

## Ordinance Number 16-03

### Flood Damage Prevention Ordinance

AN ORDINANCE OF JEFFERSON COUNTY, A COUNTY OF THE STATE OF IDAHO, ESTABLISHING PURPOSE AND AUTHORITY; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; REQUIRING PERMITS; PROVIDING FOR ADMINISTRATION, PERMIT PROCESSING AND THE AUTHORITY OF THE ADMINISTRATOR; PROVIDING SUBDIVISION, CONSTRUCTION, MANUFACTURED HOME, RECREATIONAL VEHICLE, AND FLOODWAY STANDARDS; PROVIDING VARIANCE AND APPEAL PROCESSES AND CRITERIA; PROVIDING THAT A VIOLATION IS A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS, OR JAIL NOT TO EXCEED ONE HUNDRED EIGHTY DAYS OR BOTH, PROVIDING SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING AN EFFECTIVE DATE.

IT IS ORDAINED by the Board of County Commissioners of Jefferson County, Idaho as follows:

#### SECTION 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

##### A. Statutory Authority

The Legislature of the State of Idaho in I.C. 46-1020 through I.C. 46-1024, authorized local government units to adopt a floodplain map and floodplain management ordinance that identifies floodplains and that sets forth minimum development requirements in floodplains that are designed to promote the public health, safety, and general welfare of its citizenry. Therefore the Board of Jefferson County Commissioners, does hereby order as follows:

##### B. Findings of Fact

(1) The flood hazard areas of Jefferson County are subject to periodic inundation that result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(3) Local government units have the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management.

##### C. Statement of Purpose

**Instrument # 421292**

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Index to: ORDINANCE



It is the purpose of this ordinance 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 and generally undertaken at the expense of the general public;
- (6) Minimize prolonged business interruptions;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### D. Objectives & Methods of Reducing Flood Losses

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

- (1) Require that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction.
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (4) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
- (5) Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters.

## SECTION 2. DEFINITIONS

Unless specifically defined in Section 2, words or phrases used in this ordinance shall be interpreted according to the meaning they in common usage.

**Accessory structure:** a structure on the same lot or parcel as a principle structure, the use of which is incidental and subordinate to the principle structure. An insurable building should not be classified as an accessory or appurtenant structure.

**Appeal:** a request for review of the Floodplain Administrator's interpretation of provisions of this ordinance or request for a variance.

**Area of shallow flooding:** a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of special flood hazard:** the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zone designation on FIRM's include the letters A, AE, V. Also known as the Special Flood Hazard Areas (SFHA).

**Base Flood:** the flood having a one percent chance of being equaled or exceeded each year. Known as the "Regulatory Flood."

**Base Flood Elevation (BFE):** the computed elevation to which flood water is anticipated to rise during the "Base Flood." The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest .1 foot.

**Basement:** any area of the building having its floor sub grade (below ground level) on all sides. This means that if the floor is 12 inches below grade on all sides, 7 feet on all sides, or 7 feet on three sides and 12 inches on the fourth side, IT IS A BASEMENT. If the area is AT or ABOVE grade on ANY side, that area is NOT a basement. Some people are surprised to learn their "walk-out basement" isn't classified as a basement. The lowest floor of a residential building including basement must be above the Base Flood Elevation (BFE). Basements below the BFE are only allowed in communities that have obtained a basement exception from FEMA. Floodproofed non-residential basements are allowed.

**Building:** see structure.

**Conditional Letter of Map Revision (CLOMR):** FEMA's comment on a proposed project that would, upon construction, 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 letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

**Crawlspace:** an area of limited height under a floor. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas. This limitation will also prevent these crawlspaces from being converted into habitable spaces.

**Critical Facility:** a facility that is critical for the health and welfare of the population and is especially important following hazard events. Critical facilities include, but are not limited to hospitals, fire stations, police stations, storage of critical records, schools, nursing homes, transportation systems, and hazardous material facilities. If at all possible, critical facilities should not be located in a floodplain.

**Datum:** the vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical datum of 1927 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

**Development:** any manmade change to improved or unimproved real estate, including but not limited to, the construction of buildings, structures or accessory structures, the placement of a mobile, modular, or manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations; storage of equipment, material or the deposition or extraction of materials, specifically the construction of dikes, berms, and levees. The term "development" does not include the cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations. (I.C. 46-1021).

**Digital FIRM (DFIRM):** Digital flood Insurance Rate Map is a digital version of FEMA's flood insurance rate map (FIRM) that is used to help determine the flood zone, base flood elevation and or floodway status for a particular location.

**Elevation Certificate:** an official form used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate.

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

**Existing Construction / Structures:** development (see definition of "development" above) for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975.

**Existing Manufactured Home Park or subdivision:** a manufactured home park or subdivision where construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before the effective date of February 9, 1976.

**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 manufactured homes

are to be affixed, including the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads. Federal Emergency Management Agency (FEMA): is the agency with the overall responsibility for administering the National Flood Insurance Program.

Flood or Flooding: a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (3) Mudflow; or
- (4) 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 above.

*Note: National Flood Insurance Program (NFIP) claims process requires that two acres of the insured property or two or more properties (parcels of land or lots), one of which may be a public roadway, must be inundated for coverage.*

Flood Fringe: the portion of the floodplain outside of the floodway covered by the floodwaters during the regulatory flood.

Flood Hazard Boundary Map (FHBM): an official map of a community, issued by the Federal Insurance Administration or U.S. Department of Housing and Urban Development where the boundaries of areas of special flood hazard have been designated as Zone A. The FHBM usually is the initial flood hazard map.

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

Flood Insurance Study (FIS): a compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. The FIS report contains detailed flood elevation data in flood profiles and data tables.

Floodplain: the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

Floodplain Management: the operation of an overall program of corrective and preventive measures for reducing flood damage.

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

**Flood Protection Elevation (FPE):** As defined in Idaho Code 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 Jefferson County 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 (FIS).

**Floodway:** see Regulatory Floodway

**Freeboard:** a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size of flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams and the hydrologic effects of urbanization in a watershed.

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

**Highest Adjacent Grade (HAG):** the highest natural elevation of the ground surfaces prior to construction, adjacent to the proposed walls of a structure. Refer to the FEMA Elevation Certificate for HAG related to building elevation information.

**Historic Structure:** a structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing of 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.
- (2) 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.
- (3) 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 Interior, or
- (4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior, or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Change (LOMC):** a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include: Letter of Map

Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F).

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

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 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; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements Section 60.3 of NFIP Regulations. The lowest floor is a determinate for the flood insurance premium for a building, home or business.

**Manufactured Home:** a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle."

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

**New Construction:** structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after February 9, 1978 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 pouring of concrete pads) is completed on or after the effective date of February 9, 1978 (adoption of floodplain management regulations by Jefferson County).

**Recreational Vehicle (RV):** a vehicle that is:

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

**Regulatory 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 designed height.

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

**Start of Construction:** Includes substantial improvement and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or 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 the alteration affects the external dimensions of a building.

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

**Substantial damage:** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of its market value before the damage occurred.

**Substantial improvement:** reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market should be:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement, or
- (2) In the case of damage, the appraised value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual amount of repair work performed. The term does not include either:
  - (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety codes specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
  - (b) Alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a Historic Structure.

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

**Violation:** the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate other certifications or other evidence of compliance required by the community's floodplain management ordinance is presumed to be in violation until such time as that documentation is provided.

**Water surface elevation:** the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other specific datum) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

### **SECTION 3. GENERAL PROVISIONS**

#### **A. Lands to Which This Ordinance Applies**

This Ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Jefferson County. Nothing in this Ordinance is intended to allow uses or structures that are otherwise prohibited by the Zoning Ordinance.

#### **B. Basis for Area of Special Flood Hazard**

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for Jefferson County, dated September 26, 2008, with accompanying 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 Jefferson County.

#### **C. 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.

#### **D. Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or natural causes. The 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. The ordinance shall not create liability on the part of Jefferson County or by any officer or employee thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder.

### **Section 4. ADMINISTRATION**

#### **A. Designation of Floodplain Ordinance Administrator**

The Planning and Zoning Administrator is hereby appointed as the Floodplain Administrator and is responsible for administering and implementing the provisions of this ordinance.

#### **B. Duties and Responsibilities of the Administrator**

Duties of the Floodplain Administrator shall include, but shall not be limited to:

- (1) Review all floodplain development permit applications to ensure that the permit requirements of this ordinance have been satisfied.
- (2) Before issuing a floodplain development permit, review proposed development to ensure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334: the

(8) All new construction shall have adequate drainage provided to reduce exposure to flood hazards.

**C. Manufactured Home Standards**

- (1) In all Special Flood Hazard Areas where the Base Flood Elevation is established manufactured homes placed, substantially improved, or have incurred substantial damage must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to the Flood Protection Elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.
- (2) In all Special Flood Hazard Areas where the Base Flood Elevation has not been established, manufactured homes placed, substantially improved, or have incurred substantial damage must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two (2) feet above the highest adjacent grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.
- (3) Manufactured homes placed on solid perimeter walls shall meet the flood vent requirements in Section 5 (b) (4), except when the first floor, including enclosed areas and crawlspace is located above the Base Flood Elevation.

**D. Accessory Structures**

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 200 square feet. Such a structure must meet the following standards:

- (1) It shall not be used for human habitation;
- (2) It shall be constructed of flood resistant materials;
- (3) It shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- (4) It shall be firmly anchored to prevent floatation;
- (5) Services such as electrical and heating equipment shall be elevated or flood-proofed to or above the Flood Protection Elevation (FPE).
- (6) It shall meet the opening requirement of Section 5(B) (4).

**E. Recreational Vehicle Standards**

In all Special Flood Hazard Areas, Recreational Vehicles must either:

- (1) Be on the site for fewer than 180 consecutive days;
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or
- (3) The recreational vehicle must meet all requirements for "New Construction," including the anchoring and elevation requirements.

**F. Critical Facility**

- (1) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Regulatory Floodplain. If a lot has a buildable site out of the Special

Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Idaho Stream Channel Alteration permits, I.C. 42 Chapter 38 require that copies of such permits be provided and maintained on file.

- (3) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize base flood elevation and floodway data available from the federal, state or other source in order to administer the ordinance.
- (4) When Base Flood Elevations or other current engineering data are not available, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known to determine whether a proposed building site will be reasonably safe from flooding.
- (5) Obtain and record the actual elevation in relation to the vertical datum on the effective FIRM, or highest adjacent grade:
  - (a) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all substantially improved structures and new construction, and whether or not the structure contains a basement, or
  - (b) For all new substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.3-2.
    - (i) Verify and record the actual elevation (in relation to mean sea level), and
    - (ii) Maintain the floodproofing certifications required in Section 4.1-2(3).
- (6) When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect.
- (7) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.
- (8) All records pertaining to the provisions of this ordinance shall be maintained in the office of the County Clerk or his/her designee and shall be open for public inspection.

**C. Establishment of Floodplain Development Permit**

A Floodplain Development Permit shall be required prior to development activities in Special Flood Hazard Areas established in Section 3 subsection B.

**D. Permit Procedures**

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the administrator or the administrator's designee

prior to starting development activities. Specifically, the following information is required:

**(1) Application Stage**

- (a) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities.
- (b) Existing and proposed elevation in relation to the vertical datum on the effective FIRM including: highest adjacent grade, lowest adjacent grade, lowest floor level, including crawlspaces or basement of all proposed structures, and the Flood Protection Elevation;
- (c) Elevation to which any non-residential structure will be flood-proofed;
- (d) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5(F)(2);
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development, and;
- (f) If the community does not have the expertise to evaluate the technical data that is part of the application, the community may contract for an independent engineering review or require a review by FEMA through the CLOMR process. The applicant shall pay the cost of an independent technical review.

**(2) Construction Stage**

- (a) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level, using appropriate FEMA elevation or flood-proofing certificate, immediately after the lowest floor or flood-proofing is completed. When flood-proofing is utilized for non-residential structures the certification shall be prepared by or under the direct supervision of a licensed surveyor, professional engineer or architect and certified by same.
- (b) Certificate deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

**(3) Post- Construction Stage**

- (a) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level, using appropriate FEMA elevation and/or flood-proofing certificate, immediately after the lowest floor or flood-proofing certificate, immediately after the lowest floor or floodproofing is completed.
  - (i) Elevation Certificate (OMB No. 1600-0008 or revised version) with sections A-F completed, (C1-Building elevations should be based on Finished Construction).

- (ii) Floodproofing Certificate with Section 1-111 completed. (Elevations should be based on finished Construction). In addition to floodproofing certificates the following shall be provided and maintained:
  - a. Emergency Operations Plan, and
  - b. Inspection and Maintenance Plan (as stated in TB3)
- (b) Deficiencies identified by the Flood Administrator through the Certification shall be corrected by the permit holder immediately. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project, Certificate of Occupancy to be withheld, or other remedies found in Title 1-10.
- (4) Expiration of Floodplain Development Permit  
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 begun as per the Start of Construction definition.

## SECTION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

### A. Subdivision Standards

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision preliminary plats/development plans shall include the mapped flood hazard zones from the effective FIRM.
- (3) Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less.
- (4) All subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
- (5) All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

### B. Construction Standards

- (1) New Construction and substantial improvements of an existing structure, including a structure that has been substantially damaged, shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) New construction and substantial improvements of an existing structure, including a structure that has been substantially damaged, shall be constructed with materials and utility equipment resistant to flood damage.
- (3) New Construction or substantial improvements of an existing structure including a structure that has been substantially damaged, shall be constructed by methods and practices that minimize flood damage.
- (4) Enclosed spaces/crawlspace: all new construction or substantial improvements of an existing structure, including a structure that has been substantially damaged, that

includes a fully enclosed area located below that lowest floor formed by the foundation and other exterior walls shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Design for complying with this requirement must be certified by a licensed professional engineer or architect and meet the following minimum criteria:

- (a) Provide a minimum of two openings with a total new area of not less
  - i. Than one square inch for every square foot of enclosed area subject to flooding;
  - ii. The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
  - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
- (b) To comply with the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
- (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (d) For crawlspace foundation types, construction must follow the guidelines in FEMA TB 11-01, Crawlspace Construction for Structures Located in Special Flood Hazard Areas: National Flood Insurance Program Interim Guidance, specifically:
  - i. Below grade crawlspaces are prohibited on sites where the velocity of floodwaters exceed 5 feet per second;
  - ii. Interior grade of the crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG);
  - iii. Height of the below grade crawlspace, measured from the lowest interior grade of the crawlspace to the bottom of the floor joist must not exceed 4 feet at any point;
  - iv. Contain an adequate drainage system that removes floodwaters from the interior area of the crawlspace.
- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other facilities shall be designed and/or elevated to prevent water from entering or accumulating within the components during flooding.
- (6) All new construction shall have utilities and facilities such as sewer, gas, and water systems located and constructed to minimize flood damage.
- (7) The development proposal shall be consistent with the need to minimize flood damage within flood prone areas.

Flood Hazard Area, all critical facilities shall be located in that area. If it is not possible to place the structure outside of the SFHA a variance is required.

(2) If a lot does not have a buildable site out of the Regulatory Floodplain and a variance is granted the following standards shall apply:

(a) Critical facilities shall have the lowest floor elevated three (3) feet above the BFE or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines.

(b) If the only access to and from the critical facility crosses through or is in the SFHA, it shall be elevated to the elevation of the 500-year flood.

#### G. Floodway Standards

The following provisions shall apply in a floodway:

(1) A project in the regulatory floodway must undergo an encroachment review to determine its effect on flood flows. An encroachment analysis must include:

(a) Determination and documentation that the filing, grading or construction of a structure will not obstruct flood flows and will not cause an increase in flood heights upstream or adjacent to the project site;

(b) Determination and documentation that grading, excavation, channel improvements, bridge and culvert replacements that remove an obstruction, do not cause increase in downstream flood flows;

(c) Certification and documentation by a licensed professional engineer that the project will not result in a rise in flood heights.

(d) The Administrator may make the encroachment determination for minor projects, such as projects that do not increase the natural grade (i.e. paving a driveway or parking lot at existing grade, open fences and small isolated obstructions such as a mailbox or telephone pole.

(2) Upon demonstrating that there are no alternatives, the applicant may propose an encroachment in the floodway that will cause an increase in the BFE in excess of the allowable level provided that the applicant obtain a Conditional Letter of Map Revision from FEMA before the development can be approved and permitted.

#### H. Standards for Zone with Base Flood Elevations

In Special Flood Hazard Areas designated AE, A (with estimated BFE), the following provisions are required:

(1) New residential construction and substantial improvements:

New construction or substantial improvement of any residential structure or manufactured home shall have the lowest floor, including basement, constructed at or above the community's Flood Protection Elevation. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Section 5(B0(4).



**(2) Non-Residential Construction**

New Construction or the substantial improvement of any non-residential structure shall be elevated to the Flood Protection Elevation or must be flood-proofed. The structure and all attendant utilities shall be elevated or flood-proofed to the Flood Protection Elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A licensed professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these provisions, and shall provide certification to the Administrator.

(3) 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 at any point within the community. Certification and documentation by a licensed professional engineer shall be submitted to demonstrate compliance with this section.

(a) Applicants of proposed projects that increase the base flood elevation more than one foot are required to obtain and submit to the Floodplain Administrator, a Conditional Letter of Map Revision (CLOMR preconstruction).

(b) Post construction, the applicant must apply to FEMA for a Letter of Map Revision for changes to the flood hazard map proposed in the CLOMR.

**I. Standards for Zones Without Base Flood Elevations and/or Floodway (A Zones)**

These standards apply in Special Flood Hazard Areas where streams exist but no flood elevation data has been provided (A Zones), or where base flood data have been provided but a floodway has not been delineated.

(1) When base flood elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and/or Flood Insurance Rate Maps, then the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer this ordinance. If data is not available from any source, only then provisions 2 and 3 shall apply.

(a) Where the Floodplain Administrator has obtained base flood elevation data, applicants of proposed projects that increase the base flood elevation data more than one foot shall obtain a Conditional Letter of Map Revision (CLOMR) preconstruction and a letter of map Revision (LOMR) post construction.

(2) No encroachments, including structure or fill, shall be located within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless certification by a licensed professional engineer

documents that the encroachment will not result in any increase in flood levels during the base flood.

- (3) In Special Flood Hazard Areas without base flood elevation data, all new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area elevated no less than two feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Section 5(B) and (C).

#### J. Alteration of a Watercourse

A water course is considered altered when any change occurs within its banks.

- (1) The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a floodplain development permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.
- (2) 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 course. Evidence of notification must be submitted to the Floodplain Administrator and to the Federal Emergency Management Agency.
- (3) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course that the flood carrying capacity will not be diminished.
- (4) The applicant shall meet the requirements to submit technical data in Sections L (1) and L (2) when an alteration of a water course results in the relocation or elimination of the Special Flood Hazard area, including the placement of culverts.

#### K. Requirement to Submit New Technical Data

- (1) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure, that technical data reflection such changes be submitted to FEMA within six months of the data such information becomes available. Those development proposals include:
  - (a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
  - (b) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the Special Flood Hazard Area in accordance with Section 5(A)(3);
  - (c) Alteration of watercourses that result in a relocation or elimination of the Special Flood Hazard Area, including the placement of culverts;
  - (d) Subdivision or large-scale development proposals requiring establishment of base flood elevations according to Section 5(A) (3).

- (2) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

## SECTION 6. VARIANCE AND APPEAL PROCEDURES

### A. Variance

- (1) An applicant for a variance must be submitted to the Jefferson County Planning and Zoning Office on the form provided by Jefferson County and include at minimum the same information required for a development permit and an explanation for the basis for the variance request.
- (2) Upon receipt of a completed application for a variance, the variance request will be set for public hearing at the next Jefferson County Planning and Zoning Commission meeting in which time is available for the matter to be heard:
- (3) Prior to the public hearing, notice of the hearing will be published in the official newspaper of Jefferson County at least 15 days prior to the hearing. In addition to the newspaper publication, written notice shall be provided to all adjoining property owners, and the property shall be posted with the public hearing notice.
- (4) The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

### B. Criteria for Variances

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped parcel/lot contiguous to and surrounded by parcels/lots with existing structures constructed below the base flood level. As the parcel/lot size increases the technical justification required for issuing the variance increases.
- (2) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination that the variances is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variance may be issued upon;
  - (a) A showing by the applicant of good sufficient cause;
  - (b) A determination that failure to grant the variance would result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances;
  - (c) Limited circumstances, where functionally dependent users are needed, provided that the structure is protected by methods that minimize flood damages during the base flood and there are no additional threats to public safety.

- (5) Variances pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods.

**C. Variance Decision**

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the Flood Protection Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk

**D. Appeals**

An applicant for an appeal must be submitted to the Jefferson County Clerk's Office on the form provided by Jefferson County. The Board of Jefferson County Commissioners shall hear and decide appeals from the interpretation of the Floodplain Administrator.

- (1) An appeal must be filed with the County Clerk within fourteen (14) days of the date of any permit denial or interpretation of the Floodplain Administrator. Failure to timely file an appeal shall be considered a failure to exhaust the administrative remedies. The appeal must set out the interpretation of the Floodplain Administrator and a narrative setting forth the facts relied upon by the appellant and the appellant's claim regarding the error in the interpretation.

- (2) Upon receipt of a completed appeal, the appeal will be scheduled for the next available Board of Jefferson County Commissioner meeting to be heard. The Board of County Commissioners shall consider the following in ruling on an appeal:

- (a) All technical evaluations, all relevant factors, standards specific in other sections of this ordinance, including:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger to life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual landowner;
- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity of the facility to a waterfront location, where applicable;
- vi. The availability for alternative locations for the proposed use which are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;

- viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- ix. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- xi. The cost of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, and water systems, and streets and bridges.

**E. Decision**

The Board of Jefferson County Commissioners decision on appeal shall be in writing and set out the facts, technical information and the legal basis for the decision.

**SECTION 7. 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 provision of this ordinance or failure to comply to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances 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 \$1000.00 or imprisoned for not more than 180 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Jefferson County from taking such other lawful action as is necessary to prevent or remedy any violation.

**SECTION 8. SEVERABILITY**

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

**SECTION 9. REPEAL OF CONFLICTIN PROVISIONS**

This ordinance shall not in any way impair or remove the necessity of compliance with any other laws, ordinances, regulations, etc. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall control.

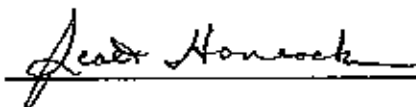
**SECTION 10. EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as provided by law.

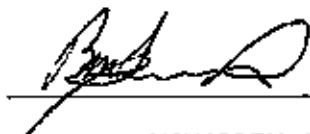
Enacted by the Board of Jefferson County Commissioners as an ordinance of Jefferson County on the 25<sup>th</sup> day of January, 2016.



JERALD RAYMOND, Chairman



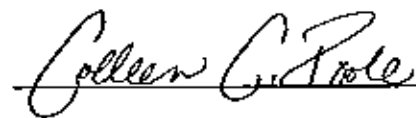
SCOTT HANCOCK, Commissioner



BRIAN FARNSWORTH, Commissioner



ATTEST:



COLLEEN POOLE, County Clerk

SEAL:

