

AGENDA
HAILEY PLANNING & ZONING COMMISSION
Monday, February 5, 2018
Hailey City Hall
5:30 p.m.

Call to Order

Public Comment for items not on the agenda

Consent Agenda

CA 1 Adoption of the Findings of Fact, Conclusions of Law and Decision for a City-Initiated Text Amendment to Title 17, Section 17.02, Definitions, to clarify and amend the definition of: Dwelling Unit. The amendment would include changes to the minimum gross floor area in that every dwelling unit shall have not less than two hundred (200) square feet of gross floor area, instead of one hundred twenty (120) square feet of gross floor area, and to reconsider changes that ensure that the primary residential unit on a lot shall not be smaller than any accessory unit.

Public Hearings

PH 1 Continuation of a City-initiated Text Amendment to Title 17, Section 17.04J, Flood Hazard Overlay Zoning District (FH), to update the existing code to meet current standards and recommendations from the State of Idaho Floodplain Coordinator and the National Flood Insurance Program (NFIP) and to reflect lessons learned in the 2017 flooding. The existing code section will be repealed and replaced in its entirety. Proposed changes include: new definitions, permit exemptions, limitations on fill and edits intended to streamline administration of the code. This meeting was continued from the January 22, 2018, public hearing.

Staff Reports and Discussion

SR 1 Discussion of current building activity, upcoming projects, and zoning code changes.
(no documents)

SR 2 Discussion of the next Planning and Zoning meeting: **Tuesday, February 20, 2018**
(no documents)

Adjourn

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On January 29, 2018, the Hailey Planning and Zoning Commission considered a City-initiated Text Amendment to the Title 17, Section 17.02, Definitions, to clarify and amend the definition of: Dwelling Unit. The amendment would include changes to the minimum gross floor area in that every dwelling unit shall have not less than one hundred fifty (150) square feet of gross floor area, replacing the current regulation of one hundred twenty (120) square feet of gross floor area, and to reconsider changes that ensure that the primary residential unit on a lot shall not be smaller than any accessory unit.

Background

As part of the Hailey City Council's review of the Small Residential Apartment Housing Overlay (AHO), the following definition came to the Council's attention:

DWELLING UNIT: A building or separate portion thereof having a single kitchen and providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, to be occupied exclusively as a residence. Every dwelling unit shall have at least one habitable room that shall have not less than one hundred twenty (120) square feet of gross floor area, or other area as specified in the IBC or IRC.

The Council felt that this minimum is too small, and directed staff to prepare amendments to the above.

The IBC specifies that all dwelling have at least one room of 120 square feet. Overall buildings must be 150 square feet under the IRC. However, plumbing code standards (minimum clearances) could make these minimums difficult to achieve.

Staff brought a text change to the Commission suggesting that the minimum unit size be 200 square feet. The Commission discussed this item at their September 11 meeting; the consensus of the Commission was that 150 gross square feet was an appropriate number, along with other minor changes as discussed in the meeting. The Commission based their recommendation on the following:

- 150 square feet aligns with adopted IRC building code requirements.
- This size does not mean units will be built this small, if there is not a market for such, but if there is a market for small units, the City is protected via other review processes in place.
- Housing is a goal of the Commission, and this may create opportunities.

The Council considered the recommendation from the Commission at two hearings, and remanded the text change at their December 11, 2017 meeting. The Council requested that the Commission consider additional text to ensure that accessory dwelling units are always subordinate to primary units. In other words, the regulations should not allow a primary unit as small as 150 or 200 square feet if an accessory unit can be 300-900 square feet. The City Attorney recommends that the language in the Code regarding Accessory Dwelling Units and Accessory Uses makes clear that these units and uses are subordinate, which includes size:

Accessory Dwelling Unit. A structure subordinate to the principal use on the same lot or premises having kitchen facilities and at least one bathroom, to be occupied as a residence, which is incidental to the use of the principal building.

Accessory Use. An accessory use is a use subordinate to the principal use on the same lot or premises, and serving a purpose customarily incidental to the use of the principal use and is a use that is commonly, habitually and by long practice, established or associated in the City with such principal use.

The Commission found that the above language, coupled with the Design Review Standards related to Accessory Building, ensure that accessory buildings will remain subordinate to principal buildings. Therefore, the Commission recommends that no additional code changes are needed to address the Council's concerns.

Notice

Notice for the January 29, 2018, public hearing was published in the Idaho Mountain Express on January 10, 2018. The notice was mailed to adjoiners and public agencies on January 10, 2018.

Criteria for Review.

Section 17.14.060(A) of the Hailey Municipal Code provides "[w]hen evaluating any proposed amendment under this chapter, the hearing examiner or commission and council shall make findings of fact on the following criteria:

1. The proposed amendment is in accordance with the comprehensive plan;
2. 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;
3. The proposed uses are compatible with the surrounding area; and
4. The proposed amendment will promote the public health, safety and general welfare.

1. The proposed amendment is in accordance with the comprehensive plan.

The 2010 Hailey Comprehensive Plan anticipates new development that is compatible with neighborhood character.

The following policies from the Comprehensive Plan are relevant to this text change.

3.1 Assure the protection and preservation of Special Sites, Areas and Features to maintain a strong community identity for future generations.

The Comprehensive Plan identifies Special Areas that merit careful planning. The Comprehensive Plan suggests Overlay Districts as a good tool to protect Special Areas;

Special Areas include cultural and scenic amenities, such as trails along the Big Wood River, the original townsite grid pattern and historic downtown area. Open space surrounding Hailey, including the undeveloped area between the cities of Hailey and Bellevue, visible ridgelines, undeveloped hillsides and agricultural areas are also Special Areas that help define the rural character of Hailey.

Overlay districts or other special planning tools can be utilized to help plan for special sites, areas and features. For example, the Original Hailey Townsite Overlay District allows for reasonable flexibility in ordinance requirements, which helps achieve dual goals of a compact community core and retaining the character of Old Hailey.

The Council considered the above in their adoption of the Small Residential Overlay. Other overlay tools could be considered to encourage infill housing. The proposed text change will not affect overall density unless coupled with other code changes. The Commission found that this standard has been met.

5.6 Encourage development at the densities allowed in the Zoning Code.

The proposed text change would change unit size, but not overall density.

2. 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 text change will ensure adequate living space for all dwelling units, as well as the necessary services for these units. The Commission found that this standard has been met.

3. The proposed uses are compatible with the surrounding area.

The proposed text change will allow for compatibility. The Commission found that this standard has been met.

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

The amendments recommended by the Commission are consistent with the Hailey Comprehensive Plan. Consideration has been given to compatibility with surrounding neighborhoods and downtown Hailey. The Commission found that these amendments will promote the public health, safety and general welfare.

CONCLUSIONS OF LAW AND DECISION

Based on the above Findings of Fact, the Commission, on a unanimous vote, concluded that adequate notice, pursuant to Title 17, Section 17.02, was given, and is proper, and makes the following recommendations:

The Commission finds that the Text Amendment to Zoning Code Title 17, Section 17.02 as outlined in the attached draft Ordinance, clarifying and amending the definition of: Dwelling Unit. The amendment would include changes to the minimum gross floor area in that every dwelling unit shall have not less than one hundred fifty (150) square feet of gross floor area, replacing the current regulation of one hundred twenty (120) square feet of gross floor area.

This amendment is 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.

The Commission thereby recommends approval to the Hailey City Council of Hailey Ordinance No. _____, regarding Residential Dwelling Unit size.

Signed this ____ day of _____, 2018.

Janet Fugate, Chair

Attest:

Robyn Davis, Community Development Assistant

HAILEY ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING TITLE 17 OF THE HAILEY MUNICIPAL CODE, BY AMENDING SECTION 17.02.020, DEFINITIONS TO MODIFY THE MINIMUM DWELLING UNIT SIZE FOR DWELLINGS IN HAILEY; 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, Zoning Code Chapter 17.02 contains a definition of “Dwelling Unit”;

WHEREAS, the Council has determined that the current minimum dwelling unit size of 120 square feet is too small to allow for adequate light and air, and may be incompatible with Hailey neighborhoods;

WHEREAS, the Hailey Planning and Zoning Commission has conducted three (3) public hearings on this matter and makes the recommendations noted in their Findings of Fact, Conclusions of Law and Decision dated January 29, 2018;

WHEREAS, the amendments set forth in this ordinance is in accordance with Hailey’s Comprehensive Plan;

WHEREAS, essential public facilities and services are not affected by this amendment;

WHEREAS, the proposed amendment will help ensure that design review projects are compatible with the surrounding area; and

WHEREAS, the zoning text amendment set forth in this ordinance will promote the public health, safety and general welfare.

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

Section 1. Section 17.06.02.020 of the Hailey Municipal Code is hereby amended by the addition of the underlined language and by the deletion of the stricken language, as follows:

DWELLING UNIT: A building or separate portion thereof having a single kitchen and providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, designed to be occupied exclusively as a residence. Every dwelling unit shall have shall have a total gross floor area of not less than 150 gross square feet , at least one habitable room that shall have not less than one twenty (120) square feet of gross floor area, or other area and shall include other requirements as specified in the IBC or IRC.

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 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 required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS __ DAY OF _____, 2018.

Fritz X. Haemmerle, Mayor, City of Hailey

Attest

Mary Cone, City Clerk

Return to Agenda

STAFF REPORT

TO: Planning and Zoning Commission

FM: Lisa Horowitz and Rebecca F. Bundy, Certified Floodplain Manager

RE: Consideration of Amendments to Hailey Municipal Code, Section 17.04J, Flood Hazard Overlay District (FH)

HEARING: February 5, 2018

Background

The 2017 flooding event provided an opportunity to see the City's emergency operations plans, regulations and procedures in action. After the floodwaters subsided, staff reviewed the flood hazard section of the code to determine what worked well and what could be improved.

Among other things, the depth of flooding made it apparent that increased freeboard might be warranted, water displacement and diversion issues made it clear that there should be increased oversight over placement of fill and installations that might cause damming of the floodwaters and it became apparent that the code could be easier to administer if some specific, non-impactful items could be exempted from the permitting requirements. In addition, staff communicated with the State of Idaho Floodplain Coordinator, who provided the State of Idaho Model Floodplain Ordinance that contains all regulations required by the State, as well as some recommended regulations.

Using the model code as the basis for the revised floodplain ordinance, staff worked to dovetail the existing ordinance into the model code to ensure that no existing regulations were lost. In addition, staff incorporated the recommendations from the Association of Idaho Cities regarding how to respect the State Irrigation and Drainage Statutes while still satisfying the National Flood Insurance Program (NFIP) requirements. The result is a more comprehensive and more specific code that meets NFIP and State requirements.

The Commission initiated their review of this item on October 10, 2017, followed by subsequent reviews on November 14, 2017, December 12, 2017 and January 22, 2018. Review will pick up where the Commission left off (after page 41 of Attachment A, Section 17.04J, Flood Hazard Overlay District (FH)).

In response to comments received prior to and discussed at the January 22 meeting, staff has conducted research pertaining to FEMA's interpretation of the items in question. This is included in this staff report as Attachment B, National Flood Insurance Program Requirement Interpretation.

Section 17.04J, Flood Hazard Overlay District (FH): See Attachment A

Criteria for Review.

Section 17.14.060(A) of the Hailey Municipal Code provides "[w]hen evaluating any proposed amendment under this chapter, the hearing examiner or commission and council shall make findings of fact on the following criteria:

1. The proposed amendment is in accordance with the comprehensive plan;
2. 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;
3. The proposed uses are compatible with the surrounding area; and
4. The proposed amendment will promote the public health, safety and general welfare.

1. The proposed amendment is in accordance with the comprehensive plan.

The 2010 Hailey Comprehensive Plan anticipates new development that is compatible with neighborhood character.

The following policies from the Comprehensive Plan are relevant to this text change.

1.1 Preserve, protect and restore natural resources including waterways, floodplains, wetlands, soil, community forest, native vegetation, green space and wildlife habitat and migration corridors for the benefit of the City and its residents.

The proposed code revisions retain all current measures for protection of waterways, floodplains, wetlands and riparian habitat and strengthen them by limiting the amount of fill that may be placed in the floodplain.

2.1 Reduce the potential threat to loss of life, limb or property and minimize public expenditures due to natural and man-made hazards.

The proposed code revisions are based on the State of Idaho Model Floodplain Ordinance and meet or exceed the minimum NFIP requirements for reduction of the potential threat to loss of life, limb or property and minimize public expenditures due to flooding. The proposed code exceeds the minimum general freeboard, critical facility freeboard, riparian setback and fill in the flood fringe requirements.

2. 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 code revisions will not result in a change in allowed uses nor will they create excessive additional requirements at public cost for services. They are intended to clarify regulations and procedures to simplify administration of the requirements.

3. The proposed uses are compatible with the surrounding area.

The proposed code revisions will not result in a change in allowed uses.

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

The amendments recommended are consistent with the Hailey Comprehensive Plan. The proposed

code revisions will not result in a change in allowed uses. The proposed code revisions are based on the State of Idaho Model Floodplain Ordinance and meet or exceed the minimum NFIP requirements for reduction of the potential threat to loss of life, limb or property and minimize public expenditures due to flooding. Staff recommends that these amendments will promote the public health, safety and general welfare.

MOTION LANGUAGE

Approval:

I move to recommend approval to the City Council of the attached revisions to Hailey Municipal Code Section 17.04J, Flood Hazard Overlay District (FH), subject to the revisions herein, finding the amendments are in accordance with the Comprehensive Plan, that 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, that the proposed uses are compatible with the surrounding area, and that the proposed amendment will promote the public health, safety and general welfare.

Denial:

Motion to recommend denial of the attached revisions to Hailey Municipal Code Section 17.04J, Flood Hazard Overlay District (FH), finding that _____ [the Commission 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 to _____ [the Commission should specify a date].

LEGEND:

Black text = Idaho Model Ordinance required items

✓ = Items in Model Ordinance that are already in current Hailey code.

Red text = Insertions specific to City of Hailey

Purple text = Items added from current Hailey code

Blue text = State recommended text

Green text = Staff recommended text

Green underlined text = Staff recommended text since original draft

Red underlined text – Staff text added to reflect commission’s October 10, 2017, November 14, 2017, December 12, 2017 and January 22, 2018 comments

Brown text = State guidance related to operation and maintenance of irrigation and drainage works

(Black italics in parentheses) = Notes

(Orange italics in parentheses) = CRS notes

17.04J. ~~FLOOD DAMAGE PREVENTION ORDINANCE~~ FLOOD HAZARD OVERLAY DISTRICT (FH)

ORDINANCE NO. _____

17.04J.010. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

A. Statutory Authority

The Legislature of the State of Idaho, pursuant to Idaho Code §§ 46-1020, 46-1023, and 46-1024, authorizes local governments to adopt floodplain management ordinances that identify floodplains and minimum floodplain development standards to minimize flood hazards and protect human life, health, and property. Therefore, the **City Council** of the **City of Hailey**, Idaho does hereby ordain as follows:

B. Findings of Fact

1. The flood hazard areas of **City of Hailey** are subject to periodic inundation that results in:
 - a. loss of life and property; ✓
 - b. health and safety hazards; ✓
 - c. disruption of commerce and governmental services;
 - d. extraordinary public expenditures for flood relief and protection; and ✓
 - e. impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. ✓
2. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, ✓ **as well as the occupancy of flood hazard areas by uses vulnerable to floods.**
3. Local government units have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management. **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 floodproofing, depending on the type of structure.**

C. Statement of Purpose

The purpose of this ordinance is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life, health, and property; ✓
2. Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
4. Minimize expenditure of public money for costly flood control projects;
5. Minimize the need for rescue and emergency services associated with flooding, generally undertaken at the expense of the general public;
6. Minimize prolonged business interruptions;
7. Ensure potential buyers are notified the property is in an area of special flood hazard; ✓
8. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions; ✓
9. Minimize the expense and inconvenience to property owners and the general public associated with flood conditions;
10. Preserve the natural characteristics of watercourses and natural protective barriers that help channel floodwater;
11. Preserve, protect and enhance the fish, wildlife and riparian plant habitats; and
12. Provide a formal procedure for proposed developments and other encroachments in the floodplain or floodway and for stream alterations.

D. Objectives and Methods of Reducing Flood Losses

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

1. Require that development which is vulnerable to floods, including structures and facilities necessary for the general health, safety, and welfare of citizens, be protected against flood damage at the time of initial construction;
2. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

3. Control filling, grading, dredging, and other development which may increase flood damage or erosion;
4. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands; and
5. Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters.

17.04J.020. GENERAL PROVISIONS

A. Lands to Which This Ordinance Applies

This Ordinance shall apply to all Special flood hazard areas within the jurisdiction of **City of Hailey**. Nothing in this ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance. ✓

B. Basis for Special Flood Hazard Areas

1. The special flood hazard areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for **Blaine County, Idaho and Incorporated Areas**, dated **November 26, 2010**, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the office of the **Community Development Department at 115 Main Street South, Hailey, Idaho**. **The DFIRM is available on Blaine County's website at: <http://maps.co.blaine.id.us/jsapi/ParcelInfoMap.html>** ✓
2. **Floodway And Floodplain Regulations:** The flood hazard overlay district is divided into two (2) subdistricts, the floodway subdistrict and the floodplain subdistrict. The boundaries of these subdistricts are indicated on the FIRM(s).
3. **Boundaries:** The precise boundaries of the floodway and floodplain subdistrict boundaries may be determined by on site elevations as interpreted from the adopted flood insurance study. Interpretations of the elevation information can result in a floodplain/floodway area greater than that depicted on the FIRMs. The floodplain/floodway areas cannot be less than the area depicted on the FIRMs unless changed by a letter of map revision (LOMR). All land within the external boundary of the floodplain subdistrict shall be considered to be within the floodplain and all land within the external boundary of the floodway subdistrict shall be considered to be within the floodway, and governed by the provisions of this district.

C. Activities Exempt from Requiring a Floodplain Development Permit *(The language in items 1 and 2 below is taken from a guidance document created for the Association of Idaho Cities. It is intended to protect the irrigation companies' rights, while still satisfying NFIP requirements.)*

1. A floodplain development permit shall not be required for activities, performed by an irrigation delivery entity, that involve passive cleaning, maintenance, operation and repair activities, typically on-going and routine in nature; and underground or above ground construction activities that do not result in a measurable increase to the BFE. Local irrigation districts, canal companies, and other irrigation entities shall manage the water resources of the State in a responsible manner under the premises of 44 CFR §59-78, Idaho Code Titles 42, 43 and 46, and local community floodplain ordinances. Except as provided for by Idaho Code Titles 42, 43 and 46, this permit exemption shall not apply to any work in the floodway, or below the mean high water mark, of the Big Wood River.
2. Notice of any development other than that described in Section 17.04J.020,C. 1 above, performed by an irrigation delivery entity, such as other construction/maintenance activities, typically above ground activities that do not result in a measurable increase to the BFE, shall be provided to the floodplain administrator in writing for all such projects prior to commencement of project related activities. The floodplain administrator shall review the proposed development to determine whether a floodplain development permit shall be required.
3. The following items are exempt from requiring a floodplain development permit for all constituents, provided that all pertinent regulations in the Hailey Municipal Code, including, but not limited to, Title 13, Public Services; Title 15, Buildings and Construction; and Title 17, Zoning Regulations, including this article, 17.04J, Floodplain Damage Prevention Ordinance, are met:
 - a. Mowing or cutting of weeds, trees and other nuisance growth, except in the riparian setback as regulated by Section 17.04J.040.B.4.e of this code.
 - b. Lawns and lawn maintenance activities, including maintenance of irrigation lines, that does not result in a measurable impact on the base flood elevation.
 - c. General farming, pasture, horticultural activities, and forestry that do not involve earthwork that permanently alters the topography or any clearing/grubbing of an area.
 - d. Gardening and landscaping activities, including but not limited to planting new vegetation, revegetation, and mulching (provided the depth of the mulch is limited to one inch (1”), no more than two (2) cubic yards are applied per eight thousand (8,000) or less square foot lot per year and no motorized equipment is used to apply the mulch).

- e. Maintenance and repair of underground utilities, including water and sewer lines (work must not permanently alter topography).
- f. Repair or replacement of existing piers or posts supporting a conforming deck.
- g. Installation, repair or replacement of poles for signs, mailboxes, overhead utilities, and alike that are no larger than 2 feet in diameter, unless ~~more than 5~~ such elements are located together in a manner that could create an obstruction. Signs, posts, poles or similar elements ~~may~~ cannot be located within the floodway, or below mean high water, or within the riparian setback, except those that have been permitted and are serving a public or semi-public purpose, such as wayfinding or interpretative signage.
- h. New installation or maintenance of overhead utilities, transmission towers, and standard utility boxes constructed completely on-grade and meeting the provisions of this article, 17.04J, Floodplain Damage Prevention Ordinance. This may also include clearing/grubbing necessary for installation. These may not be located in the floodway or below the mean high water mark.
- i. Maintenance of existing fences and new installation of non-solid post and rail fences that do not block the flow of water during a flood event. Below the BFE, only the fence posts and minimum four inch (4") two inch (2") wire mesh shall be allowed. Seasonally removal of fencing mesh is encouraged.
- j. Maintenance of driveways and rights of way that does not result in any fill in the floodplain and does not result in a measurable impact on the base flood elevation.
- k. Repairs necessary to correct existing violations of local health and safety codes or to ensure safe and healthy living conditions, provided that no replacement utilities shall be placed below the flood protection level in place at the time of construction of the building, such as:
 - Electrical repairs
 - Furnace repairs or replacements;
 - Water heaters, boilers, and evaporative cooler repairs or replacements;
 - Air conditioner repairs or replacements;
 - Repairs or replacements to roof coverings; and
 - Insulation or simple weatherization or energy efficiency upgrades.

D. Establishment of Floodplain Development Permit

A floodplain development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within special flood hazard area, **except as outlined in Section 17.04J.020.C, Activities Exempt from Requiring a Floodplain Development Permit, above**, determined in accordance with the provisions below:

1. All applications for a floodplain ~~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 floodplain development permit applications, **with the exception of stream alteration permits**, shall be evaluated and approved or denied by the floodplain administrator.
3. **Stream alteration permits shall be considered by the commission per the requirements of Section 17.04J.070.**

E. Compliance

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

F. ~~Abrogation~~ **Repeal** and Greater Restrictions *(City Attorney question: Does this and the next section duplicate Section 17.01.040, Most Restrictive Standard shall Govern?)*

This ordinance shall not in any way repeal, abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, etcetera. However, where this ordinance and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

G. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

H. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes, such as ice jams, increased bedload in the river and bridge openings restricted by debris. This ordinance does not imply that land outside the Special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Hailey or by any officer or employee thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder. ✓ Each and every licensed real estate agent, salesperson 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 and that it is subject to all applicable regulations of this code.

I. Penalties for Violation

No structure or land shall hereafter be located, extended, converted, or altered unless in full compliance with the terms of this ordinance and other applicable regulations.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$300 or imprisoned for not more than 180 days, or both. Each day the violation continues shall be considered a separate offense. ✓ All enforcement provisions of Chapter 17.15 of this title shall be applicable to any violation of this article. Nothing herein contained shall prevent the City of Hailey from taking such other lawful actions as is necessary to prevent or remedy any violation.

17.04J.030. DEFINITIONS:

(The following definitions are proposed to be added to or modify the existing definitions in Section 17.04J.030. State of Idaho Model Code REQUIRED DEFINITIONS are in black text and recommended definitions are in blue text. State recommends adopting all black and blue definitions. Existing definitions are in purple text and staff recommended changes are in green text.)

The following definitions shall be used to define words and phrases within this article, flood hazard overlay district. All other words and phrases not defined in this section, shall be defined by chapter 17.02 of this title:

ADDITION (TO AN EXISTING BUILDING): an extension or increase in the floor area or height of a building or structure.

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

AREA OF SPECIAL FLOOD HAZARD: see Special Flood Hazard Area (SFHA).

BASE FLOOD: the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

BASE FLOOD ELEVATION (BFE): ~~The water surface elevation resulting from the base flood that is tied 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.~~ a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, ~~that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.~~ When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the flood protection elevation.

BASEMENT: ~~The portion of a structure, including crawl space, with any area of the building having its floor sub grade (below ground level) on all sides.~~

CHANNEL: A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, and which, in the absence of evidence to the contrary, shall be presumed to consist of the area between the boundaries of vegetation on either side of the watercourse.

CRITICAL FACILITIES: facilities that are vital to flood response activities or critical to the health and safety of the public before, during, and after a flood, including public service facilities, public uses, and public utility facilities, such as a hospital, emergency operations center, electric substation, sewer lift station, police station, fire station, nursing home, school, vehicle and equipment storage facility, or shelter; and facilities that, if flooded, would make the flood problem and its impacts much worse, such as a hazardous materials facility, power generation facility, water utility, or wastewater treatment plant. *(CRS - Up to 80 points for protecting facilities that are critical to the community) (Hailey's existing code protects critical facilities, and that has been carried forward into this code in Section 17.04J.060.B.12.)*

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

DEVELOPMENT: ~~for floodplain management purposes,~~ 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 ✓, remodeling or repair; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. ~~The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure, or any other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.~~

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

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM): the digital official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

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

ELEVATION: height above a given datum.

ELEVATION CERTIFICATE: The Elevation Certificate is an important administrative tool of the NFIP. It is used to determine the proper flood insurance premium rate; it is used to document elevation information necessary to ensure compliance with community floodplain management regulations; and it may be used to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

ENCLOSURE: ~~for floodplain management purposes,~~ an area enclosed by solid walls below the BFE/FPE or an area formed when any space below the BFE/FPE is enclosed on all sides by walls or partitions. Insect screening or open wood lattice used to surround space below the BFE/RFPE is not considered an enclosure. *(CRS – Up to 240 points for prohibiting first floor enclosures.) (Prohibiting first floor enclosures makes sense in areas with coastal flooding or deep riverine flooding, but staff does not recommend it for Hailey’s flooding situation.)*

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

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

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION: a manufactured home park or subdivision where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before the effective date of the original floodplain management regulations adopted by the community, **dated February 8, 1988.**

EXISTING STRUCTURES: see existing construction.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The federal agency with the overall responsibility for administering the national flood insurance program (NFIP).

FILL: the intentional placement of material (from any source, including the subject property) that raises the ground (natural grade), not including deposition resulting from a naturally occurring event.

FLOOD OR FLOODING: General and temporary condition of partial or complete inundation of two (2) or more acres of normally dry land or two (2) or more properties from: ~~a) the overflow of inland waters; b) the unusual and rapid accumulation of runoff or surface waters from any source; c) mudflow; or d) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood, as defined herein.~~

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph a.2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural

body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

FLOOD ELEVATION DETERMINATION: See Base Flood Elevation (BFE)

FLOOD ELEVATION STUDY: See Flood Insurance Study (FIS)

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

FLOOD FRINGE: The portion of the floodplain outside of the floodway covered by floodwaters during the base flood.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, issued by the FEMA, delineating the areas of special flood hazard and/or risk premium zones applicable to the community that is specifically defined as the "special flood hazard areas inundated by 100-year flood" on the current edition of the flood insurance rate map (FIRM), community map panel numbers 160022-0662, 160022-0664, 160022-0668, 160022-0856 and 160022-0857, or as modified by FEMA. ~~an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.~~ A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS): The report published by FEMA for a community along with the community's FIRM. The FIS contains such background data such as the base flood discharges, ~~and water surface elevations that were used to prepare the FIRM.~~ an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD ZONE: a geographical area shown on a ~~Flood Hazard Boundary Map (FHBM) or~~ Flood Insurance Rate Map (FIRM) that reflects the severity or type of flooding in the area.

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

FLOODPLAIN: The land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the base flood that is specifically defined as the "special flood hazard areas inundated by 100-year flood" on the current edition of the flood insurance rate map (FIRM), or as modified by FEMA by an interpretation of on site elevations. The riverine floodplain includes the floodway and the flood fringe.

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

FLOODPLAIN MANAGEMENT REGULATIONS: zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING: any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOD PROTECTION ELEVATION (FPE): ~~As defined in Idaho Code section 46-1021(7), an elevation that shall correspond to the elevation of the one percent (1%) chance annual flood (base flood elevation or BFE), plus any increased flood elevation due to floodway encroachment, plus any required freeboard. The flood protection elevation for the city of Hailey is equal to BFE plus one foot (1') of freeboard; the freeboard accounts for any flood elevation increases due to floodway encroachment as shown in the community's flood insurance study.~~
the base flood elevation plus the freeboard.

- a. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus **two (2)** feet of freeboard; and
- b. In special flood hazard areas where no BFE has been established, this elevation shall be at least **two (2)** feet above the highest adjacent grade.

(Two (2) feet is State-recommendation, greater than two (2) feet is OPTIONAL. The current code requires that the bottom of the lowest floor system is elevated to the BFE, which essentially results in a freeboard elevation of one (1) foot. Elevating to 2 feet should result in the floor system staying dry in a 100 year event.)

FLOOD PROTECTION SYSTEM: those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODWAY: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. ~~more than a designated height shown as the "floodway areas in zone AE" on the flood insurance rate map (FIRM).~~

FREEBOARD: A factor of safety usually expressed in feet above a flood level, the BFE, for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The base flood elevation (BFE) plus the freeboard establishes the flood protection elevation (FPE). Freeboard shall be **two (2) feet**. *(CRS - Up to 500 points for a freeboard requirement) (Two (2) feet is State-recommendation, greater than two (2) feet is OPTIONAL.)*

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

GRADING: shaping the ground surface, usually by earth-moving equipment such as graders.

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

HISTORIC STRUCTURE: ~~for floodplain management purposes,~~ a structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 1. by an approved state program as determined by the Secretary of the Interior, or
 2. directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP CHANGE (LOMC): ~~An official FEMA determination, by letter, to amend or revise effective flood insurance rate maps, flood boundary and floodway maps, and flood insurance studies. LOMCs are issued in the following categories:~~ a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F)

1. **Letter of Map Amendment (LOMA):** an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's location

in relation to the special flood hazard area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.

2. **Letter of Map Revision (LOMR):** FEMA's modification to an effective Flood Insurance Rate Map (FIRM) or a Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base flood elevations (BFEs), or the special flood hazard area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
3. **Letter of Map Revision Based on Fill (LOMR-F):** FEMA's modification of the special flood hazard area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.
4. **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS). Upon submission and approval of certified as-built documentation, a Letter of Map Revision (LOMR) may be issued by FEMA to revise the effective FIRM. Building Permits and/or Flood Development Permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

LEVEE: a man-made structure, usually an earthen embankment, designed and constructed according to sound engineering practices, to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM: a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST ADJACENT GRADE (LAG): the lowest point of the ground level next to the structure. Refer to the FEMA Elevation Certificate for LAG related to building elevation information.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement) used for living purposes, which includes working, storage, cooking and eating, or recreation, or any combination thereof. This includes any floor that could be converted to such a use including a basement or crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access or storage, in an area other than a basement, is not considered a structure's lowest floor. The lowest floor is a determinate for the flood insurance premium for a building, home or business, provided that such enclosure is not built so as to render the structure in

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

MANUFACTURED HOME: A structure, constructed according to HUD/FHA home construction and safety standards, transportable in one or more sections, which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. The term “Manufactured Home” does not include a “Recreational Vehicle.” ✓ ~~Manufactured homes, where permitted, shall meet the following minimum requirements:~~

~~A. The manufactured home shall be multisectional and shall enclose a space, exclusive of garage or accessory space, of not less than eight hundred sixty four (864) square feet.~~

~~B. The manufactured home shall be placed on a foundation that meets all city requirements of Section 17.04J, FLOOD DAMAGE PREVENTION ORDINANCE of this code and under the IBC and IRC. The foundation shall be backfilled so that the manufactured home is no more than twelve inches (12") above finished grade. The individual installing the manufactured home shall remove the wheels and trailer tongue from the home immediately upon installation.~~

~~C. The manufactured home shall have a minimum roof pitch of three to twelve (3:12).~~

~~D. The manufactured home shall have exterior roofing and siding which is similar in material, texture and color to material commonly used throughout the neighborhood or subdivision in which the manufactured home is to be located.~~

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

MANUFACTURED HOME PARK OR SUBDIVISION: a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

MEAN HIGH WATER MARK: The mark on all watercourses, where the presence and action of waters is so common and continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation and destroy its value for agricultural purposes. In areas where riprap bank stabilization has occurred, the measurement shall begin on the landward side of such stabilization work.

MEAN SEA LEVEL: for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum (such as North America Vertical Datum

of 1988 - NAVD88) to which Base flood elevations (BFEs) shown on a community's FIRM are referenced.

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

MUDSLIDE (I.E., MUDFLOW) AREA MANAGEMENT: the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

MUDSLIDE (I.E., MUDFLOW) PRONE AREA: an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

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

NEW CONSTRUCTION: for floodplain management purposes, a structure for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Any construction started after **February 8, 1988**, and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: a place where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community, **effective FIRM dated November 26, 2010**.

POST-FIRM: construction or other development for which the "start of construction" occurred on or after **February 8, 1988**, the effective date of the initial Flood Insurance Rate Map (FIRM).

PRE-FIRM: construction or other development for which the "start of construction" occurred before **February 8, 1988**, the effective date of the initial Flood Insurance Rate Map (FIRM).

RECREATIONAL VEHICLE: a vehicle that is:

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

REGULATORY FLOODWAY: See Floodway

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

REPETITIVE LOSS STRUCTURE: An NFIP-insured structure that has had at least two paid flood losses of more than \$1,000 each in any 10-year period since 1978.

RIPARIAN SETBACK: The distance measured at right angles from the mean high water mark of a waterway, between the mean high water mark and an imaginary line parallel to the mean high water mark, defining an area between such lines within which no building, deck or other applicable structure may be placed, and whereby any existing vegetation shall remain undisturbed.

RIVER RESTORATION PROJECT: A project that is primarily designed to improve or restore fish and wildlife habitat within the floodplain, including associated stream bank restoration and stabilization.

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

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

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

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

STREAM ALTERATION: To obstruct, diminish, destroy, alter, modify, relocate or change the existing shape of the natural channel within or below the mean high water mark, including the removal of material or structures in the stream channel.

STRUCTURE: ~~for floodplain management purposes,~~ 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: ~~for floodplain management purposes,~~ damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent (50%) of its market value before the damage occurred. See definition of “substantial improvement”.

~~Substantial damage also means flood related damage sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent (25%) of the market value of the structure before the damage occurred. (The last sentence is OPTIONAL but required for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses. ICC benefits can provide up to \$30,000 towards elevation of a repetitive loss building that does not meet current code. However, adding this provision lowers the threshold at which a damaged building needs to be brought up to current code.) (CRS - Up to 90 points for counting improvements cumulatively)~~

SUBSTANTIAL IMPROVEMENT: ~~for floodplain management purposes,~~ any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: *(CRS – Up to 20 points for a substantial improvement threshold lower than 50%)*

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure” and the alteration is approved by variance issued pursuant to this ordinance.

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

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

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

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

VIOLATION: ~~for floodplain management purposes,~~ the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION: the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 (or other specified datum), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE: a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

17.04J.040. FLOODWAY AND FLOODPLAIN REGULATIONS

A. FLOODWAY SUBDISTRICT USE REGULATIONS:

Uses in the floodway subdistrict are limited to the following:

1. Permitted Uses:

- a. Open space recreation uses, provided the uses do not involve development.
 - b. River restoration projects, provided a stream alteration permit and a no rise certificate is issued.
 - c. City projects and infrastructure, such as bridges and utility crossings, provided a stream alteration permit and a no rise certificate has been issued.
2. Prohibited Uses: All other uses are strictly prohibited.

B. FLOODPLAIN SUBDISTRICT USE REGULATIONS

Uses in the floodplain subdistrict are limited to the following:

1. Permitted Uses:
 - a. Open space and recreational uses, provided the uses do not involve development; and
 - b. River restoration projects, provided a stream alteration permit is issued.
2. Permit Required: Uses requiring a floodplain development permit:
 - a. Any development; and
 - b. Subdivisions.
3. Prohibited Uses:
 - a. Any use not mentioned herein that is susceptible to flood damage from the base flood or that could potentially cause flood damage from such a flood to other property.
 - b. RVs and ATVs stored or kept outdoors on any property more than one hundred eighty (180) consecutive days; RVs and ATVs or other vehicles must be fully licensed and ready for highway use.
4. Bulk Requirements: For other supplementary location and bulk regulations, see chapter 17.07 of this title.
 - a. 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 subdistrict shall not be included in determining lot size.
 - b. Minimum Lot Width: Seventy five feet (75').
 - c. Minimum Front Yard Setback: Twenty five feet (25').
 - d. Minimum Side And Rear Yard Setback: The setback from the adjacent property line shall be one foot (1') for every two feet (2') of building height for all portions of the building exceeding twenty feet (20') in height, however, no side or rear yard shall be less than ten feet (10').
 - e. Riparian Setback: Unless otherwise provided for herein, all permanent development, including buildings and structures, fences, signage and

other similar features in the flood hazard overlay district shall have a one hundred foot (100') wide riparian setback from the mean high water mark of the Big Wood River. Wayfinding or interpretative signage that has been permitted and is serving a public or semi-public purpose, shall be exempt from this provision. 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 condition set forth in subsection 17.04J.060.H.8 of this article. Where the application of the one hundred foot (100') riparian setback and other applicable setbacks will result in a building site of one thousand (1,000) square feet or less, the riparian setback may be reduced to such an extent that the building site is one thousand (1,000) square feet; provided, however, the riparian setback shall not be less than fifty feet (50').

C. NONCONFORMING USES IN FLOOD HAZARD OVERLAY DISTRICT

Structure or the use of a structure or premises which was lawful before the passage or amendment of this article, but which is not in conformity with the provisions of this district may be continued subject to the following conditions:

1. No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
2. If any nonconforming use or structure is partially or completely destroyed, it shall not be reconstructed, except in conformity with the provisions of this article.
3. Uses which are or become nuisances, as defined by title 8, chapter 8.04 of this code, shall not be entitled to continue as nonconforming uses.
4. Any alteration, addition or repair to any nonconforming structure which would result in substantial improvement shall be required to obtain a floodplain hazard development permit pursuant to Section 17.04J.020.D, Establishment of Floodplain Development Permit, of this article.

17.04J.050. ADMINISTRATION

A. Designation of Floodplain Ordinance Administrator

The **Community Development Department Director**, hereinafter referred to as the “Floodplain administrator”, is hereby appointed to administer and implement the provisions of this ordinance.

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, **but outside the floodway**, to assure that the requirements of this ordinance have been satisfied✓, **that the proposed development is reasonably safe from flooding, and to make recommendations to approve, conditionally approve or deny any floodplain development permits according to the procedures set forth in this article.**
2. **Review all stream alteration permit applications per the provisions set forth in Section 17.04J.070.**
3. 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 USC 1334, **Idaho department of water resources stream channel alteration permits, and documentation of sections 9 and 10 of the federal endangered species act, if applicable.**
4. 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).
5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
6. ~~Prevent~~ **Enforce regulations pertaining to** encroachments into floodways ~~and flood fringe areas~~ unless the certification and flood hazard reduction provisions of **Section 17.04J.060.E, Standards for Floodways** are met.
7. 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 [Section 17.04J.050.C.3, Certification Requirements](#). ✓

8. 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 [Section 17.04J.050.C.3, Certification Requirements](#). ✓
9. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of [Section 17.04J.050.C.3, Certification Requirements](#).
10. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of [Section 17.04J.050.C.3, Certification Requirements](#) and [Section 17.04J.060.B.2, Non-Residential Construction](#). ✓
11. Where interpretation is needed as to the exact location of boundaries of the Special flood hazard areas, floodways, or flood fringe areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
12. When Base flood elevation (BFE) data has not been provided in accordance with the provisions of [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#), obtain, review, and reasonably utilize any BFE data, along with floodway data or flood fringe area data available from a Federal, State, or other source [developed using current federal engineering standards and practices](#), including data developed pursuant to [Section 17.04J.060.C.2](#), in order to administer the provisions of this ordinance. ✓
13. When Base flood elevation (BFE) data is provided but no floodway or flood fringe area data has been provided in accordance with the provisions of Article III, Section B, obtain, review, and reasonably utilize any floodway data or flood fringe area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- ~~14. 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 (SFHA) is above the Base flood elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file. (OPTIONAL)~~

- ~~15.~~ 14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection ✓, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- ~~16.~~ 15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- ~~17.~~ 16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- ~~18.~~ 17. Revoke floodplain development permits as required. The Floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- ~~19.~~ 18. Make periodic inspections throughout the Special flood hazard areas within the jurisdiction of the community. The Floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- ~~20.~~ 19. Follow through with corrective procedures of [Section 17.04J.050.D, Corrective Procedures](#).
- ~~21.~~ 20. Review, provide input, and make recommendations for variance requests.
- ~~22.~~ 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 [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#), of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify the NFIP State Coordinator and FEMA of your community's mapping needs.

~~23.~~ 22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

~~24.~~ 23. 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 floodplain development permit.

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. One (1) full-sized paper and one (1) electronic copy of all submittal materials including a completed and signed application form.
 - b. A plot plan, drawn ~~in duplicate and~~ to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - i. topographic and physical features, including:
 - a) the existing contours with intervals of one foot (1') or less of the elevation of the entire property;
 - b) the proposed contours with intervals of one foot (1') or less of the elevation of the entire property; and
 - c) the location, dimensions and elevations (measured from mean sea level) of the proposed improvements, including buildings, structures, fill, drainage facilities, driveways and streets.
 - ii. 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;
 - iii. the boundary of the Special flood hazard area as delineated on the FIRM or other flood map as determined in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#), or a statement that the entire lot is within the Special flood hazard area;

- iv. the flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#);
- v. the boundary of the floodway(s) or flood fringe area(s) as determined in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#);
- vi. the base flood elevation (BFE) where provided as set forth in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#); [Section 17.04J.020.D, Establishment of Floodplain Development Permit](#); or [17.04J.060.C, Standards for Floodplains without Established Base Flood Elevations](#);
- vii. the old and new location of any watercourse that will be altered or relocated as a result of proposed development; ✓ and
- viii. [the certification of the plot plan by a registered land surveyor or professional engineer for all new construction and as determined necessary by the floodplain administrator.](#) *(viii is OPTIONAL)*
- ~~b.c.~~ 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, AO, or A1-30 will be floodproofed; and
 - iii. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- ~~c.d.~~ If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-33) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures. ✓
- ~~d.e.~~ A foundation plan, drawn to scale [and stamped by a design professional, licensed in the State of Idaho](#), which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to: *(CRS - Up to 80 points for required engineered foundations)* *(It makes sense to require this, since the building code requires engineering anyway.)*
 - i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation, or on columns/posts/piers/piles/shear walls); and
 - ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with [Section 17.04J.060.A.6.b.i-vi](#) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A1-30.
- ~~e.f.~~ Usage details of any enclosed areas below the lowest floor.

- ~~f~~.g 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~~.h Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received. ✓
- ~~h~~.i Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of [Sections 17.04J.060.B.5 and 6](#) of this ordinance are met.

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, rip-rap, docks, grading, paving, excavation ~~or drilling operations~~, or storage of equipment or materials, etcetera).
- b. The Special flood hazard area determination for the proposed development in accordance with available data specified in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#).
- c. The flood protection elevation required for the lowest floor and all attendant utilities.
- d. The flood protection elevation required for the protection of all public utilities.
- e. All certification submittal requirements with timelines.
- f. A statement that no fill material or other development shall encroach into the floodway or flood fringe area of any watercourse, as applicable.
- g. The flood openings requirements, if in Zones A, AE, AH, AO, or A1-30.
- h. All floodplain development permits shall be conditional upon the start of construction of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has commenced as per the Start of Construction definition.
- i. [A statement of the limitations of below BFE enclosure uses, if applicable. \(i.e., parking, building access and limited storage only\). \(i. is OPTIONAL, but recommended by staff\)](#)
- j. [A statement that all building materials below BFE/FPE must be flood resistant materials. \(j. is OPTIONAL, but recommended by staff\)](#)

3. Certification Requirements.

- a. Elevation Certificates
 - i. [A Construction Drawings Elevation Certificate \(FEMA Form 86-0-33\) is required prior to the actual start of any new construction, addition of living space or substantial improvement. 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. ✓ *(STATE RECOMMENDED. This is already required by the current building code.)*

- ii. A Building Under Construction Elevation Certificate (FEMA Form 86-0-33) is required after the lowest floor is established. Within seven (7) calendar days of establishment of the lowest floor elevation, 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. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project. *(STATE RECOMMENDED. This is already required by the current building code.)*
- 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 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" x 3". Digital photographs are acceptable. *(OPTIONAL language, but fits with current requirements. THE FEMA ELEVATION CERTIFICATE IS OPTIONAL FOR FLOODPLAIN MANAGEMENT ELEVATION DATA, BUT IS STATE RECOMMENDED. THE USE OF THE FEMA ELEVATION CERTIFICATE IS REQUIRED FOR THE PURCHASE OF FLOOD INSURANCE, AND IS MANDATORY FOR CRS PARTICIPATION.) (CRS – Up to 116 points for maintaining Elevation Certificates)*

- b. Floodproofing Certificate. If non-residential floodproofing is used to meet the flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the 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. If a manufactured home is placed within Zone A, AE, AH, AO, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of [Section 17.04J.060.B.3.b](#).
- e. Certification Exemptions. The following structures, if located within Zone A, AE, AH, AO, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items a and b of this subsection:
 - i. Recreational Vehicles meeting requirements of [Section 17.04J.060.B.5.a](#);
 - ii. Temporary Structures meeting requirements of [Section 17.04J.060.B.6](#); and
 - iii. Accessory Structures less than 200 square feet meeting requirements of [Section 17.04J.060.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 ~~code~~ building code and this ordinance is required.

D. Corrective Procedures

1. Violations to be Corrected. When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the **property owner or occupant of the building** of the violation. **Notification shall be mailed to the property owner, and said owner or occupant shall immediately remedy each of the violations of law cited in such notification within the timeframe noted in the notification document. If the violation is not remedied within the required timeframe, a second notification shall be mailed, informing the owner of the date on which a citation shall be issued, per Section 17.15, ENFORCEMENT, of this code.**
- ~~2. Actions in Event of Failure to Take Corrective Action. If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a. that the building or property is in violation of the floodplain management regulations;
 - b. that a hearing will be held before the Floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person~~

~~or by counsel and to present arguments and evidence pertaining to the matter; and~~

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

~~3. Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than **ninety** calendar days. *(One hundred eighty (180) calendar days or less is recommended.)* Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible. *(60 days may be longer than necessary for small violations.)*~~

2. Appeal. **Appeals shall be subject to the provisions of Section 17.03.050, Appeals, of this code.** Any owner who has received an order to take corrective action may appeal the order to the local elected governing body *(Or to commission?)* by giving notice of appeal in writing to the Floodplain administrator and the clerk within ten ~~(10)~~ days following issuance of the final order. In the absence of an appeal, the order of the Floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

3. Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court. **The provisions of Section 17.04J.020.I, Penalties for Violation, shall apply.**

E. Variance Procedures

1. ~~The **Hearing Examiner** as established by **the City of Hailey** hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.~~ **Requests for variances shall be subject to the requirements of this Section 17.050.E, Variance Procedures, and shall also be subject to the provisions of Section 17.12, Variances, of this code.**

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 [Section 17.02, DEFINITIONS](#), of this ordinance, provided provisions of [Section 17.04J.050.E.9.b, c, and e](#), (*Ask M O'Shea. Reference doesn't make sense.*) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - c. any other type of development, provided it meets the requirements of this section.
- 3. In passing upon variances, the ~~appeal board~~ [authorizing body](#) 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 [Section 17.02, DEFINITIONS](#), of this ordinance as a functionally dependent facility, where applicable;
 - f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. the compatibility of the proposed use with existing and anticipated development;
 - h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- 4. The applicant shall include a written report addressing each of the above factors in [Section 17.04J.050.E.3.a-k](#) with their application for a variance.
- 5. Upon consideration of the factors listed above and the purposes of this ordinance, the ~~appeal board~~ [authorizing body](#) may attach such conditions to the granting of

variances as it deems necessary to further the purposes and objectives of this ordinance.

6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
7. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.
8. Conditions for Variances:
 - a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - b. Variances shall not be issued within any designated floodway or flood fringe area if the variance would result in any increase in flood levels during the base flood discharge.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued prior to development permit approval.
 - e. Variances shall only be issued upon:
 - i. a showing of good and sufficient cause;
 - ii. a determination that failure to grant the variance would result in exceptional hardship; and
 - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
9. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.
 - a. The use serves a critical need in the community.
 - b. No feasible location exists for the use outside the special flood hazard area.
 - c. The lowest floor of any structure is elevated or floodproofed to at least the flood protection elevation.
 - d. The use complies with all other applicable Federal, State and local laws.

10. The **City of Hailey** will notify the State NFIP Coordinator of the Idaho Department of Water Resources of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.
11. Any person aggrieved by the decision of the ~~appeal board~~ **authorizing body** may appeal such decision to the Court, as provided in Idaho Code 67-6535.

17.04J.060. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards

In all special flood hazard areas the following provisions are required:

1. All new construction, substantial improvements, and development, **including manufactured homes and accessory buildings**, shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure, **shall be designed with engineered foundations and shall be reasonably safe from flooding.** ✓ *(CRS - Up to 80 points for requiring engineered foundations in SFHA) (It makes sense to require this, since the building code requires engineering anyway.)*
2. All new construction, substantial improvements, and development shall be constructed with materials and utility equipment resistant to flood damage in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.
3. All new construction, substantial improvements, and development shall be constructed by methods and practices that minimize flood damages.
4. All new and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the flood protection elevation. ✓ These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches. *Staff suggests allowing ducting only below the FPE as follows: Ducting may be is permitted below the flood protection level only if it is water-proofed and located entirely minimum one (1) foot above the base flood elevation. (This would get 75% CRS credit, not 100%.)*
5. Any proposed water supply and sanitation system shall prevent disease, contamination and unsanitary conditions **as follows:**

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. ✓
 - b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. ✓
 - c. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. ✓
6. A fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor shall: *(CRS – Up to 240 points for prohibiting first floor enclosures)*
- a. be constructed entirely of flood resistant materials at least to the flood protection elevation; and
 - b. include, in Zones A, AE, AH, AO, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding ✓ *or per engineered flood opening requirements;*
 - 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, but only the net area of the flood opening below the base flood elevation may contribute to the required opening size; ✓
 - 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.

~~7. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.~~

7. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, flood fringe area, or stream setback, provided there is no additional encroachment below the flood protection elevation in the floodway, flood fringe area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
8. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in the Special Flood Hazard Area, except by variance as specified in Section 17.04J.050.E.9. 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 Section 17.04J.050.C.3, Certification Requirements.
9. ~~There will~~ The proposed development shall cause ~~be~~ no significant danger to life and property due to increased flood heights or velocities ~~or that any~~, no materials may be swept onto other lands or downstream to the injury of others and ~~that~~ the proposed development ~~is~~ shall be reasonably safe from flooding.
10. The proposed location shall represents the safest location on the subject property for the proposed use.
11. Safe access to the property shall be available in times of a base flood for ordinary and emergency vehicles.
12. Inherent natural characteristics of the watercourses shall be preserved.
13. Existing riparian vegetation and wildlife habitat along the stream bank and within the required one hundred foot (100') riparian setback shall be preserved.
14. 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.
15. Any chemicals or other toxic materials that could cause contamination of surface waters or groundwater, or that could be injurious to public health, safety and welfare, shall be located at the flood protection elevation and stored in a manner that prevents their release in the event of a flood.

16. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
17. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base flood elevation (BFE) shall apply.
18. Fill is prohibited in the SFHA, including construction of buildings on fill, unless compensatory storage is provided. Placement of fill necessary to satisfy drainage requirements of the building code shall be allowed if determined necessary by the floodplain administrator. However, any placement of fill must be evaluated to ensure that it does not have adverse impact on neighboring properties. This includes not approving Conditional Letters or Letters of Map Revision (CLOMR-F or LOMR-F), unless they meet the above requirements. *(CRS – UP to 280 points for prohibiting fill in the SFHA) (OPTIONAL) (Prohibiting fill makes a lot of sense, given that any fill causes adverse impact on neighboring properties. Another option is to only allow fill if an equal or greater volume of soil is excavated and removed (ie compensatory storage). Current code only allows backfill around foundation for twenty-five feet (25') around the perimeter of a structure or the equivalent elsewhere on the lot.)*

B. Specific Standards

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#), or [Section 17.04J.060.D, Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Flood Fringe Areas](#), the following provisions, in addition to the provisions of [Section 17.04J.060.A, General Standards](#), are required:

1. Residential Construction. New construction, substantial improvements, and development of any residential structure (including manufactured homes) shall have the top of the lowest floor, including basement, elevated no lower than the flood protection elevation, as defined in [Section 17.02, DEFINITIONS](#) of this ordinance. ✓
2. Non-Residential Construction. New construction, substantial improvements, and development of any commercial, industrial, or other non-residential structure shall have the top of the lowest floor, including basement, elevated no lower than the flood protection elevation, as defined in [Section 17.02, DEFINITIONS](#) of this ordinance. Structures located in Zones A, AE, AH, AO, and A1-30 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 [Section 17.04J.060.F.2](#). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in [Section 17.04J.050.C.3, Certification Requirements](#), along with the operational plan and the inspection and maintenance plan.

3. **Manufactured Homes.** [This section applies to placement of all new manufactured homes in the jurisdiction.](#) *(CRS – Up to 15 points for removing the elevation exemption for manufactured homes placed in existing manufactured home parks) (Easy to do, since Hailey has no existing manufactured home parks.)*
 - a. New and replacement manufactured homes shall be elevated so that the lowest floor of the manufactured home is no lower than the flood protection elevation, as defined in [Section 17.02, DEFINITIONS](#) of this ordinance. ✓
 - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, ✓ ~~either by a certified engineered foundation system, or in accordance with the most current edition of the Idaho Division of Building Safety’s “Idaho Manufactured Home Installation Standard” in accordance with Idaho Code § 44-2201(2). 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 [Section 17.04J.060.A.6](#). ✓
 - 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; or

- ii. a substantial improvement - both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are
 - i. not a substantial improvement - the addition and/or improvements only must comply with the standards for new construction; or
 - ii. a substantial improvement - both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d. Repairs to post-FIRM structures when the repairs in combination with any additions/improvements to the existing structure are
 - i. not a substantial improvement - the repairs only must comply with the standards for new construction in place at the time of original construction; or
 - ii. a substantial improvement - both the repairs to the existing structure and the addition and/or improvements must comply with the standards for new construction.
- e. Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a **one (1)** year period, the cumulative cost of which equals or exceeds 50 percent (50%) of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the **one (1)** year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either: *(CRS - Up to 90 points for counting improvements cumulatively; up to 20 points for a substantial improvement threshold lower than 50%) (The County has cumulative provisions. Ketchum chose not to, due to tracking difficulties.)*
 - i. any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions; or
 - ii. any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

5. Recreational Vehicles. Recreational vehicles shall be either:
 - a. Temporary Placement
 - i. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or ✓
 - b. Permanent Placement.
 - i. Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction, as set forth in [Section 17.04J.060.A, General Standards](#). ✓

What about temp residential structures?

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 [that do not Include Living Space](#). When [such](#) accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, elevation or floodproofing certifications are required for all accessory structures in accordance with [Section 17.04J.050.C.3, Certification Requirements](#), and the following criteria shall be met:
 - a. Accessory structure shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
 - ~~b. Accessory structure shall not be temperature controlled;~~
 - c. Accessory structure shall be designed to have low flood damage potential;
 - d. Accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. Accessory structure shall be firmly anchored in accordance with the provisions of [Section 17.04J.060.A.1](#);

- f. All service facilities, such as electrical, shall be installed in accordance with the provisions of [Section 17.04J.060.A.4](#); and
- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below flood protection elevation in conformance with the provisions of [Section 17.04J.060.A.86.b](#).

~~If said~~ accessory structure ~~with~~ has a footprint less than 200 square feet ~~and is a minimal investment of \$7500 (recommend \$7,500) or less~~ and satisfies the criteria outlined in a - g above, ~~it~~ is not required to meet the elevation or floodproofing standards of [Section 17.04J.060.B.2, Non-Residential Construction](#). *(200 sf makes sense, because that's what you can build without a residential building permit.)*

- 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 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. Elevated above-ground tanks, in flood hazard areas shall be attached to and elevated to or above the ~~design~~ flood protection elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the base flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - c. Not elevated above-ground tanks, that do not meet the elevation requirements of [Section 17.04J.060.B.2](#) of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
 - d. Tank inlets, fill openings, outlets and vents shall be:
 - i. at or above the flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and
 - ii. anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- 9. Construction of Below-Grade Crawlspace. [\(See Figures 1 and 2 below.\)](#)
 - 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). ✓

- 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. ✓
- c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. ✓
- d. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. ✓

(See Technical Bulletin 11 for further information. Caution: Buildings that have below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation of the crawlspace soil at or above the Base flood elevation (BFE).)

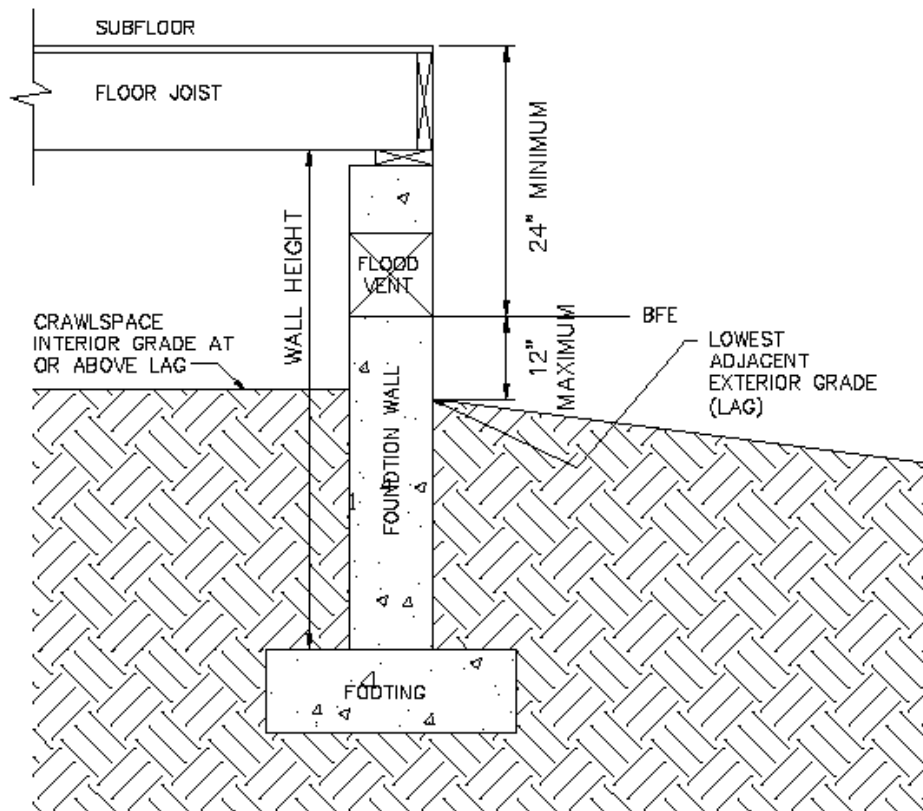


Figure 1: Preferred Crawlspace
(Modified so that flood vent is entirely below BFE)

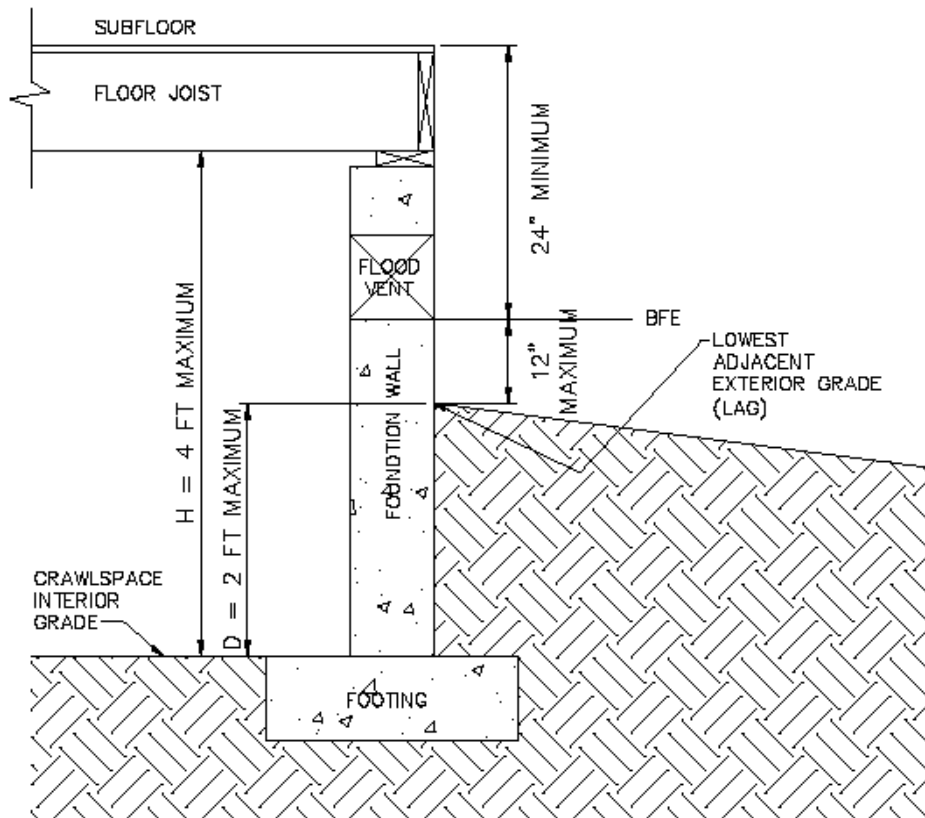


Figure 2: Below-Grade Crawlspace
(Modified so that flood vent is entirely below BFE)

10. ~~Other Development in Regulated Floodways and Flood Fringe.~~
- a. ~~a. Fences in the Flood Fringe: that have the potential to block the passage of floodwaters, such as stockade fences and tightly-spaced wire mesh fences, in regulated floodways and flood fringe shall meet the limitations of Section 17.04J.060.E, Standards for Floodways and Flood Fringe Areas, of this ordinance. be open below the base flood elevation to allow the free passage of floodwaters. Minimum four inch (4") two inch (2") mesh shall be allowed below the base flood elevation if necessary to prevent the passage of pets and children. Seasonally removal fencing mesh is encouraged. Fences are prohibited in the floodway.~~
 - b. ~~Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways and flood fringe shall meet the limitations of Section 17.04J.060.E, Standards for Floodways and Flood Fringe Areas, of this ordinance.~~
 - c. ~~Roads and watercourse crossings, including roads, bridges, culverts, low water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, which encroach into regulated floodways and flood fringe, shall meet the limitations of Section~~

~~17.04J.060.E, Standards for Floodways and Flood Fringe Areas, of this ordinance.~~

- ~~d. 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 Section 17.04J.060.E, Standards for Floodways and Flood Fringe Areas, of this ordinance.~~
- ~~e. 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 Section 17.04J.060.E, Standards for Floodways and Flood Fringe Areas, of this ordinance.~~

11. Subdivision plats. Flood zones.

All subdivision proposals shall:

- a. Be consistent with the need to minimize flood damage and determined to be reasonably safe from flooding. ✓
- b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. ✓
- c. Have adequate drainage provided to reduce exposure to flood hazards. ✓
- d. Minimize 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 floodwaters.
- e. Include the mapped flood hazard zones from the effective FIRM shown on the preliminary plat.
- f. Have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- g. Provide a note on the final plat documenting the current flood zone in which the property or properties are located. The boundary line must be drawn on the plat in situations where two or more flood zones intersect over the property or properties being surveyed.
- h. Include the following notes on each subdivision plat:

FEMA FIRM panel(s): #160xxxxxxC, & 160xxxxxxE, etc.
FIRM effective date(s): mm/dd/year
Flood Zone(s): Zone X, Zone A, Zone AE, A Zone AO, Zone, AH, Zone D, etc.
Base Flood Elevation(s): AE _____.0 ft., etc.
Flood Zones are subject to change by FEMA & all land within a floodway or floodplain is regulated by _____ chapter/section of the City/County Code.

12. **Critical Facilities.** Critical facilities, where permitted, shall be constructed at a three foot (3') flood protection elevation (FPE).

C. Standards for Floodplains without Established Base Flood Elevations

Within the special flood hazard areas designated as Zone A (also known as Unnumbered A Zones) and established in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#), where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of [Section 17.04J.060.A, General Standards](#), shall apply:

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

1. When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in [Section 17.04J.060.A, General Standards](#), and [17.04J.060.B, Specific Standards](#).
2. When floodway or flood fringe data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and flood fringe areas shall also comply with the requirements of [Section 17.04J.060.B, Specific Standards](#), and [17.04J.060.E, Standards for Floodways](#), as applicable.
3. All subdivision, manufactured home park, and other development proposals shall provide base flood elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. ✓ Such base flood elevation (BFE) data shall be adopted by reference in accordance [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#), and utilized in implementing this ordinance. [The applicant/developer shall submit an application for a Conditional Letter of Map Revision \(CLOMR\) prior to preliminary plat approval and have obtained a Letter of Map Revision \(LOMR\) prior to any building permits for structures being issued. \(Optional - See FEMA 480 and/or FEMA 265 for further information\)](#)

4. When base flood elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the lowest floor shall be elevated or floodproofed (non-residential) to two feet (2.0 ft.) above the Highest Adjacent Grade (HAG) at the building site or to the flood protection elevation (FPE) whichever is higher, as defined in [Section 17.02, DEFINITIONS](#). All other applicable provisions of [Section 17.04J.060.B, Specific Standards](#), shall also apply.

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

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

1. Standards of [Section 17.04J.060.A, General Standards](#), and [17.04J.060.B, Specific Standards](#); and
2. Until a regulatory floodway or flood fringe area is designated, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the community.

E. Standards for Floodways ~~and Flood Fringe Areas~~

Areas designated as floodways ~~or flood fringe areas~~ are located within the Special flood hazard areas established in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#). The floodways ~~and flood fringe~~ areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in [Sections 17.04J.060.A, General Standards](#), [17.04J.060.B, Specific Standards](#), and [17.04J.070, CITY ISSUED STREAM ALTERATION PERMIT](#), shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:
 - a. it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, ✓ based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit; or

- b. a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- 2. If [Section 17.04J.060.E.1](#) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- ~~3. Manufactured homes may be permitted provided the following provisions are met: *(CRS – Up to 15 points for removing the elevation exemption for manufactured homes placed in existing manufactured home parks)*~~
 - ~~a. the anchoring and the elevation standards of [Section 17.04J.060.B.3](#); and~~
 - ~~b. the encroachment standards of [Section 17.04J.060.E.1](#).~~

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

Located within the Special flood hazard areas established in [Section 17.04J.020.B, Basis for Special Flood Hazard Areas](#), 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 17.04J.060.A, General Standards](#), and [17.04J.060.B, Specific Standards](#), 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 **four (4)** feet above the highest adjacent grade if no depth number is specified. *(A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided.)*
- 2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in [Section 17.04J.060.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 [Section 17.04J.050.C.3, Certification Requirements](#), and [Section 17.04J.060.B.2, Non-Residential Construction](#).
- 3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

G. Standards for Areas where Floodway has not been Determined

Where the floodway has not been determined, no new construction, substantial improvements or other development (including fill) shall be permitted in zone 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 (1')~~ at any point within the community. Certification and documentation by a licensed professional engineer shall be submitted to demonstrate compliance with this section.

1. Applicants of proposed projects that increase the base flood ~~elevation more than one foot (1')~~ are required to obtain and submit to the floodplain administrator, a conditional letter of map revision (CLOMR) preconstruction.
2. Postconstruction, the applicant must apply to FEMA for a letter of map revision for changes to the flood hazard map proposed in the CLOMR.

H. Conditions of Approval

Upon consideration of the criteria in [Sections 17.04J.060.A – G](#) above, the floodplain administrator, 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:

1. Modification of water disposal and water supply facilities to minimize or eliminate infiltration of floodwaters.
2. Limitations of periods of use and operation.
3. Imposition of operational controls, sureties and deed restrictions.
4. Requirements or prohibition of construction of channel modification dikes, levees and other protective measures.
5. Submission of a plan or document certified by a registered professional engineer/architect stating that the floodproofing measures comply with this article.
6. Floodproofing measures for structures, such as the following:
 - a. Installation of watertight doors, bulkheads, shutters and similar structures.
 - b. Reinforcement of walls to resist water pressures.
 - c. Use of paints, membrane or mortars to reduce seepage of water through walls.
 - d. Addition of mass or weight to structures to resist flotation.
 - e. Installation of pumps to lower water levels in structures.

- f. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.
 - g. Installation of pumping facilities or comparable subsurface drainage systems for buildings to relieve external foundation wall flood pressures.
 - h. Construction to resist rupture or collapse caused by water pressure or floating debris.
 - i. Installation of valves or controls on sanitary and storm drains that will permit the drains to be closed to prevent backup of sewage and stormwaters into the building or structures.
 - j. 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 floodwaters.
 - k. 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 to the flood protection elevation and/or are adequately floodproofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into floodwaters.
7. Location of building pads or envelopes.
 8. Installation and maintenance of new landscaping and preservation of existing riparian vegetation.
 9. Obtain all required and necessary federal and state permits (e.g., 404 permits, endangered species act consultation, etc.).
 10. Any other condition reasonably related to the issuance of a floodplain development permit.

17.04J.070. CITY ISSUED STREAM ALTERATION PERMIT

All areas in the floodway and below the mean high water mark of any nonintermittent stream are subject to the following provisions in addition to the provisions in Sections 17.04J.010 -060 above. No person may excavate in, disturb, fill, build in, upon or across, deposit in, or change the channel of any nonintermittent 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 nonintermittent 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).

- A. 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. *(Does this make sense in an emergency situation when time is of the essence?)* Information to be provided by the applicant for any stream alteration permit issued hereunder shall include, but not necessarily be limited to, the following:

1. Applicant's name, address and phone number.
2. Name of engineer, if any, who prepared the application.
3. Property location and legal description.
4. Name and reach of stream and area of proposed work.
5. Length of the stream section to be worked on.
6. Type of work to be done.
7. Type of equipment to be used.
8. Starting and completion dates of work.
9. Vicinity map of the area.
10. Names and addresses of property owners on both sides of the stream three hundred feet (300') upstream and one thousand feet (1,000') downstream from the proposed work site.
11. ~~A description of proposed watercourse alteration or relocation, 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;~~
12. 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
13. Plans and information at a one-fourth inch ($1/4$ ") scale, accurately and legibly showing:
 - a. Location and dimension of lot or property.
 - b. A map showing the location of the proposed watercourse alteration or relocation. ✓
 - c. Location of existing or proposed structures and location of previous stream alterations.
 - d. Typical cross section of the proposed work.

- e. Location of the lot or property in relation to the stream channel, floodway and floodplain.
 - f. A valley cross section of the area to be altered, 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.
 - g. Location of any drainageways or overflow channel through the property affected.
14. A statement addressing potential beneficial and adverse impacts in the immediate project area (upstream, downstream and across the stream).
15. Copies of all required state and federal permit approvals.
- B. Public Hearing; Notice:** Each application shall be reviewed at public hearings before the commission following adequate public notice.
- 1. 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.
 - 2. 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.
 - 3. 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.
- C. Commission Evaluation:** A completed application will be heard by the commission at a public hearing within a maximum of 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.

1. Standards: No stream alteration permit shall be issued unless the commission finds adequate evidence that the following mandatory requirements have been met:
 - a. The applicant agrees to obtain and abide by all necessary permits from the army corps of engineers, from the Idaho department of water resources, and compliance with sections 9 and 10 of the endangered species act, if applicable.
 - 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 100-year flood.
 - c. The stream alteration desired will not materially increase the area of the floodplain and floodway subdistricts.
 - 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.
 - e. The stream alteration does not jeopardize the city's participation in the national flood insurance program.
 - f. 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.
 - g. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished.

2. Conditions: The commission may attach conditions to any stream alteration permit, including, but not limited to, the following:
 - a. Requiring work to be done at times of lowest water.
 - b. Requiring work to be done by appropriate construction equipment.
 - c. 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.
 - d. Requiring that a registered engineer certify, in writing, that the work has been completed according to the city requirements and stipulations.
 - e. Requiring any modification in the extent or design of the proposed work in order to meet the mandatory conditions imposed by this article.
 - f. Requiring preservation of existing vegetation, revegetation or placement of fish or wildlife enhancement features.
 - g. Posting of sufficient security to ensure the completion of the work.
 - h. Requiring review or approval of the application by other agencies or governmental units.

- i. Requiring the work to be done at a certain height or location.
- j. Requiring reclamation of eroded stream banks in the floodway.
- k. Requiring overflow channels to remain open.
- l. Restricting the future location of building envelopes.
- m. Requiring modifications of the project so as not to increase the level of the base flood elevation and not to encroach upon the floodway.
- n. Requiring maintenance within the altered or relocation portion of said watercourse so that the flood carrying capacity is not diminished.
- o. Issuance of all required and necessary federal and state permits (e.g., 404 permits).
- p. Any other condition reasonably related to the issuance of a stream alteration permit.

Attachment B:

National Flood Insurance Program Requirement Interpretation

At their January 22, 2018 meeting the Planning and Zoning Commission was presented with and heard comments from Mr. Martin Flannes, a homeowner in the City's Special Flood Hazard Area, regarding concern about basements, below-grade crawlspaces, location of utilities and flood openings. Staff has provided the following analysis with excerpts from FEMA's publication 480: National Flood Insurance Program (NFIP) Floodplain Management Requirements, A Study Guide and Desk Reference for Local Officials https://www.fema.gov/media-library-data/1481032638839-48ec3cc10cf62a791ab44ecc0d49006e/FEMA_480_Complete_reduced_v7.pdf This document is a useful tool to help the local jurisdiction understand how FEMA interprets the NFIP regulations in Chapter 44 of the Code of Federal Regulations (44 CFR). In addition, interpretation from FEMA Technical Bulletin 5 and the Community Rating System (CRS) 2017 Coordinator's Manual has been cited.

National Flood Insurance Program Participation:

It is important to understand that, while a local jurisdiction's participation in the NFIP is voluntary, the Federal government can enact severe sanctions against a community that does not participate in the program.

FEMA 480, pages 2-12 to 2-15: *"The NFIP is based on a cooperative agreement between the community and FEMA. FEMA can only make flood insurance available in those communities that agree to regulate future development in the floodplain..."*

Participation in the NFIP is voluntary. There is no Federal law that requires a community to join, although some states have requirements. However, as discussed later in this section, a nonparticipating community faces sanctions, such as loss of Federal aid for insurable buildings in the floodplain...

If a community doesn't uphold its part of the agreement and fails to adequately enforce its floodplain management regulations, FEMA has recourse through three approaches:

- *Reclassification under the Community Rating System*
- *Probation*
- *Suspension from the program...*

A community that does not join the NFIP, has withdrawn from the program, or is suspended from it faces the following sanctions:

- *Flood insurance will not be available. No resident will be able to purchase a flood insurance policy.*
- *If the community withdraws or is suspended, existing flood insurance policies will not be renewed.*

- No Federal grants or loans for the acquisition or construction of buildings may be made in identified flood hazard areas under programs administered by Federal agencies such as HUD, EPA, and SBA.
- No Federal disaster assistance may be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
- No Federal mortgage insurance or loan guarantees may be provided in identified flood hazard areas. This includes policies written by FHA, VA, and others.
- Federally insured or regulated lending institutions, such as banks and credit unions, must notify applicants seeking loans for insurable buildings in flood hazard areas that:
 - There is a flood hazard and
 - The property is not eligible for Federal disaster relief.”

Special Flood Hazard Area (SFHA) (or Base Floodplain):

By definition, the area of land included in the SFHA lies below the Base Flood Elevation (BFE). If the land elevation is higher than the BFE, then it can be removed from the SFHA through the Letter of Map Amendment (LOMA) process. Land that is not in the SFHA is not subject to the NFIP regulations.

From **FEMA 480, page 3-17:**

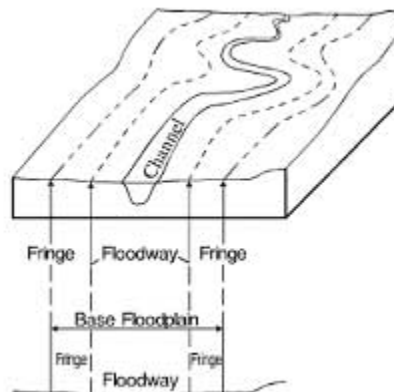
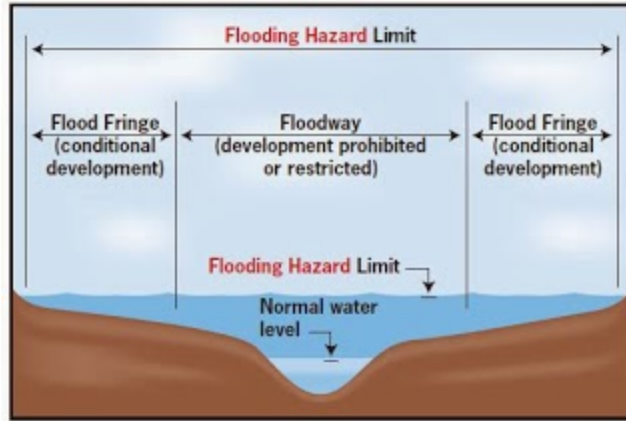


Figure 3-6: Floodway cross section and map

“The floodway is the stream channel and that portion of the adjacent floodplain that must remain open to permit passage of the base flood. Floodwaters generally are deepest and swiftest in the floodway, and anything in this area is in the greatest danger during a flood. FEMA has mapped designated floodways in more than 8,000 communities. The remainder of the floodplain is called the flood fringe (Figure 3-6), where water may be shallower and slower. The floodway and the flood fringe together comprise the base floodplain or special flood hazard area.”

The following diagram shows the same information in a cross section:



<http://www.cityfloodmap.com/2013/12/flood-safety-guidelines-for-depth-and.html>

Crawlspaces:



<https://homereference.net/house-foundation-types/>

Typical Crawlspace Construction

44 CFR 60.3(c)(2): “[Communities must] Require that all new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the community’s FIRM have the lowest floor (including basement) elevated to or above the base flood level...”

According to **FEMA 480, page 5-27**, this can be accomplished in one of three ways:

- Elevation on fill.
- Elevation on piles, posts, piers or columns.
- Elevation on walls or a crawlspace.

Pages 5-30 and 5-31 offer the following guidance:

“When solid walls are used, care must be taken to ensure that hydrostatic or hydrodynamic pressure does not damage the walls... When a crawlspace is used to elevate the building above the base flood elevation, it creates an enclosed area below the BFE that must meet all requirements that apply to enclosures including the openings requirement (see the sections of this Unit on Enclosures and Openings). In addition the floor of the crawlspace must be at or above the lowest adjacent grade to the building to minimize hydrostatic pressures against the crawlspace walls and the ponding of water within the crawl space after a flood.

Recently FEMA issued a policy allowing communities to permit construction of crawlspaces with their floors below grade in the Special Flood Hazard Area (SFHA) under certain conditions. Communities that wish to allow below-grade residential crawlspace construction must require that the interior grade of the crawlspace is no more than two feet below the lowest adjacent grade, the height of the crawlspace measured from the interior grade of the crawlspace to the top of the crawlspace wall does not exceed four feet at any point, and the building meets other limitations. These communities must adopt these requirements as part of their floodplain management ordinance. Below-grade crawlspaces that meet these requirements will not be considered basements, but the buildings will still have higher flood insurance rates than if the same crawlspace had its floor at or above lowest adjacent grade.”

Lowest Floor/Utilities:

44 CFR 59.1: *“Definitions: “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of section 60.3.”*

FEMA 480 page 5-31: *“NFIP regulations require that the lowest floor of a building must be elevated above the BFE... The term “lowest floor” includes a basement because all usable portions of a building must be protected from flood damage... in A Zones, under the minimum NFIP requirement, the lowest floor is measured from the top of the floor). However, all portions of the building below the BFE must be constructed with flood resistant materials and building utility systems (including ductwork) must be elevated above the BFE or floodproofed (made watertight) to that elevation.”*

Community Rating System (CRS) 2017 Coordinator’s Manual, page 430-12: *“Many communities have focused on elevating the top of the lowest floor, but have allowed utilities (especially ductwork) to hang below the floor joists, where it can be flooded. Flooded ductwork can add thousands of dollars to an insurance claim. This is primarily a concern for buildings on crawlspaces... To receive full credit for this element, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) must be elevated or waterproofed to the base flood elevation plus freeboard. If the community requires that electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) be elevated or made of flood-resistant materials above the base flood elevation, but does not require these facilities to be elevated or protected to the freeboard level, then the value for freeboard in the table is considered to be 75% of the elevation requirement.”*

Basements:

44 CFR 59.1: *"Definitions: "Basement" means any area of the building having its floor subgrade (below ground level) on all sides."*

FMA 480, page 5-40: *"For the purposes of the NFIP, a basement is defined as any area that is sub-grade on all sides. The "lowest floor" of a building is the top of the floor of the basement if there is a basement. Since the "lowest floor" of a residential building must be at or above the BFE, it will be highly unusual to construct a basement in a floodplain that met these requirements..."*

Note that "walkout basements," "daylight basements" or "terrace levels" are usually subgrade on only three sides, with the downhill side at or above grade. Thus, they are not considered basements for either floodplain management or flood insurance rating purposes (but they are still the lowest floor of a building for floodplain management and insurance rating purposes). If these areas are used only for parking, access, or storage and they meet other ordinance requirements, they can be regulated as enclosures below an elevated building and not be considered the lowest floor of the building.

On the other hand, cellars, the lower level of a split-level or bi-level house, garden apartments and other finished floors below grade are considered basements under NFIP regulations.

Since the lowest floor of a residential building must be above the BFE, the only way to build a residential basement in the floodplain under NFIP minimum requirements is if it is elevated on fill and surrounded by fill. Floodproofed non-residential basements are allowed, provided they meet the requirements discussed in the previous section on floodproofing."

"A community may apply for an exception to allow floodproofed residential basements if it can demonstrate flood depths are less than five feet, velocities are less than five feet per second, there is adequate warning time for the site and it has appropriate construction requirements. This exception is explained in 44 CFR 60.6(c)."

Staff does not recommend specifically allowing floodproofed residential basements due to potential liability to the City and because to do so could imply that construction of such was a prudent and safe practice. The ability to grant a variance in a specific instance is still allowed by 44 CFR and the City's code.

Flood Openings:

44 CFR 60.3(c)(5): *"[Communities must] Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding 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 or architect or meet or exceed the following minimum criteria: A minimum of two 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters."*

FEMA Technical Bulletin 5, page 14, Height of Openings Above Grade, offers the following additional guidance: *“Note that the openings (or those portions that count towards the required net open area) must be located below the BFE. In areas with shallow flood depths, this may require positioning the openings closer to grade than the maximum 1 foot allowed.”*

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