the construction of buildings, structures, or accessory structures; additions or substantial improvements to existing structures; bulkheads, retaining walls, piers, and pools; the placement of mobile homes; or the deposition or extraction of materials; the construction or elevation of dikes, berms and levees.

ELEVATED BUILDING: For insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELEVATION CERTIFICATE: The official form (FEMA form 81-31) used to provide elevation information necessary to ensure compliance with community floodplain management regulations and determine the proper flood insurance premium rate.

ENCLOSURE: An area enclosed by solid walls below the BFE/FPE or an area formed when any space below the BFE/FPE is enclosed on all sides by walls or partitions. Insect screening or open wood lattice used to surround space below the BFE/FPE is not considered an enclosure.

ENCROACHMENT: The advance or infringement of uses, fill, excavation, buildings, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

FLOOD ELEVATION DETERMINATION: See definition of Base Flood Elevation (BFE).

FLOOD ELEVATION STUDY: See definition of Flood Insurance Study (FIS).

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the federal insurance administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

FLOOD INSURANCE STUDY (FIS): An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.

FLOOD OR FLOODING: A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection A2 of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

B. 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 as defined in subsection A1 of this definition.

FLOOD PROTECTION ELEVATION (FPE): The base flood elevation plus the freeboard.

A. In "special flood hazard areas" where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus one foot (1') of freeboard; and

B. In "special flood hazard areas" where no BFE has been established, this elevation shall be at least two feet (2') above the highest adjacent grade.

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 ZONE: A geographical area shown on a flood insurance rate map (FIRM) that reflects the severity or type of flooding in the area.

FLOODPLAIN ADMINISTRATOR: The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT: Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a 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.

FLOODPLAIN OR FLOOD PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of Flood Or Flooding).

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.

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.

FREEBOARD: A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway

conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The base flood elevation (BFE) plus the freeboard establishes the flood protection elevation (FPE). Freeboard shall be one foot (1').

HIGHEST ADJACENT GRADE (HAG): The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the FEMA elevation certificate for HAG related to building elevation information.

HISTORIC STRUCTURE: A structure that is:

A. Listed individually in the national register of historic places (a listing maintained by the U.S. department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the secretary of the interior; or

D. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the secretary of the interior, or

2. Directly by the secretary of the interior in states without approved programs.

LEVEE: A manmade structure, usually an earthen embankment, designed and constructed according to sound engineering practices, to contain, control, or divert the flow of water so as to provide protection from temporary flooding including a fourteen foot (14') unimpeded running surface maintained along the top of the levee and a distance of thirty five feet (35') from the levee centerline to the tow of the levee on which no structure can be built without compromising the levee system.

LEVEE SYSTEM: A flood protection system that 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 ADJACENT GRADE (LAG): The lowest point of the ground level next to the structure. Refer to the FEMA elevation certificate for LAG related to building elevation information.

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 nonelevation design requirements of 44 CFR section 60.3 and this chapter.

MANUFACTURED HOME: A structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

NATIONAL FLOOD INSURANCE PROGRAM (NFIP): The NFIP is a federal program created by congress to mitigate future flood losses nationwide through sound, community enforced building and zoning ordinances and to provide access to affordable, federally backed flood insurance protection for property owners.

NEW CONSTRUCTION: For floodplain management purposes, a structure for which a building permit is required.

RECREATIONAL VEHICLE: A vehicle that is:

A. Built on a single chassis, and

B. Four hundred (400) square feet or less when measured at the largest horizontal projection, and

C. Designed to be self-propelled or permanently towed by a light duty truck, and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY: See definition of Floodway.

REPETITIVE LOSS STRUCTURE: An NFIP insured structure that has had at least two (2) paid flood losses of more than one thousand dollars ($1,000.00) each in any ten (10) year period since 1978.

RIVERINE: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA (SFHA): The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of its market value before the damage occurred. See definition of Substantial Improvement. Substantial damage also means flood related damage sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty five percent (25%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty 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. The term does not, however, include either:

A.Any project for improvement of a structure to correct existing violations of 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

B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure" and the alteration is approved by variance issued pursuant to this chapter.

VARIANCE: A grant of relief by the governing body from a requirement of 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 finished construction elevation certificate, other certifications, or other evidence of compliance required in 44 CFR section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE: A lake, river, creek, stream, wash, 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. (Ord. 2017-137, 2-9-2017)

10-1-3: GENERAL PROVISIONS:

A. Lands To Which This Chapter Applies: This chapter shall apply to all special flood hazard areas within the jurisdiction of Benewah County.

B. Basis For Special Flood Hazard Areas: The special flood hazard areas identified by the federal emergency management agency in its flood insurance study (FIS) for Benewah County and incorporated areas, dated September 25, 2009, with accompanying flood insurance rate maps (FIRM) and other supporting data, are adopted by reference and declared a part of this chapter.

C. Establishment Of Floodplain Development Permit: A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of subsection B of this section.

D. Compliance: No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

E. Abrogation And Greater Restrictions: This chapter shall not in any way repeal, abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, et cetera. However, where this chapter and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

F. Interpretation: In the interpretation and application of this chapter all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning And Disclaimer Of Liability: 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. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Benewah County or by any officer or employee thereof for flood damages that result from reliance on this chapter or an administrative decision lawfully made hereunder.

H. Penalties For Violation: No structure or land shall hereafter be located, extended, converted, or altered unless in full compliance with the terms of this chapter and other applicable regulations.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor subject to the penalty provided in section 1-4-1 of this code for each offense. Nothing herein contained shall prevent Benewah County from taking such other lawful actions as is necessary to prevent or remedy any violation. (Ord. 2017-137, 2-9-2017)

10-1-4: ADMINISTRATION:

A. Designation Of Floodplain Administrator: The chair of the Benewah County commissioners, or his or her designee, hereinafter referred to as the "floodplain administrator", is hereby appointed to administer and implement the provisions of this chapter.

B. Duties And Responsibilities Of The Floodplain Administrator: The floodplain administrator shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

2. Review all proposed development within special flood hazard areas to assure that all necessary local permits have been received.

3. Prevent encroachments into floodway areas unless the certification and flood hazard reduction provisions of subsection 10-1-5E of this chapter are met.

4. Require proof of actual elevation of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of subsection C3 of this section.

5. Require proof of actual elevation to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of subsection C3 of this section.

6. Require proof of actual elevation of all public utilities in accordance with the provisions of subsection C3 of this section.

7. When floodproofing is utilized for a particular structure, require certifications from a registered professional engineer or architect in accordance with the provisions of subsection C3 of this section and subsection 10-1-5B2 of this chapter.

8. Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas or floodways (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

9. When base flood elevation (BFE) data has not been provided in accordance with the provisions of subsection 10-1-3B of this chapter, obtain, review, and reasonably utilize any BFE data, along with floodway data available from a federal, state, or other source, including data developed pursuant to section 10-1-5 of this chapter, in order to administer the provisions of this chapter.

10. When base flood elevation (BFE) data is provided but no floodway data has been provided in accordance with the provisions of subsection 10-1-3B of this chapter, obtain, review, and reasonably utilize any floodway data available from a federal, state, or other source in order to administer the provisions of this chapter.

11. Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the privacy act of 1974, as amended.

12. Make on site inspections of work in progress as needed. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises

within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

13. Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the floodplain administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing or in charge of the work. The stop work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed.

14. Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation.

15. Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community as resources allow.

16. Maintain a current map repository to include, but not be limited to, the FIS report, FIRM and other official flood maps, and studies adopted in accordance with the provisions of subsection 10-1-3B of this chapter, including any revisions thereto including letters of map change, issued by FEMA.

C. Floodplain Development Application, Permit, And Certification Requirements:

1. Application Requirements: Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within special flood hazard areas. The applicant shall complete the application form provided by the floodplain administrator and shall provide any supplemental information requested by the floodplain administrator.

2. Permit Requirements: The floodplain development permit shall include, but not be limited to:

a. A complete description of all the development to be permitted under the floodplain development permit (i.e., house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, et cetera).

b. The special flood hazard area determination for the proposed development in accordance with available data specified in subsection 10-1-3B of this chapter.

c. The flood protection elevation required for the lowest floor and all utilities.

d. The flood protection elevation required for the protection of all public utilities.

e. All certification submittal requirements with time lines.

f. A statement that no fill material or other development shall encroach into the floodway or flood fringe area of any watercourse, as applicable.

g. The flood openings requirements, if in zone A, AE, AH, AO, or A1-30.

h. All floodplain development permits shall be conditional upon the start of construction of work within one hundred eighty (180) days. A floodplain development permit shall expire one hundred eighty (180) days after issuance unless the permitted activity has commenced as per the "start of construction" definition.

i. A statement of the limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only).

j. A statement that all materials below BFE/FPE must be flood resistant materials.

3. Certification Requirements:

a. Elevation Certificates:

(1) An elevation certificate (FEMA form 86-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the lowest floor, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(2) A final as built finished construction elevation certificate (FEMA form 86-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as built construction of the elevation of the lowest floor and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

The finished construction elevation certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification.

b. Floodproofing Certificate: If nonresidential floodproofing is used to meet the flood protection elevation requirements, a floodproofing certificate (FEMA form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

c. Manufactured Homes: If a manufactured home is placed within zone A, AE, AH, AO, or A1-30 and the elevation of the chassis is more than thirty six inches (36") in height above grade, an engineered foundation certification is required in accordance with the provisions of subsection 10-1-5B3b of this chapter.

d. Alteration Or Relocation: If a watercourse is to be altered or relocated, the following shall all be submitted by the permit applicant prior to issuance of a floodplain development permit:

(1) A description of the extent of watercourse alteration or relocation; and

(2) A professional engineer's certified report on the effects of the proposed project on the flood carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and

(3) A map showing the location of the proposed watercourse alteration or relocation; and

(4) An Idaho stream channel alteration permit approval shall be provided by the applicant to the floodplain administrator.

e. Certification Exemptions: The following structures, if located within zone A, AE, AH, AO, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in subsections C3a and C3b of this section:

(1) Recreational vehicles meeting requirements of subsection 10-1-5B4 of this chapter;

(2) Temporary structures meeting requirements of subsection 10-1-5B5 of this chapter; and

(3) Accessory structures less than six hundred (600) square feet meeting requirements of subsection 10-1-5B6 of this chapter.

4. Determinations For Existing Buildings And Structures: For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

a. Determine the assessed value of the building or structure before the start of construction of the proposed work. In the case of repair, the assessed value of the building or structure shall be the assessed value before the damage occurred and before any repairs are made;

b. Compare the cost to perform the improvement, the cost to repair a damaged building to its predamaged condition, or the combined costs of improvements and repairs, if applicable, to the assessed value of the building or structure;

c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the adopted Idaho building code and this chapter is required.

D. Corrective Procedures:

1. Violations To Be Corrected: When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations cited in such notification.

2. Actions In Event Of Failure To Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating that the building or property is in violation of the floodplain management regulations.

3. Order To Take Corrective Action: If, pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of this chapter, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period.

4. Failure To Comply With Order: If the owner of a building or property fails to comply with an order to take corrective action, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

E. Variance Procedures:

1. Appeal Board: The board of county commissioners as established by Idaho state code hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.

2. Issuance: Variances may be issued for:

a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

b. Any other type of development, provided it meets the requirements of this section.

3. Considerations: In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

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

b. The danger to 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;

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

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 times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, 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 and water systems, and streets and bridges.

4. Written Report: The applicant shall include a written report addressing each of the above factors in subsections E3a through E3k of this section with their application for a variance.

5. Purpose Of Board: Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.

6. Written Notice: Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to twenty five dollars ($25.00) per one hundred dollars ($100.00) of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

7. Maintenance Of Records: The floodplain administrator shall maintain the records of all appeal actions and report any variances to the federal emergency management agency and the state of Idaho upon request.

8. Conditions For Variances:

a. Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

b. Variances shall not be issued within any designated floodway area if the variance would result in any increase in flood levels during the base flood discharge.

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

d. Variances shall only be issued prior to development permit approval.

e. Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

9. Issuance Of Variance: A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:

a. The use serves a critical need in the community.

b. No feasible location exists for the use outside the special flood hazard area.

c. The lowest floor of any structure is elevated or floodproofed to at least the flood protection elevation.

d. The use complies with all other applicable federal, state and local laws.

10. Notification Of State: The floodplain administrator will notify the state NFIP coordinator of the Idaho department of water resources of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

11. Appeals: Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in Idaho Code 67-6535. (Ord. 2017-137, 2-9-2017)

10-1-5: PROVISIONS FOR FLOOD HAZARD REDUCTION:

A. General Standards: In all special flood hazard areas, the following provisions are required:

1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

4. All new and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

6. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

7. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

8. A fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor shall:

a. Be constructed entirely of flood resistant materials at least to the flood protection elevation; and

b. Include, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(1) A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;

(2) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(3) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(4) The bottom of all required flood openings shall be no higher than one foot (1') above the interior or exterior adjacent grade;

(5) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(6) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

10. Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date hereof and located totally or partially within the floodway provided there is no additional encroachment below the flood protection elevation in the floodway.

11. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in subsection 10-1-4E9 of this chapter.

12. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage and determined to be reasonably safe from flooding.

13. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

14. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

15. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including section 404 of the federal water pollution control act amendments of 1972, 33 USC 1334.

16. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

17. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

B. Specific Standards: In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in subsection 10-1-3B of this chapter the following provisions, in addition to the provisions of subsection A of this section, are required:

1. Residential Construction: New construction and substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than the flood protection elevation, as defined in section 10-1-2 of this chapter.

2. Nonresidential Construction: New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated no lower than the flood protection elevation, as defined in section 10-1-2 of this chapter. Structures may be floodproofed to the flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. The floodproofing elevation shall be in accordance with subsection F2 of this section. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in subsection 10-1-4C3 of this chapter, along with the operational plan and the inspection and maintenance plan.

3. Manufactured Homes:

a. New and replacement manufactured homes shall be elevated so that the lowest floor of the manufactured home is no lower than the flood protection elevation, as defined in section 10-1-2 of this chapter.

b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the Idaho Division of Building Safety's "Idaho Manufactured Home Installation Standard" in accordance with Idaho Code section 44-2201(2). Additionally, when the elevation would be met by an elevation of the chassis thirty six inches (36") or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty six inches (36") in height, an engineering certification is required.

c. All enclosures or skirting below the lowest floor shall meet the requirements of subsection A8b(6) of this section.

4. Recreational Vehicles: Recreational vehicles shall be either:

a. Temporary Placement:

(1) Be on site for fewer than one hundred eighty (180) consecutive days and 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 has no permanently attached additions).

(2) Recreational vehicles are not allowed to be on site in special flood hazard areas between the dates of November 30 and May 1.

b. Permanent Placement:

(1) Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction, as set forth in subsection A of this section.

5. Temporary Nonresidential Structures: Temporary nonresidential structures are not allowed to be on site in special flood hazard areas between the dates of November 30 and May 1. (Ord. 2017-137, 2-9-2017)

6. Accessory Structures: When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area the following criteria shall be met:

a. Accessory structures shall not be used for human habitation;

b. Accessory structures shall be designed to have low flood damage potential;

c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

d. Accessory structures shall be firmly anchored in accordance with the provisions of subsection A1 of this section;

e. All service facilities, such as electrical, shall be installed in accordance with the provisions of subsection A4 of this section; and

f. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below flood protection elevation in conformance with the provisions of subsection A8b of this section.

An accessory structure that satisfies the criteria outlined in subsections B6a through B6f of this section is not required to meet the elevation or floodproofing standards of subsection B2 of this section. (Ord. 2018-141, 5-29-2018)

7. Tanks: When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

a. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement, including the effects of buoyancy;

b. Elevated aboveground tanks, in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the base flood. Tank supporting structures shall meet the foundation requirements of the applicable flood hazard area;

c. Not elevated aboveground tanks, which do not meet the elevation requirements of subsection B2 of this section shall be permitted in flood hazard areas provided the tanks are anchored and constructed to prevent flotation, collapse or lateral movement, including the effects of buoyancy assuming the tank is empty;

d. Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and

(2) Anchored to prevent lateral movement, including the effects of buoyancy.

8. Construction Of Below Grade Crawl Space:

a. The interior grade of a crawl space must not be below the BFE and must not be more than two feet (2') below the exterior lowest adjacent grade (LAG).

b. The height of the below grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall, must not exceed four feet (4') at any point.

c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area should be drained within a reasonable time after a flood event.

d. The velocity of floodwaters at the site should not exceed five feet (5') per second for any crawl space.

Caution: Buildings that have below grade crawl spaces will have higher flood insurance premiums than buildings that have the preferred crawl space construction, with the interior elevation of the crawl space soil at or above the base flood elevation (BFE).

9. Other Development In Regulated Floodways:

a. Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways shall meet the limitations of subsection E of this section.

b. Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways shall meet the limitations of subsection E of this section.

c. Roads and watercourse crossings, including roads, bridges, culverts, low water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, which encroach into regulated floodways, shall meet the limitations of subsection E of this section.

C. Standards For Floodplains Without Established Base Flood Elevations: Within the special flood hazard areas designated as Zone A and established in subsection 10-1-3B of this chapter, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of subsection A of this section, shall apply:

The BFE used in determining the flood protection elevation (FPE) shall be determined based on the following criteria:

1. When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in subsections A and B of this section.

2. When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of subsections B and E of this section.

3. All subdivision, manufactured home park, and other development proposals shall provide base flood elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with subsection 10-1-3B of this chapter and utilized in implementing this chapter.

4. When base flood elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the lowest floor shall be elevated or floodproofed (nonresidential) to two feet (2.0') above the "highest adjacent grade (HAG)" at the building site or to the "flood protection elevation (FPE)" whichever is higher, as defined in section 10-1-2 of this chapter. All other applicable provisions of subsection B of this section shall also apply.

D. Reserved.

E. Standards For Floodways: Areas designated as floodways are located within the special flood hazard areas established in subsection 10-1-3B of this chapter. The floodways are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and

potential projectiles. The following provisions, in addition to standards outlined in subsections A and B of this section, shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:

a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit.

2. If subsection E1 of this section is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

F. Standards For Areas Of Shallow Flooding: Located within the special flood hazard areas established in subsection 10-1-3B of this chapter, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one foot (1') to three feet (3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to subsections A and B of this section, all new construction and substantial improvements shall meet the following requirements:

1. The lowest floor shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of one foot (1'), above the highest adjacent grade; or at least two feet (2') above the highest adjacent grade if no depth number is specified.

2. Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in subsection F1 of this section so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with subsection 10-1-4C3 of this chapter, and subsection B2 of this section.

3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures. (Ord. 2017-137, 2-9-2017)