ELMORE COUNTY PLANNING AND ZONING COMMISSION
War Memorial (American Legion Hall), 515 East 2nd South Street, Mountain Home, ID 83647

Wednesday, June 1, 2016 at 7:00pm
Agenda
PLEASE SILENCE CELL PHONES

CALL TO ORDER

ESTABLISH QUORUM

- ☐ Chairperson Patti Osborn
- ☐ Dave Holland
- ☐ Ed Oppedyk
- ☐ Jeff Blanksma
- ☐ Vice-Chairman K.C. Duerig
- ☐ Sue Fish
- ☐ Shane Zenner

- ☐ Attorney of Record Phil Miller

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

- **Update the Flood Hazard Mitigation and Development Requirements Pertaining to Flooding in Chapter 13 of the Elmore County Zoning and Development Ordinance.**

ITEMS FROM THE PUBLIC

MINUTES

- Minutes from 05-18-2016

INFORMATION ITEMS

- Upcoming P & Z Schedule

MEETING ADJOURNED

Elmore County Land Use and Building Department

520 East 2nd South Street
Mountain Home, Id. 83647
Phone: (208) 587-2142 ext. 254
Fax: (208) 587-2120
www.elmorecounty.org

Alan Christy
Director

Tell Riley
Building Official

Beth Bresnahan
Planner I

Kacey Ramsauer
Administrative Assistant

Staff Report to the Elmore County Planning and Zoning Commission

Meeting/Hearing Date: 6/1/16

Date Report Completed: 5/25/16

Report Number: Commission - 1

Agenda Item: Elmore County Zoning and Development Ordinance Amendment

Case Number(s): ZDA-2016-01

Elmore County Staff: Alan Christy, Director

BACKGROUND:

The proposed ordinance amendment was initiated by the Elmore County Planning and Zoning Commission (the "Commission") pursuant to Elmore County Zoning and Development Ordinance ("Ordinance") Section 6-7-10. Notice for the public hearing was posted in the Mountain Home News on May 11, 2016. Notice was given to agencies and political subdivisions on May 9, 2016.

The proposed ordinance text amendment was initiated to update the flood regulations, Ordinance Chapter 13, with the Idaho model flood ordinance from the State of Idaho National Flood Insurance Program ("NFIP") Coordinator. As stated in the proposed Ordinance amendment the purpose of the amendment is the following:

"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 and 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."*

Elmore County initially adopted flood ordinances, studies and maps on March 14/15, 1994. The flood ordinance has been updated and codified two times since the initial adoption.

ORDINANCE ITEMS

The following items are changes staff made from the Idaho model ordinance (attachment #2):

- Violation sections were removed and language added to be consistent with the entire Ordinance.
- Items highlighted in yellow in the attachment were not added as this will be completed by the Board if and when the Board adopts the amendment.

The following items are changes from the current Ordinance:

- Definitions are added to this Chapter in the amendment. This was done on recommendation from the NFIP Coordinator. The flood regulations deal with national standards and terms utilized by FEMA. The items in this Chapter may have slightly different meanings than the rest of the Ordinance.

LETTERS FOR THE RECORD:

1. Letter from Maureen O'Shea, Idaho State NFIP Coordinator, dated May 19, 2016

ATTACHMENTS:

1. Public Hearing Notices
2. Model Flood Ordinance from NFIP Coordinator
3. Proposed Ordinance Amendment.
4. Existing Ordinance Chapter 13

REQUIRED FINDINGS FOR A ZONING ORDINANCE AMENDMENT

Section 6-3-9

1. **The zoning ordinance amendment complies with the applicable comprehensive plan; and**

Staff Response: Staff could find no conflicts with the adopted comprehensive plan.

2. **The zoning ordinance amendment complies with the regulations outlined for the proposed base zone, specifically the purpose statement; and**

Staff Response: The flood regulations will apply to all zones within Elmore County. Staff can find no conflict with any of the purpose statements found in Chapter 8 of the Zoning and Development Ordinance.

3. **The zoning ordinance amendment shall not be materially detrimental to the public health, safety, and welfare; and**

Staff Response: Staff believes that the adoption of the floor regulations is intended to protect the public health, safety and welfare of the citizens of Elmore County.

4. **The zoning ordinance amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the planning jurisdiction including, but not limited to, school districts.**

Staff Response: Staff believes the proposed ordinance amendment will not increase population densities within any portion of Elmore County therefore not creating any additional impacts. The proposed ordinance amendment does not change or allow for any new uses in any of the zones.

STAFF COMMENT

Additional information, if any, will be submitted to the Commission in a supplemental staff report on June 1, 2016.

RECOMMENDATIONS

Staff recommends that the Commission conduct the scheduled public hearing and provide a recommendation to the Board of County Commissioners.

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

received
5-23-16 BB

May 19, 2016

The Honorable Bud Corbus
Chairman Board of Commissioners, Elmore County
150 South 4 East
Mountain Home, ID 83647

Re: National Flood Insurance Program Community Assistance Visit (CAV) for the Elmore County

Dear Chairman Corbus:

This letter is in response to Mr. Alan Christy's letter dated April 13, 2016 requesting a deadline extension for providing the documents requested in my letter dated March 16, 2016

IDWR has requested documentation in order to complete the CAV process:

Elmore County Address	Finished Construction Elevation Certificate Errors/Omissions/Deficiencies
150 E Indian Creek Rd	Obtain Finished Construction Elevation Certificate prior to Certificate of Occupancy
Lot 9, Block 1, Ballantyne Camp Subdivision No.1	Obtain Finished Construction Elevation Certificate prior to Certificate of Occupancy
3926 N Elk Valley Way	Provide Finished Construction Elevation Certificate no later than June 30, 2016
3825 N Rawah Drive	Provide corrected Finished Construction Elevation Certificate no later than June 30, 2016

Per our meeting and conversation on April 13th, please submit the requested permit information listed above to my office at your earliest convenience, but no later than June 30, 2016. If you need additional time to complete research required to ascertain compliance of structures noted above, please submit a request for an extension in writing prior to June 30th.

Please provide a copy of the newly adopted flood damage prevention ordinance no later than September 30, 2016.

Should you have any questions regarding the CAV, please contact me at my office at (208) 287-4928 or via email at Maureen.OShea@idwr.idaho.gov. IDWR looks forward to working with you in the future in your continuing efforts to promote successful floodplain management.

Sincerely yours,

Maureen O'Shea, AICP, CFM
Idaho State NFIP Coordinator

cc: The Honorable Wes Wootan, Commissioner, Elmore County
The Honorable Al Hofer, Commissioner, Elmore County
Mr. Alan Christy, Land Use & Building Department Director/Floodplain Administrator
Ms. Michelle Geiger, CFM, FEMA Region X
File

ELMORE COUNTY

PLANNING AND ZONING COMMISSION

520 East 2nd South Street
Mountain Home, ID 83647
Telephone 208-587-2130, ext. 502 Fax 208-587-2120

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN pursuant to the laws of the State of Idaho and Ordinances of Elmore County, that the Elmore County Planning and Zoning Commission will hold a PUBLIC HEARING at 7:00 p.m. on Wednesday, June 1, 2016 in the War Memorial Hall (American Legion) 515 East 2nd South Street, Mountain Home, Idaho, to accept testimony and to consider amending the Elmore County Zoning and Development Ordinance which was adopted on March 21, of 2012 and amended September 19, 2012 and July 23, 2014. The proposed changes to the ordinance amendment were initiated by Elmore County and are intended to update the Flood Hazard Mitigation and Development Requirements Pertaining to Flooding in Chapter 13 of the Elmore County Zoning and Development Ordinance. The proposed updates can be reviewed prior to the hearing in the Land Use and Building Department, at 520 East 2nd South Street, Mountain Home during regular business hours. Any and all interested persons shall be heard at said public hearing and the public is welcome and invited to submit testimony. Testimony will be limited to the time set forth at the beginning of the hearing based upon the number of people who would like to testify. Anyone who wishes to testify but is unable to attend may submit written testimony prior to the hearing by sending it to Elmore County Land Use and Building Department, 520 East 2nd South Street, Mountain Home, Idaho, 83647.

The Elmore County Clerk is responsible for ensuring compliance with the American Disabilities Act (ADA) of 1993, the Elmore County Clerk is responsible ADA coordinator. Provisions will be made for persons with disabilities who are unable to attend this hearing. A grievance procedure is available from M. Bate, Elmore County Courthouse, in accordance with the ADA regulations.

One publication: Wednesday, May 11, 2016

Alan Christy, Director
Elmore County Land Use and Building Department
[4" by 2 columns]

NAME

ADDRESS

CITY & STATE ZIP

CONTACT PHONE

ACCOUNT NUMBER

PUBLICATIONS

☐ PAID CA / CK / CC

☒ CHARGE

☐ ADJUSTMENT

☐ NO CHARGE

MOUNTAIN HOME NEWS
P. O. BOX 1330
MOUNTAIN HOME, ID 83647

DATE

AD DESCRIPTION:

AD SIZE COLUMNS

TIMES (x) INCHES

TOTAL INCHES

NO WORDS

AD STARTS

AD ENDS

NO INSERTIONS

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

INSTRUCTIONS

☐ LOCAL ☐ CLASS DISPLAY ☐ NATIONAL
☐ POLITICAL ☐ CLASSIFIED ☐ LEGAL

QUANTITY	RATE	AMOUNT	CODE
	SUB TOTAL		
	TAX		
	TOTAL AMOUNT DUE		

INVOICE

Week

SALESMAN

Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-17-2017**.

STACY SWENSON
NOTARY
PUBLIC
STATE OF IDAHO

FLOOD DAMAGE PREVENTION ORDINANCE – IDAHO MODEL ORDINANCE

ORDINANCE NO. _____

Article I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

Section A. Statutory Authority

The Legislature of the State of Idaho, pursuant to Idaho Code §§ 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, Council, etc.} of the {insert name of community}, Idaho does hereby ordain as follows:

Section B. Findings of Fact

1. The flood hazard areas of {insert name of community} are subject to periodic inundation that results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and 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, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

3. Local government units have the primary responsibility for planning, adopting and enforcing land use regulations to accomplish proper floodplain management.

Section C. Statement of Purpose

The purpose of this ordinance is to promote the 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 and 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.

Section D. Objectives and Methods of Reducing Flood Losses

In order to accomplish its purpose, this ordinance includes methods and provisions to:

1. Require that development that 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 flood waters 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 flood waters.

Article II. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted according to the meaning they have in common usage and to give this ordinance it's most reasonable application.
REQUIRED DEFINITIONS are in italics and blue. State recommends adopting all definitions.

Accessory structure (appurtenant 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 ordinance or request for a variance.

Area of shallow flooding: a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: see Special Flood Hazard Area (SFHA).

***Base Flood**: the flood having a one (1) percent 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 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.*

Per Idaho Code §46-1021: Flood Fringe: the portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

***Basement**: any area of the building having its floor sub grade (below ground level) on all sides.*

Building: see 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. *(CRS - Up to 80 points for protecting facilities that are critical to the community)*

Datum: the vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the National Geodetic Vertical Datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

***Development**: any man-made 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.*

Per Idaho Code §46-1021: "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

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, etc.

Digital Flood Insurance Rate Map (DFIRM): the digital official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Elevated building: for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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/RFPE is not considered an enclosure. *(CRS – Up to 240 points for prohibiting first floor enclosures)*

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.

Existing Manufactured Home Park or Manufactured Home Subdivision: a manufactured home park or subdivision where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before the effective date of the original floodplain management regulations adopted by the community, {insert the date of original floodplain ordinance/regulations}.

Existing construction: for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing structures: see existing construction.

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

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 paragraph a.2. 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 paragraph a.1. of this definition.

Per Idaho Code §46-1021: "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of rivers, streams or lakes, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Elevation Determination: See Base Flood Elevation (BFE)

Flood Elevation Study: See Flood Insurance Study (FIS)

Flood Fringe:

Per Idaho Code §46-1021: "Flood fringe" is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

Flood Hazard Boundary Map (FHBM): an official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

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 Zone: a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floodplain or flood-prone area: any land area susceptible to being inundated by water from any source (see definition of "flooding").

Per Idaho Code §46-1021: "Floodplain" is the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

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 ordinance, 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 flood plain management regulations.

Per Idaho Code §46-1021 "Floodplain management" is the analysis and integration of the entire range of measures that can be used to prevent, reduce, or mitigate flood damage in a given location, and that can protect and preserve the natural, environmental, historical, and cultural values of the floodplain.

Floodplain Management Regulations: zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain 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.

Floodproofing: any combination of structural and non-structural 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.

Per Idaho Code §46-1021: "Floodproofing" means the modifications of structures, their sites, building contents and water and sanitary facilities, to keep water out or reduce the effects of water entry.

***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 (__) feet of freeboard; and

(b) In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least (__) feet above the highest adjacent grade.

Two (2) feet is a State-recommended, greater than two (2) feet is OPTIONAL.

Per Idaho Code §46-1021: "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood) plus any increased flood elevation due to floodway encroachment, plus any required freeboard.

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.

***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.*

Per Idaho Code §46-1021: "Floodway" is the channel of the river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

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. *(CRS - Up to 500 points for a freeboard requirement) Two (2) feet is a State-recommended, greater than two (2) feet is OPTIONAL.*

Per Idaho Code §46-1021: "Freeboard" represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard shall compensate for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the

hydrology of the watershed, loss of flood storage areas due to development, and the sedimentation of a river or stream bed.

Functionally Dependent Use: a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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.

Letter of Map Change (LOMC): a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F)

1. **Letter of Map Amendment (LOMA)**: an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.
2. **Letter of Map Revision (LOMR)**: FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is

generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

3. **Letter of Map Revision Based on Fill (LOMR-F)**: FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.
4. **Conditional Letter of Map Revision (CLOMR)**: A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study. Upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM. Building Permits and/or Flood Development Permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

Levee: a man-made 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.

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.

Local Government:
Per Idaho Code §46-1021: "Local government," in the context of this chapter, means any county or city having planning and zoning authority to regulate land use within its jurisdiction.

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 non-elevation design requirements of 44 CFR §60.3 and this ordinance.*

***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." (CRS – Up to 15 points for removing the elevation exemption for manufactured homes placed in existing manufactured home parks)*

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

Market Value: the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

Mean Sea Level: for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum (such as NAVD88 North America Vertical Datum of 1988) to which Base Flood Elevations shown on a community's FIRM are referenced.

Mitigation:
Per Idaho Code §46-1021: "Mitigation" means any action taken which will reduce the impact, damage, or cost of the next flood that occurs.

Mudslide (i.e., mudflow): describes a condition where there is a river, flow, or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

Mudslide (i.e., mudflow) area management: the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

Mudslide (i.e., mudflow) prone area: an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

New construction: for floodplain management purposes, a structure for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
Any construction started after {insert effective date of community's first floodplain management ordinance adopted by the community} and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

New Manufactured Home Park or Subdivision: a place where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community {insert the date of the effective FIRM}.

Person:

Per Idaho Code §46-1021: "Person" means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency or entity.

Post-FIRM: construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map (FIRM).

Pre-FIRM: construction or other development for which the "start of construction" occurred before {insert effective date of community's first floodplain management ordinance adopted by the community}, the effective date of the initial Flood Insurance Rate Map (FIRM).

***Recreational Vehicle**: a vehicle that is:*

(1) Built on a single chassis, and
(2) 400 square feet or less when measured at the largest horizontal projection, and
(3) Designed to be self-propelled or permanently towed by a light duty truck, and
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood:
Per Idaho Code §46-1021:"Regulatory flood" is a flood determined to be representative of large floods known to have occurred in Idaho and which may be expected to occur on a particular stream because of like physical characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any given year there is a one percent (1%) chance that a regulatory flood may occur or be exceeded.

***Regulatory Floodway**: See Floodway*

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

Repetitive Loss Structure: An NFIP-insured structure that has had at least two paid flood losses of more than $1,000 each in any 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 flood plain 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 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 50 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 separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent (25%) of the market value of the structure before the damage occurred. *(The last sentence is OPTIONAL but required for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses.) (CRS - Up to 90 points for counting improvements cumulatively)*

***Substantial improvement**: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 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: (CRS – Up to 20 points for a substantial improvement threshold lower than 50%)*

(1) 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

(2) 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 ordinance.

Technical Bulletins and Technical Fact Sheets: FEMA publications that provide guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations. Rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area. *(This definition is OPTIONAL)*

Temperature Controlled: having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance: a grant of relief by the governing body from a requirement of this ordinance.

Violation: the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in §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.

Water Surface Elevation: the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 (or other specified datum), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

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.

Article III. GENERAL PROVISIONS

Section A. Lands to Which This Ordinance Applies

Section B. Basis for Area of Special Flood Hazard

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for {insert title of FIS}, dated {insert the date of effective FIS}, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the office of the {city/county} clerk {insert address}.

Section C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article IV Section B.

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 ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This ordinance 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, etc. However, where this ordinance and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

Section F. Interpretation

In the interpretation and application of this ordinance 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.

Section G. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance 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 man-made or natural causes. This ordinance 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 ordinance shall not create liability on the part of {insert name of community} or by any officer or employee thereof for flood damages

that result from reliance on this ordinance or an administrative decision lawfully made hereunder.

Section 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 ordinance and other applicable regulations.

Violation of the provisions of this ordinance 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. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $____ *($100 recommended)* or imprisoned for not more than 180 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the {insert name of community} from taking such other lawful actions as is necessary to prevent or remedy any violation.

Article IV. ADMINISTRATION

Section A. Designation of Floodplain Ordinance Administrator

The {insert title}, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

Section 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 ordinance have been satisfied.

2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

3. Notify adjacent communities and the Idaho Department of Water Resources State Coordinator for the National Flood Insurance Program (NFIP) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

5. Prevent encroachments into floodways and flood fringe areas unless the certification and flood hazard reduction provisions of Article V, Section E. are met.

6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article IV, Section C.3.

7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article IV, Section C.3.

8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Article IV, Section C.3.

9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article IV, Section C.3. and Article V, Section B.2.

10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or flood fringe areas (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 article.

11. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Article III, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or flood fringe area data available from a Federal, State, or other source, including data developed pursuant to Article V, Section C.2.b., in order to administer the provisions of this ordinance.

12. When Base Flood Elevation (BFE) data is provided but no floodway or flood fringe area data has been provided in accordance with the provisions of Article III, Section B., obtain, review, and reasonably utilize any floodway data or flood fringe area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.

13. *When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file. (13 is OPTIONAL)*

14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. 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.

16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, 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. Violation of a stop-work order constitutes a misdemeanor.

17. 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. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

19. Follow through with corrective procedures of Article IV, Section D.

20. Review, provide input, and make recommendations for variance requests.

21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Article III, Section B. of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

Section 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 following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
   a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
      i. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
      ii. the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article III, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
      iii. the flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article III, Section B.;
      iv. the boundary of the floodway(s) or flood fringe area(s) as determined in Article III, Section B.;
      v. the Base Flood Elevation (BFE) where provided as set forth in Article III, Section B.; Article III, Section C.; or Article V, Section C.;
      vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
      vii. the certification of the plot plan by a registered land surveyor or professional engineer. (vii is OPTIONAL)
   b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
      i. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
      ii. Elevation in relation to mean sea level to which any non-residential structure in Zone A, AE, AH, AO, or A1-30 will be floodproofed; and
      iii. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
   c. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-33) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
   d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These

details include but are not limited to: *(CRS - Up to 80 points for required engineered foundations)*

i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article V, Section B.4.d.i-vi. when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A1-30.

e. Usage details of any enclosed areas below the lowest floor.

f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

g. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article V, Section B.6. and 7. of this ordinance are met.

i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering 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

ii. A map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

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, etc.).

b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article III, Section B.

c. The Flood Protection Elevation required for the reference level and all attendant utilities.

d. The Flood Protection Elevation required for the protection of all public utilities.

e. All certification submittal requirements with timelines.

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 Zones A, AE, AH, AO, or A1-30.

h. Limitations of below BFE enclosure uses (if applicable). (I.e., parking, building access and limited storage only). (h is OPTIONAL)

i. A statement, that all materials below BFE/FPE must be flood resistant materials. (i.is OPTIONAL)

3. Certification Requirements.

a. Elevation Certificates

i. *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 reference level, 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. (STATE RECOMMENDED BUT OPTIONAL)*

ii. *An Elevation Certificate (FEMA Form 86-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. 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 further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project. (STATE RECOMMENDED BUT OPTIONAL)*

iii. 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 reference level 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 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-*

level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable. OPTIONAL language) (THE FEMA ELEVATION CERTIFICATE IS OPTIONAL FOR FLOODPLAIN MANAGEMENT ELEVATION DATA, BUT IS STATE RECOMMENDED. THE USE OF THE FEMA ELEVATION CERTIFICATE IS REQUIRED FOR THE PURCHASE OF FLOOD INSURANCE, AND IS MANDATORY FOR CRS PARTICIPATION.) (CRS – Up to 116 points for maintaining Elevation Certificates)

b. Floodproofing Certificate

If non-residential 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. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. 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. If a manufactured home is placed within Zone A, AE, AH, AO, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article V, Section B.3.b.

d. 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: a description of the extent of watercourse alteration or relocation; 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 a map showing the location of the proposed watercourse alteration or relocation. And 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 items a. and b. of this subsection:

i. Recreational Vehicles meeting requirements of Article V, Section B.6.a.;

ii. Temporary Structures meeting requirements of Article V, Section B.7.; and

iii. Accessory Structures less than 200 square feet meeting requirements of Article V, Section B.8.

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. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market 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 pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market 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 ordinance is required.

SECTION 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 of law 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:

a. that the building or property is in violation of the floodplain management regulations;

b. that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

c. that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

3. Order to Take Corrective Action

If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than (___) calendar days. (*One-hundred-eighty (180) calendar days or less is recommended*) Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

4. Appeal

Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

5. Failure to Comply with Order

If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

SECTION E. Variance Procedures

1. The_____ {appeal board} as established by _____ {community}, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

2. 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. functionally dependent facilities, if determined to meet the definition as stated in Article II of this ordinance, provided provisions of Article IV, Section E.9.b., c., and e., have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

c. any other type of development, provided it meets the requirements of this Section.

3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
   a. the danger that materials may be swept onto other lands to the injury of others;
   b. the danger 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 as defined under Article II of this ordinance as a functionally dependent facility, where applicable;
   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. A written report addressing each of the above factors shall be submitted with the application for a variance.

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

6. 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 $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

7. 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 or flood fringe 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:
      i. a showing of good and sufficient cause;
      ii. a determination that failure to grant the variance would result in exceptional hardship; and
      iii. 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. 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 reference level 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.
   e. The _____ {insert name of community} has notified 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.

10. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Idaho Code 67-6535.

Article V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 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. *(CRS - Up to 80 points for requiring engineered foundations in SFHA)*

2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.

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

4. All new and replacement (*and replacement is OPTIONAL*) 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. 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 flood waters.

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

8. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor: *(CRS – Up to 240 points for prohibiting first floor enclosures)*
   a. shall be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and
   b. shall include, in Zones A, AE, AH, AO, and A1-30, 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:
      i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
      ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

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

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

v. 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

vi. 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 ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

10. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, flood fringe area, or stream setback, provided there is no additional encroachment below the Flood Protection Elevation in the floodway, flood fringe area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

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 Article IV, Section E.10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Flood Protection Elevation and certified in accordance with the provisions of Article IV, Section C.3.

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 U.S.C. 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.

18. *Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision (CLOMR-F or LOMR-F). (CRS – UP to 280 points for prohibiting fill in the SFHA) (OPTIONAL)*

Section B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article III, Section B., or Article V, Section D., the following provisions, in addition to the provisions of Article V, Section A., are required:

1. Residential Construction.
   New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Flood Protection Elevation, as defined in Article II of this ordinance.

2. Non-Residential Construction.
   New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Flood Protection Elevation, as defined in Article II of this ordinance. Structures located in A, AE, AH, AO, and A1-30 Zones 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. For AH and AO Zones, the floodproofing elevation shall be in accordance with Article V, Section F.2. 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 Article IV, Section C.3., along with the operational plan and the inspection and maintenance plan.

3. Manufactured Homes. *(CRS – Up to 15 points for removing the elevation exemption for manufactured homes placed in existing manufactured home parks)*

a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Flood Protection Elevation, as defined in Article II of this ordinance.

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 Section 44-2201(2), Idaho Code. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches 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 (36) inches in height, an engineering certification is required.

c. All enclosures or skirting below the lowest floor shall meet the requirements of Article V, Section B.4.

d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

4. Additions/Improvements.

a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

d. Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a___ {insert number

of years} year period, the cumulative cost of which equals or exceeds 50 percent (50%) of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the ___ {insert number of years} year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either: *(CRS - Up to 90 points for counting improvements cumulatively) (CRS – Up to 20 points for a substantial improvement threshold lower than 50%)*

(i) any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions; or

(ii) any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

5. Recreational Vehicles.

Recreational vehicles shall be either:

a. Temporary Placement

i. be on site for fewer than 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); or

b. Permanent Placement.

i. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction, as set forth in Article V, Section A.

6. Temporary Non-Residential Structures.

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

a. a specified time period for which the temporary use will be permitted. Time specified may not exceed six (6) months, renewable up to one (1) year;

b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;

c. the time frame prior to the event at which a structure will be removed (i.e., immediately upon flood warning notification);

d. a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

e. designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

7. Accessory Structures.

When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, elevation or floodproofing certifications are required for all accessory structures in accordance with Article IV, Section C.3., and the following criteria shall be met:

a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
b. Accessory structures shall not be temperature-controlled;
c. Accessory structures shall be designed to have low flood damage potential;
d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
e. Accessory structures shall be firmly anchored in accordance with the provisions of Article V, Section A.1.;
f. All service facilities such as electrical shall be installed in accordance with the provisions of Article V, Section A.4.; and
g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of Article V, Section B.4.d.

An accessory structure with a footprint less than 200 square feet or that is a minimal investment of $_____ (*recommend $2,500*) or less and satisfies the criteria outlined in a. - g. above is not required to meet the elevation or floodproofing standards of Article V, Section B2.

8. 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.
   Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
b. Above-ground tanks, elevated.
   Above-ground 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 design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
c. Above-ground tanks, not elevated.
   Above-ground tanks that do not meet the elevation requirements of Article V, Section B.2. of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent

flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

d. Tank inlets and vents.

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

i. 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

ii. anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

9. Construction of Below-Grade Crawlspace.

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

b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point.

c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. 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 5 feet per second for any crawlspace.

See Technical Bulletin 11 for further information.

Caution:

Buildings that have below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation of the crawlspace soil at or above the Base Flood Elevation (BFE).

10. Other Development in regulated floodways and flood fringe.

a. Fences.

Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways and flood fringe shall meet the limitations of Article V, Section E. of this ordinance.

b. Retaining walls, sidewalks, and driveways.

Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways and flood fringe shall meet the limitations of Article V, Section E. of this ordinance.

c. Roads and watercourse crossings.

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, that encroach into regulated floodways and flood fringe shall meet the limitations of Article V, Section E. of this ordinance.

d. Drilling Water, Oil, and/or Gas Wells.

Drilling Water, Oil, and/or Gas Wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways and flood fringe shall meet the limitations of Article V, Section E. of this ordinance.

e. Docks, piers, and boat ramps. Docks, piers, boat ramps, marinas, moorings, decks, Docking facilities, port facilities, shipbuilding, and ship repair facilities that encroach into regulated floodways and flood fringe shall meet the limitations of Article V, Section E. of this ordinance

Section C. Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as A Zones (also known as Unnumbered A Zones) and established in Article III, Section B., where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Article V, Section A., shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted, unless a determination of the Base Flood Elevation (BFE) is provided.

2. The BFE used in determining the Flood Protection Elevation (FPE) shall be determined based on the following criteria:
   a. 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 ordinance and shall be elevated or floodproofed in accordance with standards in Article V, Sections A. and B.
   b. When floodway or flood fringe data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and flood fringe areas shall also comply with the requirements of Article V, Sections B. and E.
   c. 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 Article III, Section B. and utilized in implementing this ordinance. *The applicant/developer shall submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat approval and have obtained a Letter of Map Revision (LOMR) prior to any building permits for structures being issued. (Optional)*
   See FEMA 480 and/or FEMA 265 for further information
   d. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the Flood Protection Elevation, as defined in Article II. All other applicable provisions of Article V, Section B. shall also apply.

Section D. Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Flood Fringe Areas.

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor flood fringe areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

1. Standards of Article V, Sections A. and B.; and

2. Until a regulatory floodway or flood fringe area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the community.

Section E. Floodways and Flood Fringe Areas

Areas designated as floodways or flood fringe areas are located within the Special Flood Hazard Areas established in Article III, Section B. The floodways and flood fringe areas 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 Article V, Sections A. and B., 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, or
   b. a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

2. If Article V, Section E.1. is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

3. Manufactured homes may be permitted provided the following provisions are met: *(CRS – Up to 15 points for removing the elevation exemption for manufactured homes placed in existing manufactured home parks)*
   a. the anchoring and the elevation standards of Article V, Section B.3.; and

b. the encroachment standards of Article V, Section E.1.

Section F. Standards for Areas of Shallow Flooding (Zone AO, AH, AR/AO, or AR/AH)

Located within the Special Flood Hazard Areas established in Article III, Section B., are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article V, Sections A. and B., all new construction and substantial improvements shall meet the following requirements:

1. The reference level 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 ____ (__) feet, above the highest adjacent grade; or at least ____ (__) feet above the highest adjacent grade if no depth number is specified. *A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided.*

2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article V, Section F.1. 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 Article IV, Section C.3., and Article V, Section B.2.

3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Article VI. LEGAL STATUS PROVISIONS

Section A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted _____ {adoption date of the community's initial Flood Damage Prevention Ordinance} as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of _____ {insert name of community} enacted on _____ {adoption date of the community's initial Flood Damage Prevention Ordinance}, as amended, which are not reenacted herein are repealed.

Section B. Effect upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of 180-days subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

Section C. Severability

The ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

Section D. Effective Date

This ordinance shall become effective _____ {insert date; based upon adoption, or a specific date; or passage and publication as provided by law}.

Enacted by the _____ {Board, Council, etc.} as an ordinance of the _____ {insert name of community} on the ____ day of _____, 201_.

Approved by _____, _____ {insert name and title of chief elected official} on the _____ day of _____, 201__.

_____ {INSERT NAME OF COMMUNITY}

_____ {insert name and title of chief elected official}

ATTEST:

_____ {insert name of clerk}, {City/County} Clerk

TITLE 6
ELMORE COUNTY
ZONING AND DEVELOPMENT ORDINANCE

CHAPTER 13 – FLOOD DAMAGE PREVENTION

Sections:

6-13-1: **Statutory Authorization, Fact, Purpose and Objectives**
6-13-2: **Definitions**
6-13-3: **General Provisions**
6-13-4: **Administration**
6-13-5: **Provisions for Flood Hazard Reduction**

Section 6-13-1: Statutory Authorization, Fact, Purpose and Objectives:

A. Statutory Authority: The Legislature of the State of Idaho, pursuant to Idaho Code §§ 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.

B. Fact:

1. The flood hazard areas of Elmore County are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and 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, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

3. Local government units have the primary responsibility for planning, adopting and enforcing land use regulations to accomplish proper floodplain management.

C. Purpose:

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 lines, 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 and 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 that 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 flood waters 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 flood waters.

Section 6-13-2: Definitions

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted according to the meaning they have in common usage and to give this Chapter it's most reasonable application. The definitions listed below shall apply only to this Chapter of the Ordinance.

Accessory structure (appurtenant 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 ordinance or request for a variance.

Area of shallow flooding: a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: see Special Flood Hazard Area (SFHA).

Base Flood: the flood having a one (1) percent 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 (1) percent 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.

Per Idaho Code §46-1021: Flood Fringe: the portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

Basement: any area of the building having its floor sub grade (below ground level) on all sides.

Building: see 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.

Datum: the vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the National Geodetic Vertical Datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

Development: any man-made 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.

Per Idaho Code §46-1021: "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

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, etc.

Digital Flood Insurance Rate Map (DFIRM): the digital official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Elevated building: for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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/RFPE 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.

Existing Manufactured Home Park or Manufactured Home Subdivision: a manufactured home park or subdivision where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before the effective date of the original floodplain management regulations adopted by the community, March 14, 1994.

Existing construction: for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing structures: see existing construction.

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

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 paragraph a.2. 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 paragraph a.1. of this definition.

Per Idaho Code §46-1021: "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of rivers, streams or lakes, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Elevation Determination: See Base Flood Elevation (BFE)

Flood Elevation Study: See Flood Insurance Study (FIS)

Flood Fringe: Per Idaho Code §46-1021: "Flood fringe" is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

Flood Hazard Boundary Map (FHBM): an official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

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 Zone: a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floodplain or flood-prone area: any land area susceptible to being inundated by water from any source (see definition of "flooding").

Per Idaho Code §46-1021: "Floodplain" is the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

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 ordinance, 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 flood plain management regulations.

Per Idaho Code §46-1021 "Floodplain management" is the analysis and integration of the entire range of measures that can be used to prevent, reduce, or mitigate flood damage in a given location, and that can protect and preserve the natural, environmental, historical, and cultural values of the floodplain.

Floodplain Management Regulations: zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain 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.

Floodproofing: any combination of structural and non-structural 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.

Per Idaho Code §46-1021: "Floodproofing" means the modifications of structures, their sites, building contents and water and sanitary facilities, to keep water out or reduce the effects of water entry.

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 two (2) feet of freeboard; and

(b) In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Per Idaho Code §46-1021: "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood) plus any increased flood elevation due to floodway encroachment, plus any required freeboard.

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.

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.

Per Idaho Code §46-1021: "Floodway" is the channel of the river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

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.

Per Idaho Code §46-1021: "Freeboard" represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard shall compensate for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development, and the sedimentation of a river or stream bed.

Functionally Dependent Use: a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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.

Letter of Map Change (LOMC): a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F)

1. **Letter of Map Amendment (LOMA)**: an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.

2. **Letter of Map Revision (LOMR)**: FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

3. **Letter of Map Revision Based on Fill (LOMR-F)**: FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.

4. **Conditional Letter of Map Revision (CLOMR)**: A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance

Study. Upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM. Building Permits and/or Flood Development Permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

Levee: a man-made 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.

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.

Local Government: Per Idaho Code §46-1021: "Local government," in the context of this chapter, means any county or city having planning and zoning authority to regulate land use within its jurisdiction.

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 non-elevation design requirements of 44 CFR §60.3 and this ordinance.

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."

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

Market Value: the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

Mean Sea Level: for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum (such as NAVD88 North America Vertical Datum of 1988) to which Base Flood Elevations shown on a community's FIRM are referenced.

Mitigation: Per Idaho Code §46-1021: "Mitigation" means any action taken which will reduce the impact, damage, or cost of the next flood that occurs.

Mudslide (i.e., mudflow): describes a condition where there is a river, flow, or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

Mudslide (i.e., mudflow) area management: the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including, but not limited to, emergency preparedness plans, mudslide control works, and flood plain management regulations.

Mudslide (i.e., mudflow) prone area: an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

New construction: for floodplain management purposes, a structure for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Any construction started after March 14, 1994 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

New Manufactured Home Park or Subdivision: a place where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community on March 15, 1994.

Person: Per Idaho Code §46-1021: "Person" means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency or entity.

Post-FIRM: construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map (FIRM).

Pre-FIRM: construction or other development for which the "start of construction" occurred before March 15, 1994, the effective date of the initial Flood Insurance Rate Map (FIRM).

Recreational Vehicle: a vehicle that is:
(1) Built on a single chassis, and
(2) 400 square feet or less when measured at the largest horizontal projection, and
(3) Designed to be self-propelled or permanently towed by a light duty truck, and
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood: Per Idaho Code §46-1021:"Regulatory flood" is a flood determined to be representative of large floods known to have occurred in Idaho and which may be expected to

occur on a particular stream because of like physical characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any given year there is a one percent (1%) chance that a regulatory flood may occur or be exceeded.

Regulatory Floodway: See Floodway

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

Repetitive Loss Structure: An NFIP-insured structure that has had at least two paid flood losses of more than $1,000 each in any 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 flood plain 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 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 50 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 separate

occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 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 50 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:
(1) 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
(2) 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 ordinance.

Technical Bulletins and Technical Fact Sheets: FEMA publications that provide guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations. Rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area. *(This definition is OPTIONAL)*

Temperature Controlled: having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance: a grant of relief by the governing body from a requirement of this ordinance.

Violation: the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in this Chapter is presumed to be in violation of this Ordinance.

Water Surface Elevation: the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 (or other specified datum), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

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.

Section 6-13-3: General Provisions:

A. Lands to Which This Chapter Applies: This Chapter shall apply to all Special Flood Hazard Areas within the jurisdiction of Elmore County. Nothing in this Chapter is intended to allow uses or structures that are otherwise prohibited by the Ordinance.

B. Basis for Area of Special Flood Hazard: The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Elmore County, dated, March 15, 1994, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this Ordinance. The FIS and the FIRM are on file at the Department and Clerk offices.

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 this Chapter.

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 Ordinance 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, etc. 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 man-made 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 Elmore 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 violation of this Ordinance.

Section 6-13-4: Administration:

A. Designation of Floodplain Ordinance Administrator: The Elmore County Land Use and Building Department Director hereinafter referred to as the "Floodplain Administrator", shall 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, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

3. Notify adjacent communities and the Idaho Department of Water Resources State Coordinator for the National Flood Insurance Program (NFIP) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

5. Prevent encroachments into floodways and flood fringe areas unless the certification and flood hazard reduction provisions of this Chapter are met.

6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of this Chapter.

7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of this Chapter.

8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of this Chapter.

9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of this Chapter.

10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or flood fringe areas (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 article.

11. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of this Chapter, obtain, review, and reasonably utilize any BFE data, along with floodway data or flood fringe area data available from a federal, state, or other source, including data developed pursuant to this Chapter, in order to administer the provisions of this Chapter.

12. When Base Flood Elevation (BFE) data is provided but no floodway or flood fringe area data has been provided in accordance with the provisions of this Chapter, obtain, review, and reasonably utilize any floodway data or flood fringe area data available from a federal, state, or other source in order to administer the provisions of this Chapter.

13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

14. Permanently maintain all records that pertain to the administration of this Chapter and make these records available for public inspection in accordance with the Idaho Public Records Law.

15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Chapter and the terms of the permit. 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.

16. 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. Violation of a stop-work order constitutes a violation of this Ordinance.

17. Revoke floodplain development permits in accordance with this Ordinance.

18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspection department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

19. Follow through with corrective procedures of this Chapter.

20. Review, provide input, and make recommendations for variance requests.

21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of this Chapter, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

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 following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

   a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

      i. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

      ii. the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article III, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;

      iii. the flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in this Chapter;

iv. the boundary of the floodway(s) or flood fringe area(s) as determined in this Chapter;

v. the Base Flood Elevation (BFE) where provided as set forth this Chapter.; and

vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development.

b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

i. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

ii. Elevation in relation to mean sea level to which any non-residential structure in Zone A, AE, AH, AO, or A1-30 will be floodproofed; and

iii. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

c. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-33) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with this Chapter, when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A1-30.

e. Usage details of any enclosed areas below the lowest floor.

f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

g. Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of this Chapter are met.

i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering 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

ii. A map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

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, etc.).

b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in this Chapter.

c. The Flood Protection Elevation required for the reference level and all attendant utilities.

d. The Flood Protection Elevation required for the protection of all public utilities.

e. All certification submittal requirements with timelines.

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 opening requirements, if in Zones A, AE, AH, AO, or A1-30.

3. Certification Requirements.

a. Elevation Certificates

i. 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 reference level, 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.

ii. 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 reference level 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 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

b. Floodproofing Certificate: If non-residential 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. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. 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. If a manufactured home is placed within Zone A, AE, AH, AO, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of this Chapter.

d. 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: a

description of the extent of watercourse alteration or relocation; 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 a map showing the location of the proposed watercourse alteration or relocation and 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 items a. and b. of this subsection:

i. Recreational Vehicles meeting requirements of Section 6-13-5 B.6.a.;

ii. Temporary Structures meeting requirements of Section 6-13-5 B.7.; and

iii. Accessory Structures less than 200 square feet meeting requirements of Section 6-13-5 B.8.

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. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market 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 pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market 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 Ordinance are required.

D. Violations and Corrective Procedures: Violations of this Chapter shall be subject to the enforcement, violation and penalties of this Ordinance.

E. Variance Procedures:

1. The Commission and Board shall hear and decide requests for variances from the requirements of this Chapter.

2. 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. functionally dependent facilities, if determined to meet the definition as stated in this Chapter, provided provisions of Section 6-13-4 E.9.b., c., and e., have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

   c. any other type of development, provided it meets the requirements of this Section.

3. In passing upon variances, the Commission and/or Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

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

   b. the danger 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 as defined under this Chapter as a functionally dependent facility, where applicable;

   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. A written report addressing each of the above factors shall be submitted with the application for a variance.

5. Upon consideration of the factors listed above and the purposes of this Chapter, the Commission and/or Board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Chapter.

6. 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 $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

7. 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 or flood fringe 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:

      i. a showing of good and sufficient cause;

      ii. a determination that failure to grant the variance would result in exceptional hardship; and

iii. 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. 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 reference level 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.

   e. The County has notified 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.

10. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Idaho Code 67-6535.

Section 6-13-5: 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 in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.

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

4. All new 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. 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 flood waters.

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

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

   a. shall be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and

   b. shall include, in Zones A, AE, AH, AO, and A1-30, 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:

      i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

      ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

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

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

      v. 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

      vi. 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 ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, flood fringe area, or stream setback, provided there is no additional encroachment below the Flood Protection Elevation in the floodway, flood fringe area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Chapter.

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 this Chapter. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Flood Protection Elevation and certified in accordance with the provisions 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 U.S.C. 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, the following provisions:

1. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level,

including basement, elevated no lower than the Flood Protection Elevation, as defined in this Chapter.

2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Flood Protection Elevation, as defined in this Chapter. Structures located in A, AE, AH, AO, and A1-30 Zones 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. For AH and AO Zones, the floodproofing elevation shall be in accordance with this Chapter. 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 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 reference level of the manufactured home is no lower than the Flood Protection Elevation, as defined in 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 Section 44-2201(2), Idaho Code. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches 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 (36) inches in height, an engineering certification is required.

   c. All enclosures or skirting below the lowest floor shall meet the requirements of this Chapter.

   d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

4. Additions/Improvements.

a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

   i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

   ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

   i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

   ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

d. Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place, the cumulative cost of which equals or exceeds 50 percent (50%) of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

   i any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions; or

   ii any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

5. Recreational Vehicles. Recreational vehicles shall be either:

   a. Temporary Placement.

      i. be on site for fewer than 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); or

b. Permanent Placement.

i. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction, as set forth in this Chapter.

6. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

a. a specified time period for which the temporary use will be permitted. Time specified may not exceed six (6) months, renewable up to one (1) year;

b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;

c. the time frame prior to the event at which a structure will be removed (i.e., immediately upon flood warning notification);

d. a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

e. designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

7. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, elevation or floodproofing certifications are required for all accessory structures in accordance with this Chapter, and the following criteria shall be met:

a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

b. Accessory structures shall not be temperature-controlled;

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

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

e. Accessory structures shall be firmly anchored in accordance with the provisions of this Chapter;

f. All service facilities such as electrical shall be installed in accordance with the provisions of this Chapter; and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of this Chapter.

8. 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: Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

   b. Above-ground tanks, elevated: Above-ground 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 design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

   c. Above-ground tanks, not elevated: Above-ground tanks that do not meet the elevation requirements of this Chapter shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

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

      i. 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

      ii. anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

9. Construction of Below-Grade Crawlspace.

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

b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point.

c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. 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 5 feet per second for any crawlspace.

10. Other Development in regulated floodways and flood fringe.

a. Fences: Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways and flood fringe shall meet the limitations of this Chapter.

b. Retaining walls, sidewalks, and driveways. Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways and flood fringe shall meet the limitations of this Chapter.

c. Roads and watercourse crossings. 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, that encroach into regulated floodways and flood fringe shall meet the limitations this Chapter.

d. Drilling Water, Oil, and/or Gas Wells: Drilling Water, Oil, and/or Gas Wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways and flood fringe shall meet the limitations of this Chapter.

e. Docks, piers, and boat ramps. Docks, piers, boat ramps, marinas, moorings, decks, docking facilities, port facilities, shipbuilding, and ship repair facilities that encroach into regulated floodways and flood fringe shall meet the limitations of this Chapter.

C. Standards for Floodplains without Established Base Flood Elevations. Within the Special Flood Hazard Areas designated as A Zones (also known as Unnumbered A Zones) and established in Section 6-13-3 B., where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 6-13-5 A. shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted, unless a determination of the Base Flood Elevation (BFE) is provided.

2. The BFE used in determining the Flood Protection Elevation (FPE) shall be determined based on the following criteria:

   a. 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 ordinance and shall be elevated or floodproofed in accordance with standards in this Chapter.

   b. When floodway or flood fringe data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and flood fringe areas shall also comply with the requirements of this Chapter.

   c. 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 this Chapter.

   d. When Base Flood Elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the Flood Protection Elevation, as defined in this Chapter. All other applicable provisions of this Chapter shall also apply.

D. Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Flood Fringe Areas. Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor flood fringe areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

   1. Standards of Sections 6-13-5 A. and B.; and

   2. Until a regulatory floodway or flood fringe area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the community.

E. Floodways and Flood Fringe Areas: Areas designated as floodways or flood fringe areas are located within the Special Flood Hazard Areas established in this Chapter. The floodways and flood fringe areas 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 Section 6-13-5 A. and B., 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, or

   b. a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

2. If Section 6-13-5 E.1. is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Chapter.

3. Manufactured homes may be permitted provided the following provisions are met:

   a. the anchoring and the elevation standards of Section 6-13-5 B.3.; and

   b. the encroachment standards of Section 6-13-5 E.1.

F. Standards for Areas of Shallow Flooding (Zone AO, AH, AR/AO, or AR/AH). Located within the Special Flood Hazard Areas established in this Chapter, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 6-13-5 A. and B., all new construction and substantial improvements shall meet the following requirements:

1. The reference level 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 two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.

2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 6-13-5 F.1. 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 Sections 6-13-4 C.3., and Section 6-13-5 B.2.

3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

TITLE 6
ELMORE COUNTY
ZONING and DEVELOPMENT ORDINANCE

CHAPTER 13 - FLOOD HAZARD MITIGATION AND DEVELOPMENT REQUIREMENTS PERTAINING TO FLOODING

Sections:

6-13-1: Purpose
6-13-2: Applicability:
6-13-3: Process
6-13-4: General Regulations
6-13-5: Supplemental Standards for Areas of Flood Hazard
6-13-6: Flood Fringe
6-13-7: Areas of Shallow Flooding (AO Zone)
6-13-8: Unnumbered A Zones
6-13-9: Floodways
6-13-10: Required Finding
6-13-11: Appeals: Section
6-13-12: Variances to Flood Insurance Program Standards

Section 6-13-1: Purpose:

A. It is the purpose of this Chapter and Title to protect the public health, safety, and welfare by providing regulations to:

1. To ensure that new development in an area designated as a "Special Flood Hazard" on the "The Flood Insurance Study For Elmore County, Idaho", revised October 1, 1994, with accompanying flood insurance rate maps, and/or Foothill or other hillside tributary floodways as herein defined by this Chapter and Title, and/or as determined by the Director to be a hazard to public health, safety, and welfare due to flooding, and/or except as otherwise provided by this Chapter and Title not significantly aggravate existing flooding conditions as determined by Elmore County; and

2. Ensure that new or rebuilt floodplain structures are designed and constructed to resist flood damages; and

3. Prohibit activities that violate the national flood insurance program regulations; and

4. Require that developments dedicate a portion of the floodplain as open space for the purpose of flood control.

Section 6-13-2: Applicability:

A. The regulations of this Chapter and Title shall apply to all "development", as defined in this Chapter and Title, within all areas of special flood hazard identified by one or more of the following:

1. The Federal Insurance Administration in a scientific and engineering report Chapter and Title "The Flood Insurance Study For Elmore County, Idaho", revised October 1, 1994, with accompanying flood insurance rate maps (FIRM and any subsequent revisions thereto). Such study is adopted by Chapter and Titles on file at the Growth and Development Department, or as hereinafter may be amended; and

2. Foothill or other hillside tributary floodways as herein defined; and

3. Any area determined by the Director to be a hazard to public health, safety, and welfare due to flooding; except "development", as herein defined, necessary to comply with existing state or local health, sanitary, or safety code requirements.

Section 6-13-3: Process:

A. Application: An application and fees, as required by this Chapter, shall be submitted to the Director on forms provided by the Growth and Development Department. A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard.

B. Authority and Responsibilities: The Director is appointed to administer and implement this Chapter and Title and shall have the following responsibilities in all areas of special flood hazard:

1. Review all new development to determine if the development is located in an area of special flood hazard overlay; and

2. Make interpretations, where necessary, of the location of the boundaries of the flood hazard overlay; and

3. Review all development permits in the area of special flood hazard to determine that all required permits have been obtained from federal, state, or local governmental agencies; and

4. Issue zoning permits, when required, for those structures that are to be constructed or modified in compliance with the regulations of this Chapter and Title and other applicable regulations of this Chapter and Title; and

5. Review all new development within an area of special flood hazard for compliance with the regulations of this Chapter and Title; and

6. Where base flood elevation data has not been provided, the Director shall obtain, review, and reasonably use any base flood elevation and floodway data available from a federal, state, or other source in order to administer this Chapter and Title; and

7. Collect and maintain all records pertaining to the regulations of this Chapter and Title for public inspection including records of all appeal actions and variances, elevation certificates, flood proofing certificates, and all other records required by this Chapter and Title and by federal regulations; and

8. Notify affected jurisdictions and the Idaho Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal insurance administration; and require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity of the watercourse is not diminished; and

9. Submit annual reports and other reports to the federal insurance administration, as required or as requested; and

10. Where base flood elevation data is provided throughout the flood insurance study, or as required elsewhere herein, obtain and file a properly completed elevation certificate from the applicant showing the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. A registered professional engineer or registered professional land surveyor shall certify the elevation; and

11. For all new or substantially improved flood proofed structures, obtain a properly completed flood-proofing certificate from the applicant; and

12. Issue a building or grading permits for new construction, new development, or substantial improvement of structures in compliance with the regulations of this Chapter and Title; and

13. Submit letters of community acknowledgment for requested Letters Of Map Revision (LOMR) to the appropriate Federal Insurance Administration Agency to

fulfill obligations specified in the national flood insurance program regulations; and

14. Prior to approval of a flood plain development permit, the Director shall acquire advice from the County Engineer on the following matters:

    a. Review of field surveys and technical information submitted by any applicant for new development; and

    b. Review of all new construction of check dams to ensure the safety of persons and property that could be affected by the construction of the check dam; and

    c. Provide interpretations as to exact location of the boundaries of areas of special flood hazards.

Section 6-13-4: General Regulations

A. Interpretation: All of the regulations of this Chapter and Title shall be liberally construed in favor of the governing body and shall not be deemed to limit or repeal any other powers granted under state statutes.

B. Warning and Disclaimer: The degree of flood protection required by this Chapter and Title 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 due to artificial or natural causes. This Chapter and Title does not imply that property outside the identified areas of special flood hazard will be free from flooding or flood damages, or that uses permitted within the identified areas of special flood hazard will be free from flooding or flood damages. This Chapter and Title shall not create liability on the part of Elmore County, any officer or employee hereof, or the federal insurance administration, for any flood damages that result from reliance on this Chapter and Title or any administrative decision lawfully made hereunder.

Section 6-13-5: Supplemental Standards for Areas of Flood Hazard:

A. All uses permitted in the base zones are allowed to the extent such uses are consistent with the standards of this Chapter and Title. Development in areas that are known to be flood prone or have a high potential for flooding shall be reviewed under all applicable regulations of this Chapter and Title as determined by the Director. The following standards shall apply to areas of flood hazard:

    1. Despite any other regulations of this Chapter and Title, prohibited uses shall include the manufacture and/or storage of materials that are buoyant, flammable,

toxic or explosive or may present a hazard to public health or safety in time of flooding; and

2. Despite any other regulations of this Chapter and Title, prohibited uses shall include new construction or substantial improvement of schools, hospitals, or other intermediate care facilities; and

3. Applicants for outdoor storage shall demonstrate that the storage items will not present a hazard to the public health or safety in time of flooding.

Section 6-13-6: Flood Fringe:

A. Standards for All Uses:

1. Minimize Flood Damage Potential: All new development and substantial improvements shall use methods and practices that minimize flood damage potential to the development and do not increase the flood damage potential to other properties.

2. Flood Resistant Materials: All new development shall use materials and utility equipment resistant to flood damage.

3. Anchoring: All new construction and substantial improvements of structures shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

4. Drainage Practices: Drainage practices that minimize exposure to flood hazards shall be used.

5. Protection of Service Equipment and Facilities: Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.

6. Additional Standards for Subdivisions and New Development:

   a. All subdivisions and new development shall be consistent with the need to minimize flood damage; and

   b. Public utilities and facilities including, but not limited to: sewer, gas, electrical, telephone, and water systems shall be located and constructed to minimize flood damage and certified by a registered professional engineer; and

   c. An evacuation plan indicating alternative vehicular access and escape routes shall be filed with the Elmore County All Hazards Plan; and

d. Adequate drainage shall be provided to reduce exposure to flood damage; and

e. Where Base Flood Elevation (BFE) data has not been provided, or is not available from another authoritative source, the applicant shall provide BFE data for subdivision proposals prior to approval of the final plat.

7. Utility Work: All utility work shall use designs, materials, and construction methods that preclude failure due to flooding and assure continued service during flood events to include but not limited to:

a. All new and replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the system; and

b. New and replacement sewage treatment works and sewage collection and disposal systems shall be designed to eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

B. Standards for Residential Structures:

1. New construction and substantial improvement of any residential structure shall have the lowest floor including basement, elevated to one (1') foot above the base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall be certified by a registered professional engineer or shall meet or exceed the following minimum criteria:

a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and

b. The bottom of all openings shall be no higher than one (1') foot above grade; and

c. Openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

C. Standards for Nonresidential Structures: New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either be elevated or flood proofed as set forth below:

1. Elevated Option:

a. The lowest floor including basement, shall be elevated to one (1') foot above the level of the base flood elevation; and

b. The structure shall meet the standards for space below the lowest floor as described in Subsection (B) of this Section.

2. Dry Flood proofed Option:

a. The lowest floor, together with attendant utility and sanitary facilities, shall be flood proofed so that below one (1') foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water; and

b. The proposed structure shall be watertight and shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. The proposed design shall be certified by a registered professional engineer and the design and methods of construction shall be in accordance with accepted standards of practice for meeting regulations of this Subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the Director as set forth in this Chapter and Title; and

d. The Director shall notify applicants that flood insurance premiums will be based on rates that are one (1') foot below the flood proofed level (e.g., a structure flood proofed to the base flood elevation will be rated as one (1') foot below that level).

3. Wet Flood proofed Option: This option shall only be allowed at the discretion of the Director for accessory structures and agricultural structures.

a. The utility and sanitary facilities shall be raised or completely flood proofed to at least one (1') foot above the base flood elevation; and

b. The proposed structure shall be designed so that floodwaters may enter the structure; and

c. The proposed design shall be certified by a registered professional engineer and the design and methods of construction shall be in accordance with accepted standards of practice for meeting regulations of this Subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the Director as set forth in this Chapter and Title; and

d. The Director shall notify applicants that flood insurance premiums will be based on rates that are one (1') foot below the flood proofed level (e.g., a structure flood proofed to the base flood elevation will be rated as one (1') foot below that level).

D. Standards for Manufactured Homes:

1. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to; use of over the top or frame ties to ground anchors, and other techniques described in the FEMA publication "Manufactured Home Installation in Flood Hazard Areas".

2. All manufactured homes to be placed or substantially improved within any zones shall be:

   a. Elevated on a permanent foundation so the lowest floor of the manufactured home is elevated one (1') foot above the base flood elevation; and

   b. Be securely anchored to an adequately anchored foundation system in accordance with the regulations of this Chapter and Section.

E. Standards For Accessory Structures Exempt From Building Permits And Accessory Uses: Accessory structures that are exempt from building permits and accessory uses shall be designed to have a low flood damage potential and shall be placed on the building site and constructed to minimize resistance to the flow of floodwaters.

F. Additional Standards for Recreational Vehicles: Recreational vehicles placed on sites within zones A, A1-30, and AE shall meet one of the following standards:

1. The recreational vehicle shall be on site for fewer than one hundred eighty (180) calendar days; or

2. The recreational vehicle shall be fully licensed and ready for highway use, be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. The recreational vehicle shall meet the elevation and anchoring requirements of this Section.

Section 6-13-7: Areas of Shallow Flooding (AO Zone):

A. Standards for Residential Structures:

1. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site by a height equal to the base flood elevation or above. Where appropriate, such structures shall be elevated above the crown of the nearest roadway by a height equal to the depth number specified on the FIRM plus one (1') foot.

2. Where hazardous velocities are noted on the FIRM, proper construction techniques and methods shall be used to mitigate the effects of these velocities.

B. Standards for Nonresidential Structures:

1. New construction and substantial improvements of nonresidential structures within AO zones shall either be elevated or flood proofed as set forth below:

   a. Elevated Option: The lowest floor (including basement) shall be elevated above the highest adjacent grade of the structure by a height equal to the base flood elevation or above. Where appropriate, such structures shall be elevated above the crown of the nearest roadway by a height equal to the depth number specified on the FIRM plus one (1') foot; and

   b. Dry Flood proofed Option:

      (1) The lowest floor, together with attendant utility and sanitary facilities, shall be completely flood proofed to or above the level in Subsection (B.1.a) of this Section, so that any space below that level is watertight, with walls substantially impermeable to the passage of water; and

      (2) The proposed structure shall be watertight and shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

      (3) The proposed design shall be certified by a registered professional engineer and the design and methods of construction shall be in accordance with accepted standards of practice for meeting regulations of this Subsection (B) based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the Director as set forth in this Chapter and Title.

   c. Wet Flood proofed Option: This option shall only be allowed at the discretion of the Director for accessory structures and agricultural structures.

      (1) The utility and sanitary facilities shall be completely flood proofed to, or above, the level specified by the applicable utility agency; and

(2) The proposed structure shall be designed so that flood waters may enter the structure. If this method is used, a registered professional engineer shall certify compliance; and

(3) The proposed design shall be certified by a registered professional engineer and the design and methods of construction shall be in accordance with accepted standards of practice for meeting regulations of this Subsection (B) based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the Director as set forth in this Chapter and Title.

2. Where hazardous velocities are noted in the FIRM, proper construction techniques and methods shall be used to mitigate the effects of these velocities.

C. General Standards: General standards for all uses in flood fringe of this Chapter and Title shall apply, except as described in Subsections (A and B) of this Section.

Section 6-13-8: Unnumbered A Zones:

A. For All Development In Unnumbered A Zones: All development within an unnumbered A zone shall:

1. Require determination of the base flood elevation (BFE); and

2. Be subject to the procedural requirements of this Chapter and Title, as applicable, as well as the standards for the applicable hazard area.

B. For All Proposals, Except Subdivisions, In Unnumbered A Zones: Where the Director has not already established BFE data within an unnumbered A zone, base flood elevations may be established by the following methods:

1. The Director may require applicants to submit additional information including, but not limited to, historical data, high water marks, photographs of past flooding and/or any other available data that enable the Director to establish the BFE. Under this method, failure to elevate at least two (2') feet above adjacent grade may result in higher insurance rates.

2. If other flood data sources are not available, the Director may require the applicant to provide BFE data for the site prepared by an engineer licensed in the state of Idaho. Said BFE data shall include the delineation of the floodway and shall be accompanied by documentation of the engineering methodology and calculations used to develop it.

C. For Subdivision Proposals In Unnumbered A Zones: Where the Director has not already established BFE data within an unnumbered A zone and it is not available from another authoritative source, the Director shall require the applicant to provide BFE data including floodway delineation, for subdivision proposals prior to approval of the final plat. This required data shall be completed, stamped and signed by a qualified and licensed engineer, licensed in the state of Idaho, and shall be reviewed by the Elmore County Engineer for accuracy.

Section 6-13-9: Floodways:

A. Standards for All Uses:

1. No new development, including new construction or substantial improvements, shall be permitted unless certification by a registered professional engineer is provided demonstrating that the new development shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If certification for the new development is provided, pursuant to Subsection (A.1) of this section, all new development, new construction, and substantial improvements shall comply with the applicable standards for uses in the flood fringe.

3. No alteration or relocation of a watercourse shall be permitted if it diminishes the flood-carrying capacity of the watercourse.

4. All new construction and substantial improvements of structures shall be anchored to prevent flotation, collapse, and lateral movement of the structure.

5. In addition to the standards for uses in this Subsection (A), uses proposed in a foothill or other hillside tributary floodway shall meet the following standards:

   a. Development on properties that include any portion of a foothill or other hillside tributary floodway shall provide for channel stabilization and bank stabilization, or be set back from the edge of the floodway sufficient to protect the use from flood related erosion. Such measures shall be certified by a registered professional engineer to be effective for the flood flows and velocities anticipated at the site; and

   b. Transportation routes that cross foothill or other hillside tributary floodways shall have all horizontal bridge support members at least two (2') feet above the BFE, and all supporting members shall be designed to withstand the flows and velocities of the base flood; and

   c. Check dams shall be designed and certified by a registered professional engineer and reviewed and approved by the Elmore County engineer to ensure

the safety of persons and property that could be affected by the construction of the check dam.

B. Pit, Mine Or Quarry: Material stockpiles and permanently installed structures shall not be located within the floodway.

Section 6-13-10: Required Finding:

In order to approve the application, the Board shall find that the proposed subdivision or development including new construction or substantial improvements, meets the standards as set forth in this Chapter and Title.

Section 6-13-11: Appeals:

A. Appeals of determinations made by the Director or Commission shall be heard by the Board and shall comply with procedures of this Chapter and Title.

B. Appeals which allege there is an error in any requirement, decision, or determination made by the Director in the enforcement or administration of this Chapter and Title, shall be supported by technical and scientific evidence which shall include, but is not limited to, the following items:

1. A copy of the recorded plat map showing the property; and

2. A topographic map showing ground elevation contours and a line representing the area subject to inundation by the base flood; and

3. Certification by a registered professional engineer of the elevation of the lowest floor (including basement), the elevation of any fill, the date on which the fill was placed, and the elevation to which any structure has been flood proofed.

C. The Board shall base their decision on an appeal on the specific and technical evidence in the record.

Section 6-13-12: Variances to Flood Insurance Program Standards:

A. Purpose: The purpose of this Section is to provide a relief from national flood insurance program standards as they pertain to a physical piece of property.

1. The variance regulations primarily address small lots in densely populated residential neighborhoods; and

2. A variance shall not be personal in nature and shall not pertain to the structure or its inhabitant's economic or financial circumstances.

B. Applicability: Variances may be issued consistent with the FEMA guidelines as set forth in code of federal regulations 44 CFR Chapter 1, Section 60.6.

C. Process:

1. The applicant shall complete a pre-application conference with the Director prior to submittal of an application for a variance.

2. An application and fees, as set forth in this Chapter and Title, shall be submitted to the Director on forms provided by the Growth and Development Department.

3. The Board shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Chapter and Title including, but not limited to, the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters if applicable, expected at the site.

4. The Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter and Title.

5. The Board shall apply the findings listed in Subsection 6-13-12 (D) of this Chapter to review the variance.

6. Any applicant to whom a variance is granted shall be given written notice that the structure shall be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

D. Required Findings:

1. The proposed use adequately mitigates any danger that materials may be swept onto other properties to the injury of others; and

2. The proposed use adequately mitigates the danger to life and property due to flooding or erosion damage; and

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

4. The proposed use provides an important service to the community; and

5. The proposed use is functionally dependent on a waterfront location; and

6. The proposed use shall not have available alternative locations that are not subject to flooding or erosion damage; and

7. The proposed use is compatible with existing and anticipated development; and

8. The proposed use is consistent with the applicable Comprehensive Plan and flood plain management program for the area; and

9. The proposed use provides for safe access to the property in times of flood for ordinary and emergency vehicles; and

10. The proposed use shall not cause extraordinary public expense in providing governmental services during post-flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges; and

11. The variance is the minimum necessary, considering the flood hazard, to afford relief; and

12. The variance shall not result in increased flood heights during the base flood discharge; and

13. The variance shall not cause fraud on or victimization of the public; and

14. The variance shall not conflict with existing local laws or Chapter and Titles.

ELMORE COUNTY
PLANNING AND ZONING COMMISSION

MINUTES
Wednesday, May 18, 2016 at 7:00 pm

Chairperson Patti Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairman K.C. Duerig, Ed Oppedyk, and Sue Fish. Also present were Attorney of record Phil Miller, Director Alan Christy and staff member Kacey Ramsauer.

PLEDGE OF ALLEGIANCE

PUBLIC MEETING

Ordinance Revision Work Session

The commission discussed chapter 26.

MINUTES

Minutes from 05-04-2016

Duerig moved to approve.
Oppedyk seconded.
Motion carried unanimously.

INFORMATION ITEMS

Upcoming P & Z Schedule

Christy stated that on June 1 the commission will conduct a public hearing to address the flood ordinance.

Christy stated that on June 15 there will be a public hearing and staff will start mailing out the packet soon as there is a lot of information to review.

Christy stated that staff will draft an amendment to the comprehensive plan regarding airports as they are not properly addressed at this time. He stated that he anticipates the board wanting to add some additional information to the comprehensive plan regarding water.

MEETING ADJOURNED at 7:12 pm.

Draft

_____

Patti Osborn, Chairperson Date:

Attest: _____

Alan Christy, Director Date: