

## STAFF REPORT

**TO:** Hailey City Council  
**FROM:** Mariel Platt, Planner *mp*  
**RE:** Zoning Ordinance Amendment – Flood Hazard Overlay District, Section 4.10  
**HEARING:** November 8, 2010

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**Note:** Staff analysis is in lighter type

### Notice

Notice for the public hearing was published in the Idaho Mountain Express and mailed to public agencies and area media on October 6, 2010. At the October 25, 2010 public hearing, the Council continued the review of the amendments to Section 4.10 to the November 8, 2010 meeting.

### Proposal

Amendments to Section 4.10 of the Zoning Code are proposed by the City. These amendments would 1) adopt the revised FEMA maps, 2) clarify administrative procedures, 3) provide consistency with administrative procedures described by other sections of the Hailey Zoning Ordinance, 4) provide compliance with Idaho State Code, Title 46, 5) clarify when a flood hazard development permit (FHDP) was required, 6) allow designs submitted for a FHDPs to be done by a professional architect, as well as a professional engineer, and 7) clarify what types of structures can be built with flood proofing measures verses the submittal of an elevation certificate. Refer to the attached page for the actual proposed language.

### Procedural History

Additional changes have been made to the proposed ordinance since the Council's last review on October 25, 2010. A description of those changes and their corresponding page numbers are as follows:

1. Page 6, Section 4.10.7(A)(1), removal of language stating that structures can be built so long as a stream alteration permit is obtained.
2. Page 10, Section 4.10.8(C)(2)(b), adding language to detail how subdivisions shall minimize flood damage.
3. Page 12, Section 4.10.8(C)(13)(b) has been deleted.
4. Page 13, Section 4.10.9, adding language to exempt irrigation diversions from the requirements of a stream alteration permit,

FEMA has been given a copy of the above changes, but to date, the City has not received a response. Depending on when the City receives FEMA's response to the above changes and if additional changes are required by FEMA, the ordinance should be adopted either at the November 8, 2010 meeting or continued to the Council's November 22, 2010 meeting to allow for additional changes to be made, prior to adoption. To comply with FEMA's required adoption date of November 26, 2010, staff suggests that two (2) readings be waived to allow for the adoption of the ordinance by FEMA's deadline.

The amendments are being proposed to comply with Idaho State Code and the federal requirements of FEMA, by the November 26, 2010 FEMA deadline. In addition, there are several

sections in the ordinance that the Building Official, City Engineer, Floodplain Administrator, and Planning Department felt needed clarification and reorganization to provide a more easily administered ordinance and to reduce conflicts between various sections of the Flood Hazard Overlay District. The City's attorney has reviewed the ordinance.

Planning and Zoning Commission reviewed the amendments and recommended approval on September 20, 2010.

#### **Department Comments**

No comments were received.

#### **Standards of Evaluation**

**14.6 When evaluating any proposed amendment under this Article, the Hearing Examiner or Commission and Council shall make findings of fact on the following criteria:**

**a. The proposed amendment is in accordance with the Comprehensive Plan;**  
The Council should consider how the proposed amendments relate to the various policies and implementation items of the Comprehensive Plan, particularly the following:

#### *Section 2.5 Flood Hazard*

*I. Goal: The goal of this section is to reduce the potential threat to loss of life, limb or property and minimize public expenditures due to flooding.*

*1. Policy: Develop and maintain a thorough knowledge of the location and severity of hazards related to flooding.*

#### *Implementation:*

*a. Maintain a thorough knowledge of the primary sources for flood hazard analysis as identified by the Federal Insurance Administration. Those sources include Floodplain Information Studies prepared for the Big Wood River by the United States Army Corps of Engineers; the Flood Insurance Study, City of Hailey, Idaho, prepared by the Federal Emergency Management Agency (FEMA); and the Flood Insurance Rate Map/Flood Hazard Boundary Map also issued by FEMA.*

*2. Policy: Discourage development along watercourses, including drainage areas, especially in known flood prone areas.*

#### *Implementation:*

*a. Continue to prohibit any construction, with the exception of recreational trails, emergency access ways and stream alterations, where approved, in floodways.*  
*b. Prohibit the installation of any new individual septic systems within the floodplain within Hailey's Area of City Impact.*  
*c. Restrict and closely supervise construction in the floodplain, and allow no construction which would not comply with the 'no - rise' standards established by FEMA.*

**b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for**

**the public facilities and services;**

It is not anticipated that the proposed amendments would change the current level of services or require any additional costs. The amendments may help avoid future scenarios where public costs and public facilities and services might require additional support and expenditures.

**c. The proposed uses are compatible with the surrounding area; and**

The amendments do not substantially change the proposed uses. They only provide clarification on what the uses are.

**d. The proposed amendment will promote the public health, safety and general welfare.**

The amendments will provide more up-to-date information and greater clarity on the process and procedures, which will help promote the public health, safety, and general welfare.

**Summary**

The Council is required to hold a public hearing and determine whether the proposed amendments are in accordance with the applicable standards of evaluation.

Depending on when the City receives FEMA's response to the changes and if additional changes are required by FEMA, the ordinance should be adopted either at the November 8, 2010 meeting or continued to the Council's November 22, 2010 meeting to allow for additional changes to be made, prior to adoption. To comply with FEMA's required adoption date of November 26, 2010, staff suggests that two (2) readings be waived to allow for the adoption of the ordinance by FEMA's deadline.

**Motion Language**

**Approval:**

Motion to approve the proposed amendments to Section 4.10, finding that the amendments are in accordance with the Comprehensive Plan, essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services; the proposed uses are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare and a motion adopting Ordinance \_\_\_\_\_, reading by title only and waiving the two (2) subsequent readings.

**Denial:**

Motion to deny the proposed amendments to Section 4.10, finding that \_\_\_\_\_ [the Council should cite which standards are not met and provided the reason why each identified standard is not met].

**Continuation:**

Motion to continue the public hearing upon the proposed amendment to Section 4.10 to \_\_\_\_\_ [the Council should specify a date].

HAILEY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 4.10, FLOOD HAZARD OVERLAY DISTRICT, TO ADOPT NEW FEMA MAPS AND STUDY BY REFERENCE, CREATE DEFINITIONS, CLARIFY ADMINISTRATIVE PROCEDURES, CREATE NEW NOTICING PROCEDURES FOR FLOOD HAZARD DEVELOPMENT PERMITS THAT ARE REVIEWED BY THE FLOOD HAZARD DEVELOPMENT PERMIT BOARD, SPECIFY WHEN FLOODPROOFING IS ALLOWED, AND CREATE STANDARDS FOR COMMERCIAL STRUCTURES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance is in accordance with the Hailey Comprehensive Plan;

WHEREAS, essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;

WHEREAS, the uses are compatible with the surrounding area; and

WHEREAS, the amendment will promote the public health, safety and general welfare.

WHEREAS, the amendment is required in order to comply with the Federal Emergency Management Agency and the State of Idaho's codes and standards and must be enacted by November 26, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Section 4.10 of the Hailey Zoning Ordinance No. 532, is hereby amended with the addition of the underlined and the deletion of the stricken language as follows:

4.10.1 Introduction. The Flood hazard areas of the City of Hailey are subject to periodic inundation that may result in loss of life and property, health and safety hazards, disruption of governmental services, public expenditures for Flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These Flood losses are caused by 1) the cumulative effect of obstructions which affect Flood heights and velocities, and 2) the occupancy of Flood hazard areas by uses vulnerable to Floods. It is the policy of the City to reduce Flood damage and the number of people and Structures at risk in Flood hazard areas through Floodplain management, including such measures as Floodplain zoning ordinances, which require Structures to be built at Flood Protection Elevation and/or with Flood proofing, depending on the type of Structure.

4.10.2 Purpose. The legislature of the State of Idaho in Idaho Code §§ 46-1020 through 46-1024, inclusive, authorized local government units to adopt a Floodplain map and Floodplain management ordinance that identifies Floodplains and that sets forth minimum Development requirements in Floodplains that are designed to promote the public health, safety, and general welfare of its citizens. The City finds that the Flood Hazard Overlay District is extremely hazardous due to the velocity of Floodwaters, the potential of erosion and the dangers associated with floating debris. The provisions of this Section 4.10 are intended to 1) protect human life and health; 2) minimize the expense and inconvenience to property owners and the general public associated with Flood conditions; 3) insure that the potential buyers are notified that property may be subject to Flood hazards; 4) insure that those who occupy the areas of Flood hazard assume responsibility for their actions; 5) preserve the natural characteristics of water courses and natural protective barriers that help channel Flood water; 6) preserve, protect and enhance the fish, wildlife and riparian plant habitats; and 7) provide a formal procedure for proposed Developments and other encroachments in the Floodplain or Floodway and for stream alterations.

4.10.3 Definitions. The following definitions shall be used to define words and phrases within Article 4.10, Flood Hazard Overlay District. All other words and phrases not defined in Section 4.10.3, shall be defined by Article II of the Zoning Ordinance:

Basement. That portion of a building that is partly or completely below grade, or as more particularly described in the IBC or IRC An area of the building having its floor subgrade (below ground level) on all sides.

Base Flood. The Flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (“BFE”) or One Hundred (100) year Flood Elevation. The height of the Base Flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study (FIS) report, or depth of the Base Flood, usually in feet, above the ground surface. The water surface elevation during the Base Flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

Development. Any disturbance, cut, fill, new construction, exterior remodeling, landscaping, fencing, grubbing or site preparation. 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.

Flood Hazard Development Permit Board. The Floodplain Administrator, the City Engineer, and the Building Official.

Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Insurance Administration, delineating the areas of special Flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study (FIS). The official report by the Federal Insurance Administration evaluating Flood hazards and containing Flood profiles, Floodway boundaries and water surface elevations of the Base Flood.

Floodplain or Special Flood Hazard Area. A relatively flat area or low land adjoining a body of water which has been or may be inundated by water from the One Hundred (100) Year Flood, that is specifically defined as the "Special Flood Hazard Areas Inundated by 100-Year Flood" on the Flood Insurance Rate Map/Flood Hazard Boundary and Floodway Map (Community Panel Numbers 160022-0662, 160022-0664, 160022-0668, 160022-0856 and 160022-0857), dated November 26, 2010, or as modified by FEMA by an interpretation of on-site elevations. 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. That individual designated by the Administrator to administer Section 4.10 of this Ordinance.

Flood Protection Elevation (FPE). An elevation that corresponds to the elevation of the one percent (1%) chance annual Flood (Base Flood), plus any increase in Flood elevation due to Floodway encroachment, plus a Freeboard of 1 foot minus the Floodway encroachment elevation. Therefore the Flood Protection Elevation for the City of Hailey is equal to BFE plus 1 foot.

Floodway (Regulatory Floodway). That portion of the flood hazard area that includes the channel and the portion of the adjacent area which conveys the major portion of the flow for the one-hundred (100) year flood, that is specifically defined as the "Floodway Areas in Zone AE" on the Flood Insurance Rate Map/Flood Hazard Boundary and Floodway Map (Community Panel Numbers 160022-0662, 160022-0664 160022-0668, 160022-0856 and 160022-0857), dated November 26, 2010 or as modified by FEMA by an interpretation of on-site elevations. The channel of a river or other watercourse 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.

Lowest Floor. The lowest floor of the lowest enclosed area of a building, including a Basement. Any NFIP-compliant unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access, or storage (in an area other than a basement) is not considered a building's lowest floor, provided the enclosure does not render the structure in violation of the applicable design requirements of the NFIP.

RV. A vehicle which is: a) built on a single chassis; b) 400 square feet or less when measured at the largest horizontal projection; c) designed to be self-propelled or permanently towable by a light duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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 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 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".

#### 4.10.43 Establishment of the Flood Hazard Overlay District.

A. The following are hereby adopted by reference as the primary sources for Flood hazard analysis as identified by the Federal Insurance Management Administration:

1. Flood Insurance Study, Blaine County, Idaho and Incorporated Areas, City of Hailey, Idaho prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Management Administration, March 17, 1997 date November 26, 2010 (FIS). ("Flood Insurance Study").

2. Flood Insurance Rate Map, Blaine County, Idaho and Incorporated Areas, March 17, 1997 dated November 26, 2010 ("FEMA MAP") (FIRM).

3. Digital Flood Insurance Rate Map (DFIRM), Blaine County, Idaho and Incorporated Areas, date November 26, 2010.

B. The Flood Hazard Overlay District is hereby established. The regulations of this District apply to all lands within the jurisdictions of the City of Hailey that lie within the Floodplain boundaries as determined by the FIS and the FIRM.

C. Floodway and Floodplain Regulations. The Flood Hazard Overlay District is divided into two (2) sub-districts, the Floodway sub-district and the Floodplain sub-district. The boundaries of these sub-districts are indicated on the FIRM(s).

D. The precise boundaries of the Floodway and Floodplain sub-district boundaries may be determined by on-site elevations as interpreted from the adopted Flood Insurance Study. All land within the external boundary of the Floodplain sub-district shall be considered to be within the Floodplain and all land within the external boundary of the Floodway sub-district shall be considered to be within the Floodway, and governed by the provisions of this District.

4.10.54 Warning and Disclaimer of Liability. The degree of Flood protection required by this Section 4.10 is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger Floods may occur on rare occasions or Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This does not imply that areas outside the Flood hazard districts or land uses permitted within such districts will be free from Flooding or Flood damages. There shall not be any liability on the part of the City of Hailey or any officer or employee thereof for any Flood damages that result from reliance on the regulations of the Flood Hazard Overlay District or any decision lawfully made hereunder.

Each and every licensed real estate agent, sales person and broker, and each and every private party who offers for sale a parcel of real property and/or Structure for sale within the Flood Hazard Overlay District shall provide the prospective purchaser with notice that the real property and/or Structure is located within the Flood Hazard Overlay district.

4.10.65 ~~Floodplain Administrator. Administration.~~

4.10.5.1 ~~Designation of Floodplain Administrator.~~

~~A. The Floodplain Administrator, as designated by the Administrator, shall administer and implement this Section 4.10. by granting or denying applicable permit applications in accordance with its provisions. The Floodplain Administrator may transmit one (1) copy of the information described in Sections 4.10.7.1 and 4.10.8.1, below, to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating a proposed project.~~

~~B. 4.10.5.2 Duties and Responsibilities of the Floodplain Administrator and Flood Hazard Development Board.~~

~~a. Permit Review.~~

~~1. Review all Development permits with the Flood Hazard Development Permits Board to determine that the permit requirements of this Section 4.10 have been satisfied, and to make recommendations to approve, conditionally approve or deny issue any Flood Hazard Development Permits according to the procedures set forth in this Section 4.10.~~

~~2. Review all other Federal, State, and local government permits with Development permits with the Flood Hazard Development Permit Board for Development in the Floodplain. This includes, but is not limited to: US Army Corp of Engineers 404 Permits, Idaho Department of Water Resources Stream Channel Alteration Permits, and documentation of Section 9 and 10 of the Federal Endangered Species Act, if applicable. to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies when prior approval is required~~

~~b.3. Use of Other Base Flood Data.~~ When Base Flood Elevation data has not been provided in the FIS or FIRM, the Floodplain Administrator and the Flood Hazard Development Permit Board shall obtain, review and reasonably utilize any Base Flood Elevation and Floodway data available from a Federal, State or other source developed using current federal engineering standards and practices, in order to administer the regulations of this Section 4.10.

e. ~~Information to be Obtained and Maintained.~~

~~1.4. Where Base Flood Elevation data is provided through the FIS or FIRM, the Floodplain Administrator and the Flood Hazard Development Permit Board shall obtain, and record the actual elevation in relation to the vertical datum on the effective FIRM, or highest adjacent grade, of the Lowest Floor level, including Basement, of all new construction or substantially improved Structures. A current FEMA Elevation Certificate shall be obtained for and record the actual elevation (in relation to the mean sea level) of the lowest floor (including Basement) of all new or Substantially Improved Structures, if within the Floodplain.~~

~~2.5. For all new or substantially improved Flood proofed Structures, the Floodplain Administrator and the Flood Hazard Development Permit Board shall obtain, verify and record the actual elevation (in relation to the vertical datum on the effective Flood Map to which the Structures have been Flood-proofed mean sea level), and maintain the Flood proofing certification required in Section 4.10.7.~~

~~6. When Flood-proofing is utilized for a Structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect required in Section 4.10.7~~

~~3.7. Maintain for public inspection all records pertaining to the provision of this District.~~

~~4.8. In certain instances, there may be the need for expert review by a third party of the technical data submitted by the applicant. It shall be at the sole discretion of the Floodplain Administrator to determine whether such review is required. Such technical review shall be paid for by the applicant. The applicant shall pay the City the estimated cost of the expert review prior to further processing of the application by the City. If additional costs are incurred, the applicant shall pay those prior to issuance of a Flood Hazard Development Permit.~~

#### 4.10.76 Floodway and Floodplain Regulations.

##### 4.10.76.1 Floodway Sub-District Use Regulations.

Uses in the Floodway Sub-District are limited to the following:

- A. Permitted Uses.
  - 1. Open space recreation uses, provided that no Structure is constructed.
  - 2. River Restoration Projects, provided a stream alteration permit is issued;and.
  - 3. City projects and infrastructure, such as bridges and utility crossings, provided a stream alteration permit has been issued. ~~Any other Structure that has received a stream alteration permit.~~
- B. Prohibited Uses. All other uses are strictly prohibited.

4.10.7.2 Floodplain Sub-District Use Regulations.

Uses in the Floodplain Sub-District are limited to the following:

Aa. Permitted Uses.

1. Open space and recreational uses, provided they are not subject to Substantial Damage when Flooded and will not cause Flood losses on other land or to the public, or provided that they can be readily removed from the Flood hazard areas prior to the time of Flooding; and

2. River Restoration Projects, provided a stream alteration permit is issued.

Bb. Uses Requiring a Flood Hazard Development Permit.

1. ~~Single Family Dwellings and Accessory Uses. Any Development, excluding mining and dredging.~~

2. ~~Residential accessory dwelling units in accordance with the requirements of the underlying zoning district and this Section 4.10.~~

~~3. Subdivisions.~~

4. ~~Fill deposited in accordance with the standards set forth herein.~~

Ce. Prohibited Uses.

1. Any use not mentioned herein that is susceptible to Flood damage from the One Hundred (100) Year Flood or that could potentially cause Flood damage from such a Flood to other property.

2. RV's and ATV's stored or kept outdoors on any property more than 180 consecutive days; any vehicle must be fully licensed and ready for highway use.

Dd. Bulk Requirements. For other supplementary location and bulk regulations, see Article VII.

1. Minimum Lot Size – twenty-thousand (20,000) square feet for buildable lots. No minimum lot size for unbuildable lots. All land lying within the Floodway sub-district shall not be included in determining lot size.

2. Minimum Lot Width – seventy-five (75) feet.

3. Maximum Building Height – thirty (30) feet.

4. Minimum Front Yard Setback – twenty-five (25) feet.

5. Minimum Side and Rear Yard Setback – the setback from the adjacent property line shall be one (1) foot for every two (2) feet of building height for all portions of the building exceeding 20 feet in height, however, no side or rear yard shall be less than ten (10) feet.

6. Riparian Setback. Unless otherwise provided for herein, all permanent buildings and Structures in the Flood Hazard Overlay District shall have a one hundred foot (100') wide Riparian Setback from the mean high water mark of the Bigwood River. Removal of live vegetation or excavation within the Riparian Setback is prohibited, except for any tree that has been recommended for removal by a certified arborist, in writing, because the tree has been found to potentially endanger the resident(s) of the property on which it is located or any member of the public, or has become hazardous to any street, alley or other public right-of-way or public utility, or because the removal of a tree would substantially improve the health of other trees on the property. Pruning of trees and planting of riparian trees, shrubs and ground cover within the Riparian Setback are allowed, provided however, that all plantings conform to the criteria for evaluation in Section 4.10.7.2(h) of this Ordinance. Where the application of the one hundred

foot (100') Riparian Setback and other applicable setbacks will result in a building site of one thousand (1000) square feet or less, the Riparian Setback may be reduced to such an extent that the building site is one thousand (1000) square feet; provided however, the Riparian Setback shall not be less than fifty feet (50').

#### 4.10.76.3 Non-conforming Uses in the Flood Hazard Overlay District.

A. Structure or the use of a Structure or premises which was lawful before the passage or amendment of this Section 4.10 but which is not in conformity with the provisions of this District may be continued subject to the following conditions:

1. a) No such use shall be expanded, changed, enlarged or altered in a way which increases its non-conformity.

2. b) If any non-conforming use or Structure is partially or completely destroyed, it shall not be reconstructed except in conformity with the provisions of this Section 4.10.

3. e) Uses which are or become nuisances, as defined by Chapter 8.04 of the Municipal Code, shall not be entitled to continue as non-conforming uses.

4. d) Any alteration, addition or repair to any non-conforming Structure which would result in substantially increasing its Flood damage potential shall be required to obtain a Flood Hazard Development Permit pursuant to Section 4.10.7 of this Ordinance.

#### 4.10.87 Flood Hazard Development Permit.

##### 4.10.7.1 Procedure.

A. A Flood Hazard Development Permit shall be obtained before any site alteration, construction or Development begins within or upon any area located within the Floodplain Sub-District.

1. All applications for a Flood Hazard Development Permit for a subdivision shall be evaluated and approved or denied by the Commission and Council at the same time as the Preliminary and Final Plat applications, in accordance with the Subdivision Ordinance.

2. All other Flood Hazard Development Permit applications shall be evaluated and approved or denied by the Flood Hazard Development Permit Board subject to final approval or denial by the Commission on its consent agenda. The Board, who shall consist of the Floodplain Administrator, the City Engineer and the Building Official.

a. Notice of an application evaluated by the Flood Hazard Development Permit Board, providing a 10 day comment period, shall be mailed to property owners within 300 feet a minimum of 15 days prior to the Commission meeting.

3. For all new construction and Substantial Improvement of any commercial Structure and residential Accessory Structure, excluding Accessory Dwelling Units which are addressed in 4.10.7(A)(4), applying for a Flood Hazard Development Permit shall either submit an elevation certificate showing that the bottom of the Lowest Floor of the Structure is elevated to the Flood Protection Elevation or provide Flood-proofing measures, in accordance with this Section 4.10.

4. Any residential Dwelling Unit, including any Accessory Dwelling Unit, applying for a Flood Hazard Development Permit shall submit an elevation certificate showing

that the bottom of the Lowest Floor of the Structure is elevated to the Flood Protection Elevation.

5. In all Areas of Special Flood Hazard where the Flood Protection Elevation is established, the following standards for manufactured homes and recreational vehicles that are an allowed use under the zoning ordinance shall apply:

a. Manufactured homes placed or substantially improved:  
i) On individual lots or parcels,  
ii) In new or substantially improved manufactured home parks or subdivisions, or

iii) In expansions to existing manufactured home parks or subdivisions, or on a site in an existing manufactured home park or subdivision where a manufactured home has incurred Substantial Damage as the result of a Flood, must have the Lowest Floor, including Basement, elevated to the Flood Protection Elevation.

b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:

i) The Lowest Floor of the manufactured home is elevated to the Flood Protection Elevation or one foot above the level of the Base Flood elevation, whichever is higher, or

ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches above the highest adjacent grade.

c. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to, and consistent with, applicable state requirements.

d. Manufactured homes placed on solid perimeter walls shall meet the Flood vent requirements in Article 4.10.7(C)(13).

6. In AH Zones, where flood depths are 1 to 3 feet and BFEs are determined, drainage paths shall be provided to guide Flood water around and away from proposed and existing Structures.

7. In all Areas of Special Flood Hazard, RVs, must either:

a. Be on the site for fewer than 180 consecutive days; and

b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices; and have no permanently attached Structures or addition, or

c. The RVs must meet all the requirements for "New Construction," including the anchoring and elevation requirements.

8. Where the Floodway has not been determined, no new construction, Substantial Improvements, or other Development (including fill) shall be permitted in Zones A1-30 and AE on the effective 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. Applicants of proposed projects that increase the Base Flood Elevation more than one foot are required to obtain and submit to the Floodplain Administrator, a Conditional Letter of Map Revision (CLOMR) preconstruction.

B. An application for a Flood Hazard Development Permit shall be made on a

form furnished by the Floodplain Administrator. Such application shall contain, at a minimum, the following (if applicable):

a-1. Plans drawn in duplicate and to scale showing 1) the existing contours with intervals of one foot (1') or less of the elevation of the entire property, 2) the proposed contours with intervals of one foot (1') or less of the elevation of the entire property, and 3) the location, dimensions and elevations (measured from mean sea level) of the proposed improvements, including buildings, Structures, fill, drainage facilities, driveways and streets.

b-2. Certification by a registered professional engineer/architect that the Flood-proofing methods meet the Flood hazard reduction provisions of this Section 4.10.

e-3. A description of the extent to which any watercourse would be altered or relocated.

d-4. Copies of all All required and necessary submitted federal and state applications or permits approved federal and state permits, including studies and mitigation plans for wetlands (e.g., 404 permits, Endangered Species Act consultation).

4.10.7.2 C. Criteria for Evaluation. The Flood Hazard Development Permit Board, the Commission or the Council, as the case may be, shall evaluate and find adequate evidence to support each of the following criteria:

1.a. There will be no significant danger to life and property due to increased Flood heights or velocities or that any materials may be swept on to other lands or downstream to the injury of others.

2.b. All subdivision proposals shall ~~have adequate drainage to reduce exposure to Flood damage:~~

a. Have adequate drainage provided to reduce exposure to Flood hazards.

b. Reduce Flood damage, to the extent possible, through design criteria, such as requiring building envelopes, minimizing the size of building envelopes, locating building envelopes in the safest locations, reducing the number and size of encroachments in the Floodplain and providing unobstructed passage of Flood waters.

c. Have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize Flood damage.

d. Include the mapped Flood hazard zones from the effective FIRM shown on the preliminary plat.

e. Generate and/or provide Base Flood Elevation data for subdivision proposals and all other proposed Development, including manufactured home parks and subdivisions, greater than fifty lots or five (5) acres, whichever is less.

~~3.c. Public utilities and facilities are located and constructed to minimize Flood damage.~~

3.d. The proposed location represents the safest location on the subject property for the proposed use.

4.e. Safe access to the property shall be available in times of a One Hundred (100) Year Flood for ordinary and emergency vehicles.

5.f. Inherent natural characteristics of the watercourses ~~will~~ shall be preserved.

~~6.g.~~ Existing riparian vegetation and wildlife habitat along the stream bank and within the required one hundred foot (100') riparian setback shall be preserved.

~~7.h.~~ New landscaping shall include plantings that are low-growing and have dense root systems to stabilize stream banks and to repair any damage previously done to riparian vegetation.

~~8.i.~~ All new construction, manufactured homes as defined and permitted in this Ordinance, accessory buildings, and Substantial Improvements shall be anchored to prevent flotation, collapse or lateral movement.

~~9.j.~~ All new construction and Substantial Improvements shall be constructed with materials resistant to Flood damage and constructed using methods and practices that minimize Flood damage. The lowest portion of a floor system of new construction or Substantial Improvement of any Structure shall be elevated to a or above the level at least one foot (1') above the Base Flood of the Flood Protection Elevation. Any electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall also be designed and elevated to or above the level of the Flood Protection Elevation at least one foot (1') above the Base Flood Elevation.

~~10.k.~~ Any proposed water supply and sanitation system shall prevent disease, contamination and unsanitary conditions.

~~1a.~~ All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of Flood waters into the system.

~~2b.~~ New and replacement water sanitary sewage systems shall be designed to minimize or eliminate infiltration of Flood waters into the systems and discharge from the systems into Flood waters.

~~3c.~~ On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during Flooding.

~~11.~~ Any chemicals or other toxic materials that could cause contamination of surface waters or ground water, or that could be injurious to public health, safety and welfare shall be located at least one foot (1') above the Base Flood Elevation and stored in a manner that prevents their release in the event of a Flood.

~~12m.~~ The lowest portion of a floor system of new construction or Substantial Improvement of any Structure shall be elevated to a level at least to the Flood Protection one foot (1') above the Base Flood Elevation. ~~Any Fill shall not exceed the Base Flood Elevation.~~ Any Fill shall not extend more than twenty-five feet (25') beyond the limits of any Structure erected on a lot or property ("backfill"); provided, however, Fill may extend more than twenty-five feet (25') beyond the limits of any Structure erected on a lot or property only if the cumulative ~~amount volume~~ amount volume of the Fill below the BFE does not exceed the ~~amount volume~~ amount volume of backfill below the BFE allowed by within the twenty-five foot (25') perimeter. Fully enclosed areas below the Lowest Floor 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 must either be certified by a registered professional engineer/architect ~~or and~~ must meet or exceed the following minimum criteria:

~~1a.~~ 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.

~~2b.~~ The bottom of all openings shall be no higher than one foot (1') above the proposed grade.

~~3c.~~ Openings may be equipped with screens, louvers or other

coverings or devices provided that they permit the automatic entry and exit of Floodwater.

d. Below grade crawlspaces are prohibited at sites where the velocity of Floodwaters exceed 5 ft/second

e. Interior grade of the crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG)

f. Height of the below grade crawlspace, measured from the lowest interior grade of the crawlspace to the bottom of the floor joist must not exceed 4 feet at any point

g. Contain an adequate drainage system that removes Floodwaters from the interior area of the crawlspace

13n. Encroachments in the Floodway, including Fill, new construction, Substantial Improvements and other Development shall require certification from a registered professional hydraulic engineer certifying the following:

a. Such encroachments shall not result in any increase in Flood levels during the occurrence of a Flood, and

b. ~~The placement of an encroachment will result in no net loss in natural storage area within the Flood Hazard Overlay District.~~

#### 4.10.7.3 D. Conditions.

1. Upon consideration of the criteria in Section 4.10.7-2C, above, the Flood Hazard Development Permit Board, the Commission or the Council, as the case may be, may attach such conditions to the permit, as deemed necessary to further the purposes of this District, including but not limited to:

a. Modification of water disposal and water supply facilities to minimize or eliminate infiltration of Flood waters.

b. Limitations of periods of use and operation.

c. Imposition of operational controls, sureties and deed restrictions.

d. Requirements or prohibition of construction of channel modification dikes, levees and other protective measures.

e. Submission of a plan or document certified by a registered professional engineer/architect stating that the Flood-proofing measures comply with this Section 4.10.

f. Flood-proofing measures for Structures such as the following:

1-i) Installation of watertight doors, bulkheads, shutters, and similar Structures

2-ii) Reinforcement of walls to resist water pressures.

3-iii) Use of paints, membrane or mortars to reduce seepage of water through walls.

4-iv) Addition of mass or weight to Structures to resist flotation.

5-v) Installation of pumps to lower water levels in Structures.

6-vi) Construction of water supply and waste treatment systems so as to prevent the entrance of Flood waters.

7-vii) Installation of pumping facilities or comparable sub-surface drainage systems for buildings to relieve external foundation wall Flood pressures.

8-vii) Construction to resist rupture or collapse caused by water pressure or floating debris.

9-ix) Installation of valves or controls on sanitary and storm drains that will permit the drains to be closed to prevent back-up of sewage and storm waters into the building or Structures.

10-x) Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to Flooding and to provide protection from inundation by the Flood waters.

11-xi) Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials which could be hazardous to public health, safety and welfare in a manner which will assure that the facilities are situated at least one foot (1') above the Base Flood Elevation and/or are adequately Flood-proofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into Flood waters.

g. Location of building pads or envelopes.

h. Installation and maintenance of new landscaping and preservation of existing riparian vegetation.

i. Issuance of Obtain all required and necessary Federal and State permits (e.g., 404 permits, Endangered Species Act consultation, etc).

j. Any other condition reasonably related to the issuance of a Flood Hazard Development Permit.

4.10.98 City Issued Stream Alteration Permit. Except as otherwise provided herein, no person may excavate in, disturb, fill, build in, upon or across, deposit in, or change the channel of any non-intermittent stream within the Flood Hazard District without a Stream Alteration Permit issued by the Commission. By way of example, stream alteration permits are required for uses or Structures within a channel of a non-intermittent stream needed for public necessity (e.g., bridges, water pumps), recreational use (e.g., paths), wildlife habitat improvements (e.g. vegetation, nesting Structures, pool/riffle improvements), and gravel extraction (e.g., to benefit the health of the river and stream flows). Stream Alteration Permits are not required for irrigation diversions.

14.10.8.1. Application. Applications shall be made for a Stream Alteration Permit upon a form furnished by the Floodplain Administrator. Emergency waiver of the written application may be granted only after approval by at least three (3) Planning and Zoning Commission members. Information to be provided by the applicant for any Stream Alteration Permit issued hereunder shall include, but not necessarily be limited to, the following:

- a. Applicant's name, address and phone number.
- b. Name of engineer, if any, who prepared the application.
- c. Property location and legal description.
- d. Name and reach of stream and area of proposed work.
- e. Length of the stream section to be worked on.
- f. Type of work to be done.
- g. Type of equipment to be used.
- h. Starting and completion dates of work.
- i. Vicinity map of the area.

j. Names and addresses of property owners on both sides of the stream three hundred feet (300') upstream and one thousand feet (1000') downstream from the proposed work site.

k. Plans and information at a quarter inch (1/4") scale, accurately and legibly showing:

i)1. Location and dimension of lot or property.  
ii)2. Location of existing or proposed Structures and location of previous stream alterations.

iii)3. Typical cross-section of the proposed work.  
ix)4. Location of the lot or property in relation to the stream channel, Floodway, and Floodplain.

x)5. A valley cross-section of the area to be altered, if requested by the City Engineer, showing the stream channel, Floodway limit lines, elevations of land area adjacent to the stream, and the Base Flood Elevation. The City Engineer, and FEMA officials, if requested by the City Engineer, shall review and approve or disapprove the cross-section.

xi)6. Location of any drainage ways or overflow channel through the property affected.

1. A statement addressing potential beneficial and adverse impacts in the immediate project area (upstream, downstream and across the stream).

24.10.8.2. Public Hearing. Each application shall be reviewed at public hearings before the Commission following adequate public notice.

a. Notice shall be given by United States Mail insofar as practicable to each property owner whose name appears on the list accompanying the application, giving the date, time and place of the hearing, the action sought, and the identification of the property under consideration. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of notice may be provided in lieu of mailed notice. Sufficient notice shall be deemed to have been provided if the City provides notice through a display advertisement at least four inches (4") by two (2) columns in size in the official newspaper of the City at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

b. The Idaho Department of Water Resources shall be notified by the applicant prior to any alteration or relocation of a watercourse, and the Floodplain Administrator shall submit evidence of such notification to the Federal Insurance Management Administration.

c. In any public hearing on a Stream Alteration Permit application, the presiding officer may order the hearing to be continued up to thirty (30) days without further notice.

34.10.8.3. Commission Evaluation. A completed application will be heard by the Commission at a public hearing within a maximum of ~~thirty (30)~~ forty-five (45) days following its receipt. The Commission shall review the particular facts and circumstances of each proposed stream alteration and make its determination.

a4.10.8.3.1. Standards. No Stream Alteration Permit shall be issued unless the Commission finds adequate evidence that the following mandatory requirements have

been met:

i)a. The applicant has been granted agrees to obtain and abide by all necessary permits from the Army Corps of Engineers, and from the Idaho Department of Water Resources, and compliance with Sections 9 and 10 of the Endangered Species Act, if applicable.

ii)b. The stream alteration desired will not involve placing an encroachment, Structure, fill, deposit, obstruction, storage of materials, or storage of equipment in the Floodway unless certification by a registered engineer is provided demonstrating that such alteration will not result in any increase in Flood levels during occurrence of a One Hundred (100) Year Flood.

iii)e. The stream alteration desired will not materially increase the ~~boundaries area~~ of the Floodplain and Floodway Sub-Districts.

iv)d. No property of another person will be adversely affected by the proposed stream alteration whether such property is adjacent to, upstream or downstream from the proposed stream alteration.

v)e. The stream alteration does not jeopardize the City's participation in the National Flood Insurance Program.

vi) Adjacent communities, the U.S. Army Corps of Engineers and the Idaho Department of Water Resources Stream Channel Alteration program must be notified prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the Floodplain Administrator and to the Federal Emergency Management Agency.

vii) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course so that the Flood carrying capacity will not be diminished.

b.4.10.8.4 Conditions. The Commission may attach conditions to any Stream Alteration Permit, including, but not limited to the following:

i)a. Requiring work to be done at times of lowest water.

ii)b. Requiring work to be done by appropriate construction equipment.

iii)e. Requiring the project to be built to Idaho Department of Water Resources, Army Corps of Engineers, or City of Hailey Standard Specifications and Standard Drawings.

iv)d. Requiring that a registered engineer certify, in writing, that the work has been completed according to the City requirements and stipulations.

v)e. Requiring any modification in the extent or design of the proposed work in order to meet the mandatory conditions imposed by this Section 4.10.

vi)f. Requiring preservation of existing vegetation, re-vegetation or placement of fish or wildlife enhancement features.

vii)g. Posting of sufficient security to insure the completion of the work.

viii)h. Requiring review or approval of the application by other agencies or governmental units.

ix)i. Requiring the work to be done at a certain height or

location.

Floodway.

~~x)j~~- Requiring reclamation of eroded stream banks in the

~~xi)k~~- Requiring overflow channels to remain open.

~~xii)l~~- Restricting the future location of building envelopes.

~~xiii)m~~- Requiring modifications of the project so as not to raise  
increase the level of the Base Flood Elevation and not to encroach upon the Floodway.

~~xiv)n~~- Requiring maintenance within the altered or relocation  
portion of said watercourse so that the Flood carrying capacity is not diminished.

~~xv)o~~- Issuance of all required and necessary Federal and State  
permits (e.g., 404 permits).

~~xvi)p~~- Any other condition reasonably related to the issuance of a  
Stream Alteration Permit.

2.10.109 Violation. Any person, entity or organization which performs or causes or permits to be performed any work or activity in violation of this Section 4.10 or who performs any work in excess of the authority granted by the issuance of a Flood Hazard Development Permit or a Stream Alteration Permit hereunder or who violates any condition or stipulation placed upon the issuance of a Flood Hazard Development Permit or a Stream Alteration Permit shall be guilty of a misdemeanor and upon conviction thereof may be sentenced to serve six (6) months in jail or pay a fine of three hundred dollars (\$300.00) or both. Each day or portion thereof during which any work performed in violation of this Article continues in existence shall constitute a separate and distinct violation of these provisions. All enforcement provisions of Article XV of this Ordinance shall be applicable to any violation of this Article.

Section 2. Severability Clause. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 3. Repealer Clause. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 4. Effective Date. This ordinance shall be in full force and effect from and after the approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY  
THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
Richard L. Davis, Mayor, City of Hailey

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk, City of Hailey

