

## **CHAPTER 2 – FLOOD HAZARD DAMAGE PREVENTION**

### **Sections:**

- 8-2-1: Warning and Disclaimer**
- 8-2-2: Statutory Authorization, Findings of Fact, Purpose and Objectives**
- 8-2-3: General Provisions**
- 8-2-4: Administration**
- 8-2-5: Provisions for Flood Hazard Reduction**

### **Section 8-2-1: Warning and Disclaimer**

The degree of flood protection required by this article 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 article does not imply that property outside the identified special flood hazard areas will be free from flooding or flood damages, or that uses permitted within the identified special flood hazard areas will be free from flooding or flood damages. This article shall not create liability on the part of Elmore County, any officer or employee thereof, or the federal insurance and mitigation administration, for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

### **Section 8-2-2: Statutory Authorization, Findings of 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. **Findings of 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 or 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 8-2-3: General Provisions:**

- A. Lands to Which This Chapter Applies: This Chapter, Chapter 2 of Title 8 shall apply to all Special Flood Hazard Areas (SFHA) 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 Insurance Administrator in a scientific and engineering report titled "Flood Insurance Study (FIS) for Elmore County, Idaho, Unincorporated Areas" dated March 15, 1994, with accompanying Flood Insurance Rate Maps (FIRM) 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 Elmore County Land Use and Building Department
- 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.
- D. 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.
- E. 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. 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, subject to penalties as described in Chapter 16 of Title 7.

**Section 8-2-4: Administration:**

- A. Designation of Floodplain Ordinance Administrator: The Elmore County Land Use and Building Department Director, or designee, 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 by means of a hydraulic and hydrology analysis that the flood-carrying capacity is maintained within the altered or relocated portion of said watercourse.
  5. Prevent encroachments into floodways 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 lowest floor (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. Review plans to verify public utilities are constructed 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 or floodways, (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this 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 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 data has been provided in accordance with the provisions of this Chapter, require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the community's FIRM, unless it is demonstrated 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 more than one foot at any point within the community.
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) or Letter of Map Revision with Fill (LOMR-F) from FEMA. Maintain a copy of the LOMA or LOMR-F 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 the 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. 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 team 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).
23. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Insurance Administrator (FIA) of the changes by submitting technical or scientific data in accordance with volume 44 Code of Federal Regulations section 65.3. Such a submission is necessary to that upon confirmation of those physical changes affecting flooding conditions, risk

premium rates and floodplain management requirements will be based upon current data.

24. Upon occurrence, notify the Federal Insurance Administrator (FIA) in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that FIRMs accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

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. Minor landscape features (cumulative fill or excavation less than ten (10) cubic yards) and at grade driveways, at grade private roads, and at grade parking lots require a permit but shall be exempt from the LOMA process;
    - 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) as determined in this Chapter;
    - v. the Base Flood Elevation (BFE) where provided as set forth this Chapter;
    - vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development;

- vii. the certification of the plot plan. If the plot plan included existing features only, it may be submitted by a registered land surveyor. If the plot plan includes design work including but not limited to grading, it shall be submitted by a professional engineer.
- 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 lowest floor (including basement) of all structures;
  - ii. Elevation in relation to mean sea level to which any non-residential structure in Zone A, AE, AH, and AO 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 is required.
- 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, and AO.
- 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 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. A plot plan as described in 8-2-3.C.a
- c. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in this Chapter.
- d. The Flood Protection Elevation required for the lowest floor and all attendant utilities.
- e. The Flood Protection Elevation required for the protection of all public utilities, utility equipment, and machinery.
- f. All certification submittal requirements with timelines.
- g. A statement that no fill material or other development shall encroach into the floodway of any watercourse, as applicable.
- h. The flood opening requirements, if in Zones A, AE, AH, or AO.

3. Certification Requirements.

- a. Elevation Certificates (3 TOTAL)
  - 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 lowest floor, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure

to make required corrections shall be cause to deny a floodplain development permit. Identification of any tanks (gas, propane, natural gas) buried or above ground must be noted on building plans and on the elevation certificates. Any below ground tank(s) must also be inspected for compliance with tie downs prior to cover, inspection must be documented with inspection records for the project.

- ii. A “During Construction” Elevation Certificate (form provided by FEMA) is required **after construction of the footings/wall and before floor is installed or slab is poured** (i.e., floor truss/beams). This is to ensure “lowest floor” level and make it easier to add fill to the inside of the foundation if needed to raise the lowest level at or above BFE or determined BFE.
  - 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 lowest floor and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. 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 two (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 lowest floor 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. Manufactured Home: If a manufactured home is placed within Zone A, AE, AH, or AO and the elevation of the chassis is more than thirty-six (36) inches in height above grade, an engineered foundation certification is required in accordance with the provisions of this Chapter.
  - d. Altered or Relocated Watercourse: 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; 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, or AO are exempt from the elevation/floodproofing certification requirements specified in items a. and b. of this subsection:
    - i. Recreational Vehicles meeting requirements of Section 8-2-4 B.5.a.;
    - ii. Temporary Structures meeting requirements of Section 8-2-4 B.6.; and
    - iii. Accessory Structures less than 200 square feet meeting requirements of Section 8-2-4 B.7.
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 as listed in Title 7 Chapter 16.

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 and Ordinance, provided provisions of Section 8-2-4 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. 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 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 will not be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities to be located in Special Flood Hazard Areas
10. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Idaho Statute 67-6535.

### **Section 8-2-5: 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 resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
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 two (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 usable solely for parking, access or storage:
  - 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, and AO, 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. DELETED
11. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted.. 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 addition to the General Standards, all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, the following provisions shall apply:

1. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes, tiny homes, and park models) shall have the lowest floor, 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 lowest floor, including basement, elevated no lower than the Flood Protection Elevation, as defined in this Chapter. Structures located in A, AE, AH, and AO, 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 (including tiny homes, and park models) shall be elevated so that the lowest floor of the manufactured home is no lower than the Flood Protection Elevation, as defined in this Chapter.
  - b. Manufactured homes (including tiny homes, and park models) 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 non-compliant 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 non-compliant 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, the cumulative cost of which over ten (10) consecutive years 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 one hundred eighty (180) consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

b. Permanent Placement.

- i. Recreational vehicles including tiny homes and park model manufactured homes. 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, except those less than 200 sq. ft., 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;
  - g. For Accessory structures less than 200 sq. ft. and used solely for parking or storage, 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;
  - h. For Accessory structures 200 sq. ft. or larger used solely for parking or storage and that are not elevated to the Flood Protection Elevation, a variance is required for flood proofing (i.e., adding flood openings in lieu of elevation); and
  - i. Accessory structures not used solely for parking or storage must be elevated.
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 base 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 base 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 base 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 At or Below-Grade Crawlspace.

### A. At-Grade Crawlspace construction must meet the following requirements:

- a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. Flood openings must be installed that allow for the automatic entry and exit of floodwaters.
- c. The portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE.

### B. Below-grade crawlspace must also meet the following requirements:

- a. The interior grade of a crawlspace must not be below the BFE and must not be more than two (2) feet below the exterior lowest adjacent grade (LAG) unless adequate flood openings are provided.
- 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 four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas. This limitation will also prevent these crawlspaces from being converted into habitable spaces.
- 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. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.
- d. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.
- e. Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements.

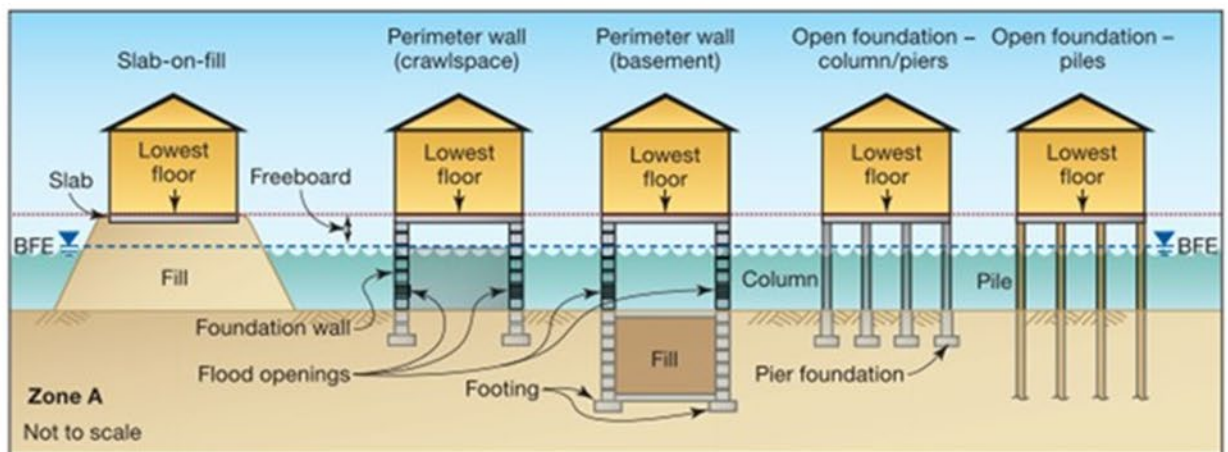
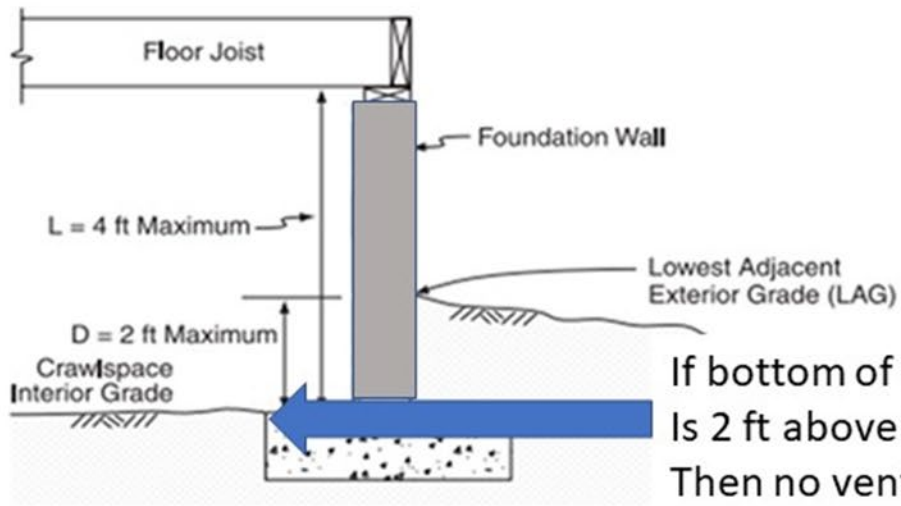
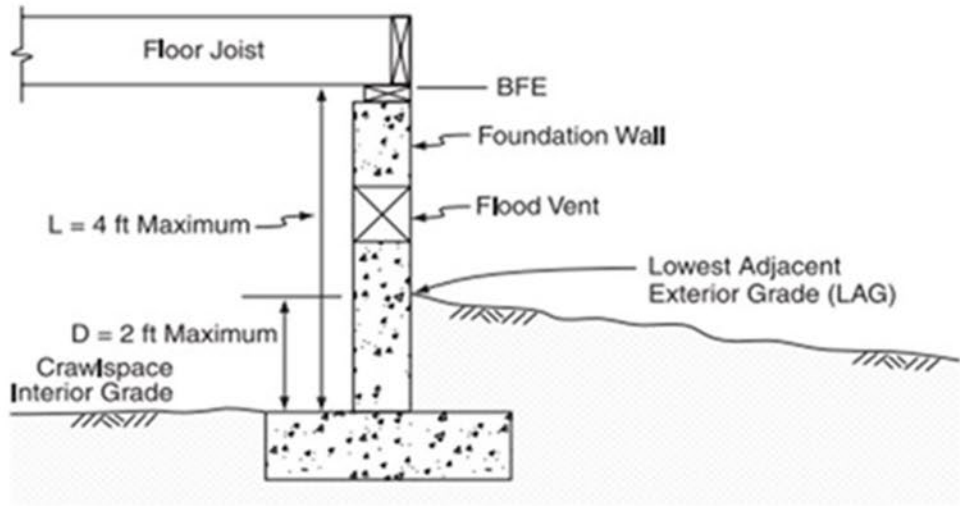


Figure 3: Examples of NFIP-compliant homes in Zone A where the top of the lowest floor is located above the BFE

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 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 8-2-2 B., where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 8-2-4 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 data is available from a federal, state, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of 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. The applicant may have to submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat or Conditional Use Permit at the discretion of the Floodplain Administrator and have obtained a Letter of Map Revision (LOMR) prior to any building permits for structures being issued.
  - d. When Base Flood Elevation (BFE) data is not available from a federal, state, or other source as outlined above, the lowest floor shall be elevated or floodproofed (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. Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but floodway areas are not 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 8-2-4 A. and B.; and
  - 2. Until a regulatory floodway 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 more than one foot at any point within the community.
- E. Floodways: Areas designated as floodways are located within the Special Flood Hazard Areas established in this Chapter. The floodways are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 8-2-4 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 approved by 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 8-2-5 E.1. is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Chapter.

- 3.

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 8-2-4 A. and B., all new construction and substantial improvements shall meet the following requirements:

1. The lowest floor shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of 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 8-2-4 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 8-2-3 C.3., and Section 8-2-4 B.2.

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