



City of Ketchum

**STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
REGULAR MEETING JULY 13, 2020**

- PROJECT:** City-initiated Text Amendments to Title 17, Zoning, to amend regulations for retail square footage and subdistricts in the Community Core
- REPRESENTATIVE:** City of Ketchum Planning and Building Department
- DESCRIPTION:** Amendments to Title 17, Chapter 17.88, Floodplain Management and Chapter 17.08, Definitions
- NOTICE:** Notice appeared in the Idaho Mountain Express on June 17, 2020 and was mailed to outside agencies on June 26, 2020.
- PLANNER:** Brittany Skelton, Senior Planner
- ATTACHMENTS:** **A.** Title 17, Chapter 17.88, Floodplain Management draft amendments
B. Title 17, Chapter 17.08, Definitions, draft amendments

INTRODUCTION

The City of Ketchum participates in the National Flood Insurance Program's Community Rating System (CRS) program and has participated in this program since 1992. All cities and counties in the United States that desire to make federally-backed National Flood Insurance Program insurance policies available to property owners within their jurisdiction are responsible for administering the minimum floodplain regulations dictated in Title 44 of the Federal Code of Regulations. As a CRS community, the City of Ketchum adopts and enforces higher regulatory standards. In exchange for adopting higher regulatory standards related to mitigating flood risk to life and property most holders of federally-backed National Flood Insurance Program (NFIP) policies receive a discount on their insurance premiums.

As a CRS community the State of Idaho's NFIP Coordinator requires the City of Ketchum adopt standard definitions, regulatory criteria and procedures, and so forth related to floodplain management best practices. The City of Ketchum last overhauled its floodplain ordinance to align with these standards in 2015.

The proposed amendments to Title 17, Zoning, Chapter 17.88, Floodplain Management Overlay Zoning District and Title 17, Zoning, Chapter 17.08, Definitions, reflect updates contained in the State of Idaho's model floodplain ordinance.

Of note, Ketchum's streambank alteration permitting (SAP) process and riparian regulations are among the most robust and comprehensive in the State of Idaho. Ketchum's SAP and riparian regulations far exceed references to stream alteration and riparian regulations contained in the model ordinance. No substantive changes to SAPs and riparian regulations are proposed at this time. However, there is room to improve upon regulation of and community stewardship of our rivers and riparian resources. As part of a comprehensive policy discussion, and with robust community outreach, it is on staff's radar to engage in broader amendments to the Floodplain Ordinance at a later date.

The proposed amendments accomplish the following:

- Amend existing and adopts new standard definitions
- Augment the standard list of plans and documents that must be submitted with applications for development within the floodplain
- Clarify that a variance to floodplain regulations must be reviewed and granted by the Planning and Zoning Commission
- Distinguish standards for floodplain development in the following flood risk zones:
 - Floodplains without Established Base Flood Elevations
 - Riverine Floodplains with Base Flood Elevations but without Established Floodway
 - Floodways
 - Areas of Shallow Flooding (Zone AO, AH, AR/AO, or AR/AH)
- Introduce higher regulatory standards for the construction of critical facilities, as follows:
 - Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet (3') above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.
 - Note: As a best practice, FEMA recommends protection that exceeds code minimums. For example, FEMA 543, Design Guide for Improving Critical Facility Safety from Flooding and High Winds (2007) recommends protecting critical facilities to withstand at least a 0.2-percent-annual-chance flood event (often called the "500-year flood event"). Flood elevations for the

0.2-percent-annual-chance flood may be greater than the elevation specified by ASCE 24. If federal funding or other Federal action is involved, the requirements of Executive Order 11988 – Floodplain Management may necessitate protection of critical actions to the 500-year flood elevation (critical actions may include the construction and repair of critical facilities). (STATE RECOMMENDED BUT OPTIONAL)

- In existing facilities that have not been substantially damaged, it may not be possible to floodproof or elevate to provide protection from the 0.2-percent-annual-chance flood event. In those instances, floodproofing or elevating as high as practical is recommended.
- Three (3) feet is State-recommendation, greater than three (3) feet is OPTIONAL.

PUBLIC INPUT

No written public comment has been received prior to publication of this staff report. Any written public comment received prior to the public hearing will be distributed to the Commission and included in the public record.

STAFF RECOMMENDATION AND RECOMMENDED MOTION

Staff recommends continuing the public hearing to August 11, 2020.

"I MOVE TO CONTINUE THE PUBLIC HEARING TO AUGUST 11, 2020."

ATTACHMENTS:

- A. Title 17, Chapter 17.88, Floodplain Management draft amendments
- B. Title 17, Chapter 17.08, Definitions, draft amendments

Attachment A.

Title 17, Chapter 17.88, Floodplain Management draft amendments

Article I. Flood Damage Prevention

[17.88.010: Statutory Authorization and Findings Of Fact](#)

[17.88.020: Statement Of Purpose](#)

[17.88.030: Methods Of Reducing Flood Losses](#)

[17.88.040: General Provisions](#)

[17.88.050: Administration](#)

[17.88.060: Provisions For Flood Hazard Reduction](#)

[17.88.070: Standards for Floodplains without Established Base Flood Elevations](#)

[17.88.080: Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodway](#)

[17.88.090: Standards for Floodways](#)

[17.88.100: Standards for Areas of Shallow Flooding \(Zone AO, AH, AR/AO, or AR/AH\)](#)

[17.88.110070: Enforcement And Penalties](#)

17.88.010: STATUTORY AUTHORIZATION AND FINDINGS OF FACT:  

[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 Council of the City of Ketchum Idaho does hereby ordain as follows:](#)

[B.](#) The flood hazard areas of Ketchum, Idaho, are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

[CB.](#) These flood losses are caused by the cumulative effects of obstruction in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

[DC.](#) The Big Wood River and its tributaries and floodplains in Ketchum are important to the ~~well-being~~well-being of its citizens as a source of recreation, fish and wildlife habitat, aesthetic beauty, a source of irrigation water as well as other economic and lifestyle values.

[ED.](#) The studies listed below are hereby adopted as the primary sources of flood hazard analysis:

1. "Flood Insurance Study (FIS) for Blaine County, Idaho and Incorporated Areas", Flood Insurance Study 16013CV001A and 16013CV002A, dated November 26, 2010, and any amendments thereto;
2. Digital flood insurance rate maps (DFIRMs) for Blaine County, Idaho, and incorporated areas: Map Number 16013CIND0A; Map Number 16013C0433E, Community Panel Number 0433E; Map Number 16013C0434E, Community Panel Number 0434E; Map Number 16013C0441E, Community Panel Number 0441E; Map Number 16013C0442E, Community Panel Number 0442E; Map Number 16013C0453E, Community Panel Number 0453E; Map Number 16013C0461E, Community Panel Number 0461E, and any amendments thereto; and
3. Other flood hazard studies, as may be adopted by the City, will be utilized in determining flood hazard.

[FE.](#) Regulations pertaining to development on property affected by the one percent (1%) annual chance flood (100-year flood), as defined herein, are necessary in addition to those of the underlying zoning district in order to

promote the health, safety and welfare of the citizens of and visitors to the City of Ketchum, Idaho. (~~Ord. 1135, 2015~~)

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

17.88.020: STATEMENT OF PURPOSE:

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

- A. To protect human life, health, safety and welfare;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazard assume the responsibility for their actions;
- I. To allow the river and creeks and their adjacent lands to convey floodwaters to minimize property damage;
- J. To regulate uses in the floodplain for the purpose of preserving, protecting, and enhancing the abundance and diversity of fish, wildlife and riparian resources;
- K. To protect, preserve and enhance the waterways and floodplains as a recreation resource;
- L. To provide a formal procedure for stream alteration permit applications;
- M. To restrict or prohibit uses which are injurious to health, safety or property in times of flood, which result in environmental damage, or that cause increased flood heights or velocities; and
- N. To guide development and city review of development in the floodplain and adjacent to waterways in order to establish the most appropriate building envelopes for lots existing and in new subdivisions. (Ord. 1135, 2015)

17.88.030: METHODS OF REDUCING FLOOD LOSSES:

In order to accomplish its purposes, this section includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction, at time of substantial damage or substantial improvement and throughout their intended life span;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling, filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which may unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 1135, 2015)

17.88.040: GENERAL PROVISIONS:  

- A. Establishment Of The Floodplain Management Overlay Zoning District: The floodplain management overlay zoning district is hereby established. The regulations of this district apply to all lands within the jurisdiction of the city that lie within the one percent (1%) annual chance floodplain boundaries as determined by the graphic representation shown on the flood insurance rate map (FIRM) and by the elevations of the base flood contained in the flood insurance study referred to hereinbelow in addition to the regulations contained in the underlying zoning district.
 - 1. Establishment Of The Floodway Subdistrict And The Floodplain Subdistrict: The floodplain areas are divided into two (2) subdistricts: the floodway subdistrict and the floodplain subdistrict.
 - 2. Rules For Interpretation Of The Floodplain Management Overlay Zoning District Boundaries And The Floodway Subdistrict And The Floodplain Subdistrict Boundaries: The floodplain management overlay zoning district boundaries are represented on the official zoning map of the city. However, the precise intermediate regional flood (IRF) location shall be determined by a site survey and elevations as interpreted from the adopted flood insurance rate map and the flood insurance study. All land within the external boundary of the one percent (1%) annual chance floodplain and all parcels with any portion thereof affected by said one percent (1%) annual chance floodplain shall be considered to be within the floodplain management overlay zoning district governed thereby in addition to the underlying zoning district. The city may make necessary interpretations of the boundary based upon the recommendation of the city engineer or other expert.
 - 3. Basis For Establishing The Areas Of Special Flood Hazard: The areas of special flood hazard identified by the federal insurance administration in a scientific and engineering report entitled "The Flood Insurance Study (FIS) For Blaine County, Idaho And Incorporated Areas" with accompanying digital flood insurance rate maps (DFIRMs) bearing an effective date of November 26, 2010, to establish the areas of special flood hazard for land which has been or will be annexed into the city limits of the city of Ketchum, Idaho, since the adoption of said study for the incorporated area of the city are hereby adopted by reference and declared to be a part of this article. The flood insurance studies are on file at the office of the city clerk, city hall, 480 East Avenue North, Ketchum, Idaho.
- B. Establishment Of Waterways Design Review Subdistrict: The city hereby makes the following findings of fact with regard to establishing a waterways design review subdistrict:
 - 1. Flooding is aggravated by the collection of debris upstream of the many channel obstructions located in the floodplain areas. Such obstructions include bridges, fences, houses, trees, etc. The accumulation of debris has resulted in significantly higher water surface elevations upstream from the obstructions than would otherwise be expected. Obstructions can and tend to cause flooding to extend beyond anticipated FEMA one percent (1%) annual chance flood boundaries at points of debris accumulation which cannot be predicted.
 - 2. All structures located roughly within the limits of the 0.2 percent annual chance floodplain are subject to inundation, if not direct impact by the channel itself, during floods of return frequencies of ten (10) to twenty (20) years. This is due to the tendency of the channel to change abruptly, often cutting a totally new channel in

a few hours, during high water periods because the Big Wood River is wide, flat and has relatively shallow channel in many areas.

3. The levees built by the U.S. army corps of engineers are not considered by the corps to be adequately designed to be classified as permanent structures capable of withstanding a one percent (1%) annual chance.
4. Encroachments (i.e., houses, fill, etc.) on floodplains reduce the flood carrying capacity and increase flood heights, thus increasing flood hazards beyond the encroachment. With every new structure or other development since the FEMA one percent (1%) annual chance boundary was determined, the ability of the floodplain to function as originally assumed changes.
5. Historically, development adjacent to waterways has had a direct effect on methods chosen by owners to protect their property and often to the detriment of the natural stream by destroying or greatly altering fish and wildlife habitat and by unnaturally armoring the banks of the waterways to prevent erosion and, thus, future damage to manmade structures.
 - a. The purposes for which said subdistrict is established are as follows:
 - (1) To guide development adjacent to waterways toward the most appropriate building envelope for its particular site;
 - (2) To minimize the impact of development adjacent to waterways on adjacent properties upstream, downstream and across waterways;
 - (3) To review development plans for property adjacent to waterways to minimize the obstruction of the conveyance of floodwaters;
 - (4) To provide for the maintenance and/or enhancement of the riparian environment including wildlife habitat along waterways;
 - (5) To carry out the provisions of the comprehensive plan as well as health, safety and welfare with regard to properties adjacent to waterways;
 - (6) To warn that City review and approval is not going to prevent flooding and that flooding may occur;
 - (7) To advise of flood hazards and studies and options available;
 - (8) To review drainage/obstructions to flood carrying capacity and to advise on methods that may be used to moderate impact of the development; and
 - (9) To review landscaping and access for flood carrying capacity and preservation or enhancement of riparian vegetation.
 - b. The Waterways Design Review Subdistrict is hereby established and shall be defined as including all those parcels of property within the City limits lying adjacent to or within twenty five feet (25') of the mean high water mark of the Big Wood River, Trail Creek and Warm Springs Creek and any and all channels, having year round or intermittent flow, thereof.
 - c. "Development", as defined in section [17.08.020](#) of this title, and construction or placement of buildings or structures, including additions to any such structures or buildings existing at the effective date hereof, and landscaping changes within the Riparian Zone, upon real property within the Waterways Design Review Subdistrict shall ~~be subject to design review and shall~~ require said approval under section [17.88.050](#) of this article, prior to issuance of a building permit, excavation/grading permit or commencement of any work associated with any such activity.

d. Applications for floodplain development permits and waterways design review shall be made according to this chapter.

C. Uses Permitted: Due to the potential hazard to individuals as well as public health, safety and welfare, uses allowed in the Floodplain Management Overlay Zoning District are those which are permitted, conditional, and accessory as contained in the underlying zoning district; due to the sensitive ecology of the river system and riparian area and the detrimental impacts that uncontrolled use of pesticides and herbicides can create to both the river system and human health and, due to the extremely hazardous nature of the floodway due to velocity of floodwaters carrying debris, potential projectiles and erosion potential, the following provisions apply, in addition to all others:

1. Encroachments in the floodway including fill, new construction, substantial improvements and other development are prohibited unless certification, with supporting calculations, by a registered professional hydraulic engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and uses within the floodway shall be restricted to those which are required by public necessity (for example, bridges, water pumps), recreational use (for example, paths), wildlife habitat improvements (for example, vegetation, nesting structures, pool/riffle improvements), and gravel extraction; provided, that the use/encroachment meets the approval of the Federal Emergency Management Agency and national flood insurance program and does not jeopardize the City's participation in the national flood insurance program. New residential structures and residential substantial improvements are prohibited in the floodway.
2. If subsection D1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section [17.88.060](#), "Provisions For Flood Hazard Reduction", of this article.
3. No use of restricted use chemicals or soil sterilants will be allowed within one hundred feet (100') of the mean ~~high water~~high-water mark on any property within the City limits at any time.
4. No use of pesticides, herbicides, or fertilizers will be allowed within twenty five feet (25') of the mean high water mark on any property within the City limits unless approved by the City Arborist.
5. All applications of herbicides and/or pesticides within one hundred feet (100') of the mean high water mark, but not within twenty five feet (25') of the mean high water mark, must be done by a licensed applicator and applied at the minimum application rates.
6. Application times for herbicides and/or pesticides will be limited to two (2) times a year; once in the spring and once in the fall unless otherwise approved by the City Arborist.
7. The application of dormant oil sprays and insecticidal soap within the Riparian Zone may be used throughout the growing season as needed.
8. It shall be unlawful to dump, deposit or otherwise cause any trash, landscape debris or other material to be placed in any stream, channel, ditch, pond or basin that regularly or periodically carries or stores water.

D. General Notice Requirements: In order to provide reasonable notice to the public of the flood hazard potential within all areas of the Floodplain Management Overlay Zoning District, the following notice regulations and requirements are hereby adopted for all real property and structures located within said district:

1. All subdivision plats shall identify and designate the one percent (1%) annual chance floodplain boundary and the floodway boundary including a certification by a registered surveyor that the boundaries were established consistent with the FIRM map for the City or Blaine County, whichever applies. All subdivision plats shall contain a note or notes that warn prospective buyers of property that sheet flooding can and will occur and that flooding may extend beyond the floodway and floodplain boundary lines identified.

2. All subdivision plats shall contain note(s) that refer to the required twenty five foot (25') setback from all waterways called the Riparian Zone in which no development is permitted, and require that riparian vegetation shall be maintained in its natural state for the protection and stabilization of the riverbank, and that removal of trees or other vegetation will be considered as part of the function of design review as set forth in section [17.88.050](#) of this article.
 3. Prior to issuance of any building permit for a structure located partially or wholly within the one percent (1%) annual chance floodplain, a preconstruction elevation certificate shall be completed by a registered professional engineer, architect or surveyor and submitted to the City of Ketchum building inspector. The elevation certificate form shall be made available from the City. The certificate shall again be completed by the owner and/or his/her agents and submitted to the City upon completion of the foundation and construction of the lowest floor, and again prior to issuance of a certificate of occupancy or a final inspection by the building inspector to evidence the as built elevation of the lowest floor including basement.
 4. Each and every real estate agent, sales person and broker, and each and every private party who offers for sale a parcel of real property and/or structure within said district shall provide the prospective purchaser with notice that said real property and/or structure is located within said district.
 5. Prior to issuance of any floodplain development permit, the property owner or his or her authorized agent shall acknowledge by executed written affidavit that said property is located within the one percent (1%) annual chance floodplain as defined herein and that a violation of the terms of this article shall cause the City to seek legal remedies.
- E. Compliance: No structure or land shall hereinafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Should the regulations specified in any other ordinance of Ketchum be less restrictive, the regulations of this section shall apply.
- F. Abrogation And Greater Restrictions: This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance or section herein, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- G. Interpretation: In the interpretation and application of this section, 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 section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This section shall not be deemed or construed to create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder. (Ord. 1190, 2018; Ord. 1135, 2015)

17.88.050: ADMINISTRATION:

- A. Establishment Of Floodplain Development Permit: A floodplain development permit shall be obtained through an application provided by the City prior to issuance of a building or excavation/grading permit for any and all "development" as defined in section [17.08.020](#) of this title, and construction, including "stream alteration", as defined ~~herein~~ [Chapter 17.08 of the zoning code](#), within the Floodplain Management Overlay District established in subsection [17.88.040A](#) of this article.

- B. Establishment Of Waterways Design Review Permit: Approval of waterways design review, as either a stand-alone permit or in conjunction with a Floodplain Development Permit, shall be obtained prior to issuance of a building or excavation/grading permit and prior to commencement of construction for any and all "development" defined in section [17.08.020](#) of this title within the Waterways Design Review Subdistrict as defined in subsection [17.88.040B](#) of this article.
- C. Applications and Submittals: Applications shall be made on forms furnished by the City and may be made simultaneous with application for Design Review as required by Chapter 17.96 of the zoning code, where applicable, and prior to application for a building permit. The application shall contain the following information and any additional information which may be reasonably required by the Administrator or commission:
1. Engineer, owner of property, applicant if different than owner, address, phone, e-mail address, etc.
 2. Fees as set by resolution of Council.
 3. Vicinity map.
 4. Site plan(s), drawn to scale, prepared by a registered land surveyor, Professional Engineer, architect or landscape architect showing:
 - a. Nature, location, dimensions and elevations of lot, including ~~one-foot~~one-foot (1') contours.
 - b. Location of existing and proposed structures, fill, storage of materials, drainage facilities and infrastructure.
 - c. Location of existing channels and ditches and other significant natural features, boundaries of floodway and regulatory floodplain as delineated on the FIRM or other flood map determined by this title, including intermediate regional flood (IRF), flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined by this title, Base Flood Elevation, and other site specific information from the studies referred to in subsection [17.88.040A3](#) of this article.
 - d. Location and elevations of adjacent streets, water supply and sewer lines, including private wells and/or septic systems.
 - e. Elevation of the lowest floor (including basement) of all structures existing and proposed partially or wholly located in the one percent (1%) annual chance floodplain, including elevation to which any structure has been or will be floodproofed.
 - f. Existing vegetation and proposed landscape plan, including identification of sizes and types of trees and other plants to be saved or, removed, ~~and/or planted~~.
 - g. Identification of the Riparian Zone and the "mean high water mark", as defined in section [17.08.020](#) of this title.
 - h. Location of previous stream alterations upstream, downstream and along both banks from subject lot.
 - i. Old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - ji. Location of drainageways intermittent and ~~year-round~~year-round including potential overflow channels or channel movement.
 - kj. Proposed excavation or landfill including resulting slope grades for the building pad(s), driveways, and any other element of the proposed development where excavation or fill will take place.

~~l~~k. Drainage plan including ~~off-site~~offsite improvements such as borrow ditches and culverts and including a plan for on and off site improvements to provide for unobstructed conveyance of floodwaters.

~~m~~l. For any building in the floodplain with an area below the lowest floor that is below the base flood elevation and has a ceiling height of five feet (5') or greater, the building owner shall sign a nonconversion agreement, that shall run with the property, promising not to improve, finish or otherwise convert the area below the lowest floor to living area and granting the City the right to inspect the enclosed area at its discretion. Such agreement shall be recorded at Blaine County's Recorder's Office.

~~5. Proposed landscape plan, including identification of sizes and types of trees and other plants to be saved, removed, and/or planted.~~

~~6. Grading and drainage plan indicating existing and proposed contours with quantities of cut and fill specified.~~

~~7~~5. ~~Written~~ Description of proposed development.

~~8~~6. Specifications for building construction and materials, floodproofing, ~~filling, grading, dredging, channel improvement/changes and utilities.~~ proposed flood vents if applicable.

~~9~~7. ~~Pre-Construction~~ Elevation ~~C~~ertificate, prepared by a licensed surveyor or engineer ~~for any proposed and/or floodproofing certification prepared by a professional engineer for any existing and proposed~~ residential and/or nonresidential structures located partially or wholly within the one percent (1%) annual chance floodplain. Said floodproofing methods shall meet the criteria in subsection 17.88.060B of this article.

~~10. Elevation Certificate, prepared by a licensed surveyor or engineer, for any existing structure located partially or wholly within the one percent (1%) annual chance floodplain that is proposed to be altered.~~

~~11. 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 equipment and machinery will be elevated or floodproofed.~~

~~12. Floodproofing certification prepared by a professional engineer for any existing and proposed nonresidential structures located partially or wholly within the one percent (1%) annual chance floodplain that are proposed to be floodproofed, if applicable. 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 will be required prior to Certificate of Occupancy/Completion. Said floodproofing methods shall meet the criteria in subsection 17.88.060B of this article.~~

~~13. Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:~~

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

~~ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article V, Section A.8.b. when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A1-30.~~

~~148.~~ Copy of letter of map amendment based on fill (LOMA-F) application for any proposed fill in the floodplain. LOMA-F approval shall be obtained from FEMA prior to issuance of a floodplain development permit.

~~15.~~ Usage details of any enclosed areas below the lowest floor.

~~16.~~ 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.

~~17.~~ Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of this ordinance are met.

~~189.~~ Copies of applications sent to the U.S. Army Corps of Engineers (USACE) and Idaho Department of Water Resources (IDWR) and approvals from each agency; USACE and IDWR approvals shall be obtained prior to issuance of a stream alteration permit (stream alteration only). ~~USACE and IDWR approvals shall be obtained prior to issuance of a stream alteration permit.~~

~~190.~~ Cross section of proposed work (stream alteration only).

~~20.~~ HEC-RAS model files (stream alteration only).

~~2144.~~ Length of stream to be worked, type of work to be done, type of equipment to be used and starting and completion dates of work (stream alteration only).

~~2242.~~ A valley cross section showing stream channel, floodway limits, elevations of adjacent land areas, ~~intermediate regional flood (IRF), 1% annual chance and 0.2% annual chance floodplain,~~ proposed development, and mean high water information and a profile showing the slope of the bottom of the channel or flow line of the stream may be required upon review of all other material submitted (stream alteration only).

~~2343.~~ A no net rise certificate ("No Rise Certificate"), including supporting calculations, prepared by registered professional hydraulic engineer for any work proposed in the floodway and/or any in-stream or streambank alteration.

D. Duties And Responsibilities: The Administrator of Title 17, Ketchum Municipal Code is hereby appointed to administer and implement this article in accordance with its provisions.

1. The Administrator shall have the authority to consider and approve, approve with conditions, or deny applications for floodplain development permits and for waterways design review, as required herein.

a. For applications approved administratively the Administrator shall provide written notice of said application to owners of property within three hundred feet (300') of the external boundaries of the land being considered. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be used in lieu of mailed notice. Said alternate forms of notice shall be per Idaho Code 67-6512 in effect at the time of notice. Said notice shall inform adjacent property owners they may comment on the application during a period of not less than ten (10) days after mailing of the notice and prior to final action on said application.

2. If the Administrator determines that a project cannot be approved administratively, the Ketchum Planning and Zoning Commission shall consider and approve, approve with conditions, or deny applications for floodplain development permits as required herein, for waterways design review as required herein and for stream alterations. ~~at a duly noticed meeting.~~

a. For applications reviewed by the Planning and Zoning Commission the application shall be noticed for a public hearing.

~~The Administrator shall provide written notice of said application to owners of property within three hundred feet (300') of the external boundaries of the land being considered. When notice is required to two hundred (200) or~~

~~more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be used in lieu of mailed notice. Said alternate forms of notice shall be per Idaho Code 67-6512 in effect at the time of notice. Said notice shall inform adjacent property owners they may comment on the application during a period of not less than ten (10) days after mailing of the notice and prior to final action on said application.~~

3. Specific duties and responsibilities of the Administrator shall include, but are not limited to:

~~a. Permit Review:~~

(1) Review of all applications for proposed construction within the City to determine whether such construction is proposed, in whole or in part, within the Floodplain Management Overlay District and/or the Waterways Design Review District herein.

~~(2) Review all building permit, floodplain development permit and design review applications to determine that the permit requirements of this section have been satisfied.~~

~~(23) Review all floodplain development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.~~

~~(34) Review all floodplain development permit applications to determine that the proposed project shall be reasonably safe from flooding and if the proposed development adversely affects the velocity of flow and the flood carrying capacity of the area of special flood hazard. For the purposes of this section, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot (1') at any point.~~

~~(45) Review proposed development, whether by building permit, floodplain development permit, or waterways design review to assure that all necessary permits have been obtained from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act, as amended, or by wide area agencies, prior to issuing a development permit. Other agencies may include Idaho Fish and Game, Idaho Department of Water Resources, Soil Conservation Service, Environmental Protection Agency and U.S. Army Corps of Engineers. Such documentation shall be maintained on file with the floodplain development permit.~~

~~(6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, submit copies of such notifications to FEMA and assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.~~

~~(5) Prevent encroachments into floodways unless the certification and flood hazard reduction provisions contained in this title are met.~~

~~(6) Review plans to verify public utilities are constructed in accordance with the provisions of this title.~~

~~(7) When floodproofing is utilized for a particular structure, obtain and maintain certifications from a registered professional engineer or architect in accordance with the provisions of this title.~~

~~(8) 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.~~

(9) Work with the Building Official to 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 Building Official 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.

(10) 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.

(11) 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.

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

(13) A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator (FIA) of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

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

b. Use Of Other Base Flood Data:

(1) When base flood elevation data has not been provided in accordance with subsection [17.88.040A3](#), "Basis For Establishing The Areas Of Special Flood Hazard", of this chapter, the Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source in order to administer subsections [17.88.060B2](#), "Residential Construction", B3, "Nonresidential Construction", and C, "Floodways", of this chapter.

(2) When Base Flood Elevation (BFE) data is provided but no floodway data has been provided in accordance with the provisions of this title require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(3) 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.

c. Information ~~To~~ Be Obtained And Maintained:

(1) 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.

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

(3) Obtain and maintain 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.

~~(3)~~ Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection **D3b** of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

~~(4)~~ For all new or substantially improved floodproofed structures:

(A) Verify and record the actual elevation (in relation to mean sea level); and

(B) Maintain the floodproofing certifications required in subsection C7 of this section.

~~(5)~~ Maintain in perpetuity for public inspection all records pertaining to the provisions of this section.

~~(6)~~ Maintain in perpetuity records on all permits and appeals and report all variances to Federal Insurance Administration.

d. Alteration Of Watercourses:

(1) Notify adjacent communities and all State agencies with jurisdiction over the special flood hazard areas identified in subsection 17.88.040A of this chapter and/or with jurisdiction over the corresponding watercourse, river, stream or tributaries prior to any alteration or riprapping, or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(2) 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 Insurance Administrator (FIA).

~~(3)~~ Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation ~~Of~~ FIRM Boundaries: Make interpretations where needed as to the exact location of the boundaries of the areas of special hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection I of this section.

E. Criteria ~~For~~ Evaluation Of Applications: The criteria of floodplain development permit applications, waterways design review applications, and stream alteration permit applications shall be as follows:

1. Preservation or restoration of the inherent natural characteristics of the river and creeks and floodplain areas. Development does not alter river channel unless approved through the streambank alteration process.
2. Preservation or enhancement of riparian vegetation and wildlife habitat, if any, along the stream bank and within the required minimum ~~twenty five~~twenty-five foot (25') setback or riparian zone. No construction activities, encroachment or other disturbance into the ~~twenty five~~twenty-five foot (25') riparian zone, including encroachment of below grade structures, shall be allowed at any time without written City approval per the terms of this chapter.
3. No development, other than development by the City of Ketchum or development required for emergency access, shall occur within the ~~twenty five~~twenty-five foot (25') riparian zone with the exception of approved stream stabilization work and restoration work associated with permit issued under this title.-
 - a. The Administrator may approve access to property where no other primary access is available.
 - b. Private pathways and staircases shall not lead into or through the riparian zone unless deemed necessary by the Administrator.
4. A landscape plan and time frame shall be provided to restore any vegetation within the ~~twenty five~~twenty-five foot (25') riparian zone that is degraded, not natural or which does not promote bank stability.
5. New or replacement planting and vegetation shall include plantings that are low growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings include: red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle.
6. Landscaping and driveway plans to accommodate the function of the floodplain to allow for sheet flooding. ~~Floodwater carrying capacity is not diminished by the proposal.~~ Surface drainage is controlled and shall not adversely impact adjacent properties including driveways drained away from paved roadways. Culvert(s) under driveways may be required. Landscaping berms shall be designed to not dam or otherwise obstruct floodwaters or divert same onto roads or other public pathways.
7. Floodwater carrying capacity is not diminished by the proposal.
87. Impacts of the development on aquatic life, recreation, or water quality upstream, downstream or across the stream are not adverse.
98. Building setback in excess of the minimum required along waterways is encouraged. An additional ten foot (10') building setback is encouraged to provide for yards, decks and patios outside the twenty five foot (25') riparian zone.
109. The top of the lowest floor of a building located in the one percent (1%) annual chance floodplain shall be a minimum of twenty four inches (24") above the base flood elevation of the subject property. (See section [17.88.060](#), figures 1 and 2 of this chapter.)
110. The backfill used around the foundation in the floodplain shall provide a reasonable transition to existing grade but shall not be used to fill the parcel to any greater extent. Compensatory storage shall be required for any fill placed within the floodplain. An LOMA-F shall be obtained prior to placement of any additional fill in the floodplain.
124. All new buildings located partially or wholly within the 1% annual chance floodplain shall be constructed on foundations that are approved by a licensed professional engineer.
132. Driveways shall comply with effective street standards; access for emergency vehicles has been adequately provided for.

143. Landscaping or revegetation shall conceal cuts and fills required for driveways and other elements of the development.
154. (Stream alteration.) The proposal is shown to be a permanent solution and creates a stable situation.
165. (Stream alteration.) No increase to the one percent (1%) annual chance floodplain upstream or downstream has been certified, with supporting calculations, by a registered Idaho hydraulic engineer, and a No Rise Certificate has been submitted.
176. (Stream alteration.) The recreational use of the stream including access along any and all public pedestrian/fisher's easements and the aesthetic beauty shall not be obstructed or interfered with by the proposed work.
187. Where development is proposed that impacts any wetland, first priority shall be to move development from the wetland area. Mitigation strategies shall be proposed at time of application that replace the impacted wetland area with a comparable amount and/or quality of new wetland area or riparian habitat improvement.
198. (Stream alteration.) Fish habitat shall be maintained or improved as a result of the work proposed.
2049. (Stream alteration.) The proposed work shall not be in conflict with the local public interest, including, but not limited to, property values, fish and wildlife habitat, aquatic life, recreation and access to public lands and waters, aesthetic beauty of the stream and water quality.
219. (Stream alteration.) The work proposed is for the protection of the public health, safety and/or welfare such as public schools, sewage treatment plant, water and sewer distribution lines and bridges providing particularly limited or sole access to areas of habitation.

F. Conditions: Conditions of approval may include, but not be limited to:

1. Riparian vegetation and other landscaping is maintained in perpetuity as shown on approved plans.
2. As built certification shall be required to be submitted prior to occupancy of structure or upon completion of the proposed work (stream alteration).
3. Other permits (i.e., Idaho Department of Water Resources and U.S. Army Corps of Engineers) shall be obtained by the applicant prior to commencement of construction.
4. Restoration of damaged riparian vegetation within riparian zone shall be required prior to completion of the proposed project. A bond to assure such restoration may be required prior to commencement of such work.

G. Terms Of Approval: The term of floodplain development permit, waterways design review or stream bank alteration approval shall be twelve (12) months from the date that findings of fact, conclusions of law and decision are signed by the Administrator or upon appeal, the date the approval is granted by the Planning and Zoning Commission, subject to changes in zoning regulations. Application must be made for a building permit (if required) with the Ketchum Building Department during the twelve (12) month term. Once a building permit (if required) has been issued, the approval shall be valid for the duration of the building permit. Unless an extension is granted as set forth below, failure to file a complete building permit application (if required) for a project in accordance with these provisions shall cause said approval to be null and void. The provisions of this section shall apply to those approvals obtained on or after September 24, 2014.

The City may, upon written request by the holder, grant a maximum of two (2) 12-month extensions to an unexpired approval. The first twelve (12) month extension shall be reviewed by the Administrator. The second twelve (12) month extension shall be reviewed by the Planning and Zoning Commission. Whether or not an extension is warranted shall be based on the following considerations:

1. Whether there have been significant amendments to the City's Comprehensive Plan, Downtown Master Plan or ordinances which will apply to the subject approval;
2. Whether significant land use changes have occurred in the project vicinity which would adversely impact the project or be adversely impacted by the project;
3. Whether hazardous situations have developed or have been discovered in the project area; or
4. Whether community facilities and services required for the project are now inadequate.

If any of the foregoing considerations are found to exist with regard to the project for which an extension is sought, an extension may be granted with conditions of approval to remedy any unmet requirements, or the City may choose not to grant an extension. Otherwise the City shall approve such an extension. Said decision shall be issued in writing. No extensions shall be granted for an expired floodplain development permit or waterways design review approval.

H. Inspection Procedures:

1. For structures located wholly or partially in the regulatory floodplain:
 - a. ~~Upon completion of the foundation and placement of the lowest floor, but prior to construction of exterior walls, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer who is authorized to certify such information in the State, and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. A City Planner and the building inspector shall perform a site inspection to verify the conditions noted on the elevation and/or floodproofing certificates. 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.~~
 - b. ~~The Floodplain Administrator shall review the lowest floor elevation and/or floodproofing certificates. Should these documents be found not in conformance with the requirements of this chapter, the permit holder shall immediately cease further work and shall correct any deficiencies. Failure of the permit holder to submit the surveyed elevation and/or floodproofing certificate, and failure to correct said deficiencies required hereby, shall be the cause to issue a stop-work order for the project.~~
 - be. ~~Prior to final building permit inspection and issuance of a certificate of occupancy, it shall be the duty of the permit holder to submit to the Floodplain Administrator a final construction, as built, complete FEMA elevation certification and/or as built floodproofed elevation certification per the procedures outlined in subsections H1a and H1b of this section. A planner and the building inspector shall perform a site inspection to verify the conditions noted on the elevation and/or floodproofing certificates. 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.

2. For waterways design review projects: Prior to final building permit inspection and issuance of a certificate of occupancy, planning staff shall conduct a site inspection to verify that the project was constructed per the approved waterways design review plans and that all conditions of approval have been satisfied.

I. Floodplain Development Variance Procedure:

1. General:

a. The Planning and Zoning Commission as established by the City of Ketchum, hereinafter referred to as the "Commission", shall hear and decide requests for variances from the requirements of this ordinance.

b. Generally, variances may be issued for:

(1) 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;

(2) functionally dependent facilities, if determined to meet the definition as stated in Article II of this ordinance, provided provisions of Article IV, Section E.8.b, c, and d, 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

(3) any other type of development, provided it meets the requirements of this Section.

~~new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided subsection I2 of this section has been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.~~

cb. Upon consideration of the factors of subsection I2 of this section and the purposes of this article, the Administrator may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

2. Considerations: In passing upon such applications, the Administrator-Commission shall consider all technical evaluations, and all relevant factors and standards specified in other sections herein and:

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

b. Whether the structure is designed, constructed and placed upon the lot to minimize flood damage exposure and minimize the effect upon 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 a functionally dependent facility, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- 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;
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities such as sewer, gas, electrical, and water systems, and streets and bridges; and
- l. Variances shall only be issued in accordance with the guidelines found at section 60.6, code of federal regulations (title 44 CFR), as set forth therein on the effective date hereof.

3. Conditions For Variance:

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 only be issued prior to development permit approval

~~Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the national register of historic places or the Idaho historic sites inventory, without regard to the procedures set forth in the remainder of this article.~~

~~c.~~ Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

~~d.~~ Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

~~e.~~ A variance shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in subsection l2 of this section, or conflict with existing local laws or ordinances.

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

f. Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they 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. As such, variances from the flood elevations should be quite rare.

g. The {insert name of community} 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.

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

~~g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, except subsection 13a of this section, and otherwise complies with subsections 17.88.060A1 and A2 of this chapter.~~

4. Appeals:

~~a. Appeals From Planning And Zoning Administrator: An appeal from any order, requirement, decision or determination of the planning and zoning administrator made in the administration or enforcement of this article may be taken by any affected person as that term is defined by Idaho Code section 67-6521, as it may be amended from time to time, or any officer or department of the city, to the planning and zoning commission by filing a notice of appeal in writing with the office of the planning and zoning administrator of the city in the manner prescribed herein:~~

~~(1) Action Required By The Planning And Zoning Administrator: The planning and zoning administrator shall certify that all procedural requirements have been satisfied and fees paid and transmit to the commission the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the planning and zoning administrator. The planning and zoning administrator shall maintain in perpetuity the records of all appeals and report any variances to the federal insurance administration upon request.~~

~~(2) Hearing And Notice: The commission shall, following receipt of the planning and zoning administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a copy of the decision thereon, to the appellant, the planning and zoning administrator, and to any other affected person, as defined in Idaho Code section 67-6521, as that section may be amended from time to time, all in accordance with Idaho Code section 67-6501 et seq., as may be amended from time to time.~~

~~(3) Authority Of Commission: Upon hearing the appeal, the commission shall consider the record, the order, requirement, decision or determination of the planning and zoning administrator and the notice of appeal, together with oral presentation by the appellant and the planning and zoning administrator. The commission may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the planning and zoning administrator.~~

~~(4) Decision By Commission: The commission shall enter a decision within thirty (30) days after the hearing on appeal, which shall include its written findings of fact and conclusions of law separately stated. The commission shall transmit a copy of the decision to the appellant and any affected person who has requested a copy in writing, as defined in Idaho Code section 67-6521, as that section may be amended from time to time.~~

ab. Appeals From Planning And Zoning Commission: An appeal from any order, requirement, decision or determination of the commission made in the administration or enforcement of this article may be taken by any affected person, as that term is defined by Idaho Code section 67-6521, as it may be amended from time to time, or any officer or department of the city, to the city council by filing a notice of appeal in writing with the office of the planning and zoning administrator of the city in the manner prescribed herein:

- (1) Action Required By The Planning And Zoning Administrator: The planning and zoning administrator shall certify that all procedural requirements have been satisfied and fees paid and transmit to the council the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the commission. Upon written request of the appellant or any affected person, as defined in Idaho Code section 67-6521, as that section may be amended from time to time, and the advance payment of the cost thereof, a verbatim transcript of the commission proceedings shall be prepared and transmitted to the council. The planning and zoning administrator shall maintain the records of all appeals and report any variances to the federal insurance administration upon request.
 - (2) Hearing And Notice: The council shall, following receipt of the planning and zoning administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a copy of the decision thereon, to the appellant, the commission, and to any other affected person, as defined in Idaho Code section 67-6521, as that section may be amended from time to time, all in accordance with Idaho Code section 67-6501 et seq., as may be amended from time to time.
 - (3) Authority Of Council: Upon hearing the appeal, the council shall consider only matters which were previously considered by the commission as evidenced by the record, the order, requirement, decision, or determination of the commission and the notice of appeal, together with oral presentation by the appellant and the commission. The council may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the commission. Furthermore, the council may remand the application to the commission for further consideration with regard to specific criteria stated by the council.
 - (4) Decision By Council: The council shall enter a decision within thirty (30) days after the hearing on appeal, which shall include its written findings of fact and conclusions of law separately stated. The council shall transmit a copy of the decision to the appellant and any affected person who has requested a copy in writing, as defined in Idaho Code section 67-6521, as that section may be amended from time to time.
- c. Time For Filing Appeals: All appeals permitted or authorized by this article shall be taken and made in the manner and within the time limits as follows: The written notice of appeal shall be filed before five o'clock (5:00) P.M. of the fifteenth calendar day after the order, requirement, decision or determination of the planning and zoning administrator has been made or after findings of fact have been approved by the commission, whichever is applicable. The failure to physically file a notice of appeal with the planning and zoning administrator of the city within the time limits prescribed by this subsection 14c shall be jurisdictional and shall cause automatic dismissal of such appeal.
- d. Fee For Appeals: A fee equal to the expense of giving notice as required by subsection 14a(2) or 14b(2) of this section, as applicable, shall be paid within two (2) days after receipt from the planning and zoning administrator of the amount thereof. In the event the fee is not paid as required, the appeal shall not be considered filed.
- e. Notice Of Appeal; Form And Contents: The notice of appeal shall be in writing and in such form as shall be available from the Office of the Planning and Zoning Administrator, which shall require to be set with specificity all bases for appeal, including the particulars regarding any claimed error or abuse of discretion. (Ord. 1190, 2018: Ord. 1186, 2018: Ord. 1170, 2017: Ord. 1135, 2015)

17.88.060: PROVISIONS FOR FLOOD HAZARD REDUCTION:

A. General Standards: In all ~~areas of Special Flood Hazard Areas~~, the following standards are required:

1. Anchoring:

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors (reference the Federal Emergency Management Agency's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. Construction Materials And Methods:

- a. ~~All structural and nonstructural building materials utilized at or below the base flood elevation must be flood resistant. Flood damage resistant materials must be used for all building elements subject to exposure to floodwaters, including floor joists, insulation, and ductwork. If flood damage resistant materials are not used for building elements, those elements must be elevated above the base flood elevation. This requirement applies regardless of the expected or historical flood duration. 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.~~
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. ~~Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. 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.~~

3. Utilities:

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- c. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals:

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to ensure that the post-development stormwater (of a 25-year storm) discharge will not exceed the amount of runoff under predevelopment conditions. Drainage plans and pre- and post-development hydrology calculations shall be prepared by a civil engineer licensed in the State of Idaho;
- d. All subdivision proposals and other development proposals greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data.

ed. Require that base flood elevation data be provided or generated for all subdivision and PUD proposals. Base flood elevation shall be developed per FEMA hydrologic and hydraulic analysis methods and prepared by a qualified engineer licensed in the State of Idaho. United States Geological Survey (USGS) datum shall be used and identified on the plat and a permanent bench mark shall be identified and shown on the plat; and

fe. All requirements of the Code of Federal Regulations, 44 CFR 60.3 shall be met.

g. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

5. Review Of Building Permits: Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (subsection 17.88.050D3b of this chapter), applications for building permits shall be viewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') above grade in these zones may result in higher insurance rates.

6. Solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards and chemical storage facilities: New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in this title, in the Special Flood Hazard Area. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Flood Protection Elevation and certified in accordance with the provisions of this title.

B. Specific Standards: In all areas of special flood hazard where base flood elevation data has been provided as set forth in subsection 17.88.040A3, "Basis For Establishing The Areas Of Special Flood Hazard", or 17.88.050D3b, "Use Of Other Base Flood Data", of this chapter, the following provisions are required:

1. AO Zones: All construction in AO zones shall be designed and constructed with drainage paths around structures to guide water away from structures.

2. Residential Construction:

a. New construction and substantial improvement of any residential structure in any A1-30, AE and AH zone shall have the top of the lowest floor, including basement, elevated ~~a minimum of twenty four inches (24") above the base flood elevation~~ no lower than the Flood Protection Elevation.

b. New construction and substantial improvement of any residential structure in any AO zone shall have the lowest floor, including basement, elevated to or above the highest adjacent grade at least as high as the FIRM's depth number plus twenty four inches (24").

c. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be constructed entirely of flood resistant materials at least to the Flood Protection Elevation and 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 must meet or exceed the following minimum criteria (see figures 1, "Preferred Crawl Space Construction", and 2, "Below Grade Crawl Space Construction", of this section):

(1) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. Openings shall be placed on at least two (2) walls to permit entry and exit of floodwaters. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

- (2) The bottom of each flood vent opening shall be no higher than one foot (1') above the ~~lowest adjacent exterior grade~~interior or exterior adjacent grade.
- (3) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
- (4) Portions of the building below the base flood elevation shall be constructed with material resistant to flood damage.
- (5) The interior grade of a below grade crawl space (see figure 2, "Below Grade Crawl Space Construction", of this section) ~~below the base flood elevation~~ shall not be below the BFE and shall not be more than two feet (2') below the lowest adjacent exterior grade.
- (6) The height of a below grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall, shall not exceed four feet (4') at any point.
- (7) A below grade crawl space shall have an adequate drainage system that removes floodwaters from the interior area of the crawl space within a reasonable time after a flood event.
- (8) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

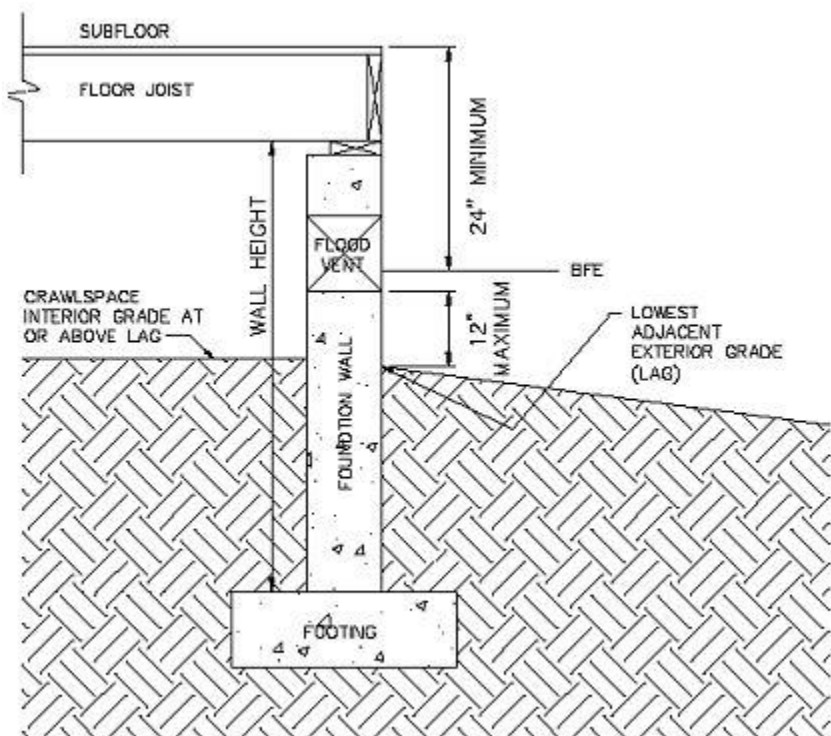


FIGURE 1
PREFERRED CRAWL SPACE CONSTRUCTION

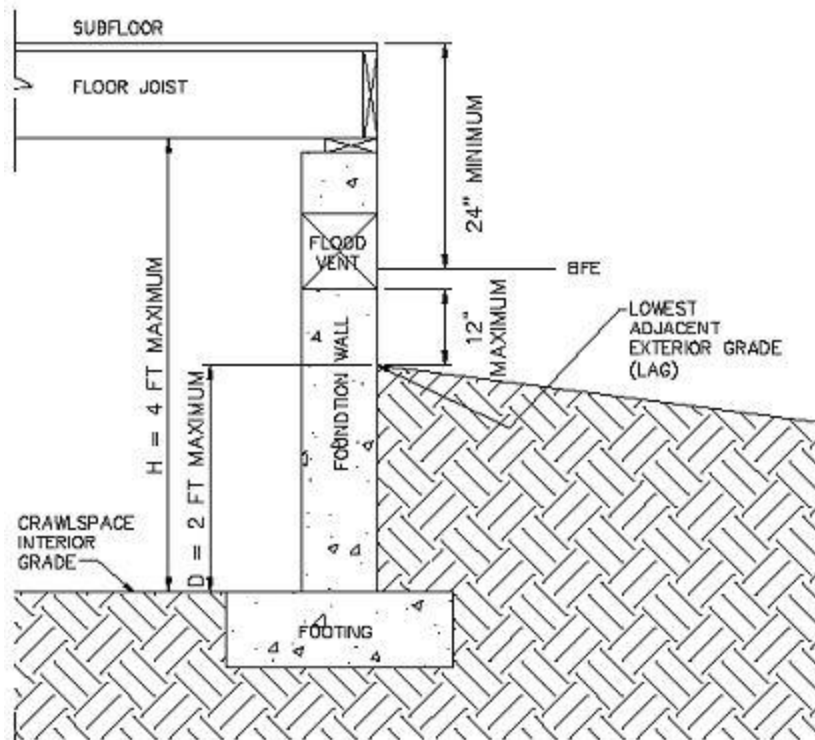


FIGURE 2
BELOW GRADE CRAWL SPACE CONSTRUCTION

Note: A below grade crawl space shall be subject to higher flood insurance rates through the NFIP.

3. Nonresidential Construction:

- a. New construction and substantial improvement of any commercial, industrial, nonresidential portion of a mixed use or other nonresidential structure in any A1-30, AE and AH zone shall either have the top of the floor structure of the lowest floor, including basement, elevated to twenty four inches (24") above the base flood elevation or, together with attendant utility and sanitary facilities, shall:
 - (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this article based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection [17.88.050D3c\(2\)](#) of this chapter;
 - (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection B2c of this section; and
 - (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g., a building constructed to the base flood level will be rated as 1 foot below that level).

- b. All new construction and substantial improvement of nonresidential structures within AO zones shall:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least twenty four inches (24") higher than the depth number specified in feet on the FIRM; or

(2) Together with the attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in subsection B3a of this section.

4. **Manufactured Homes:** All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is twenty four inches (24") above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection A1b of this section.

5. **Recreational Vehicles:** All recreational vehicles to be placed on a site within zones A1-30, AH, and AE shall meet the requirements of subsection B4 of this section, or be placed on the site for less than one hundred eighty (180) consecutive days and be fully licensed and highway ready. Aa 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.

6. **Critical Facilities:** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet (3') above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. Critical facilities shall be constructed on properly compacted soil and shall have the lowest floor (including basement) elevated at least twenty four inches (24") above the elevation of the 0.2 percent annual chance flood. A critical facility shall have at least one access road connected to land outside the 0.2 percent annual chance floodplain that meets fire code access requirements. The top of the road must be no lower than six inches (6") below the elevation of the 0.2 percent annual chance flood.

7. **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.

f. Temporary structures in the floodway must provide a Hydraulic and Hydrology Analysis along with a No-Rise Certification.

8. **Accessory and Agricultural Structures (Appurtenant structures).** When accessory structures (sheds, detached garages, etc.) used solely for parking, and storage are to be placed within a Special Flood Hazard Area, elevation or

floodproofing certifications are required for all accessory structures in accordance with this title, and the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
- b. Accessory structures shall not be temperature-controlled;
- c. Accessory structures shall be designed to have low flood damage potential;
- d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. Accessory structures shall be firmly anchored in accordance with the provisions of Article V, Section A.1;
- f. All utility equipment and machinery, such as electrical, shall be installed in accordance with the provisions of Article V, Section A.4; and
- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of this title.
- h. Accessory structures not used solely for parking, access, and storage must be elevated per this title.
- i. An accessory structure with a footprint less than 200 square feet and is a minimal investment of \$7,500 and satisfies the criteria outlined in a - g above is not required to provide the elevation certificate per this title.

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 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 may 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.

C. Floodways: Located within areas of special flood hazard established in subsection [17.88.040A](#) of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification, with supporting calculations, by a registered professional hydraulic engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Uses within the floodway shall be restricted to those which are required by public necessity (for example, bridges, water pumps), recreational use (for example, paths), wildlife habitat improvements (for example, vegetation, nesting structures, pool/riffle improvements), and gravel extraction; provided, that the use/encroachment meets the approval of the federal emergency management and national flood insurance program and does not jeopardize the city's participation in the national flood insurance program. New residential structures and residential substantial improvements are prohibited in the floodway.
2. If subsection C1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
3. Be certified by a registered professional engineer, except in an existing mobile home park or existing mobile home subdivision. (Ord. 1135, 2015)

17.88.070: 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 Article III, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Article V, Section A, shall apply:

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 Article V, Sections A and B.
2. When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Article V, Sections B and E.
3. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Article III, Section B and utilized in implementing this ordinance. *The applicant/developer shall submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat approval and have obtained a Letter of Map Revision (LOMR) prior to any building permits for structures being issued. (Optional)*

See FEMA 480 and/or FEMA 265 for further information

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 Article II. All other applicable provisions of Article V, Section B shall also apply.

17.88.080: Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways.

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but floodways are not identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

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

17.88.090: Standards for Floodways.

Areas designated as floodways located within the Special Flood Hazard Areas established in Article III, Section B. The floodways are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article V, Sections A and B, shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:
 - a. it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit (*This is a No-Rise Analysis & Certification*); or
 - b. a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
2. If Article V, Section E.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
3. Manufactured homes may be permitted provided the following provisions are met: (*CRS – Up to 15 points for removing the elevation exemption for manufactured homes placed in existing manufactured home parks*)
 - a. the anchoring and the elevation standards of Article V, Section B.3; and
 - b. the encroachment standards of Article V, Section E.1.
4. Other Development in regulated floodways.

- a. Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways shall meet the limitations of Article V, Section E of this ordinance.
- b. Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article V, Section E 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, shall meet the limitations of Article V, Section E of this ordinance. *The applicant/developer shall submit an application for a Letter of Map Revision (LOMR) upon completion of construction for the purpose of providing FEMA better available data. (STATE RECOMMENDED BUT OPTIONAL)*
- d. Drilling water, oil, and/or gas wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways shall meet the limitations of Article V, Section E 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 shall meet the limitations of Article V, Section E of this ordinance
- f. Gravel and sand and their subsequent extraction on lands within the Special Flood Hazard Area that encroach into regulated floodways shall meet the limitations of Article V, Section E of this ordinance. A Reclamation Plan Bond for LOMR shall be posted by the mine/property owner with {insert name of community} to cover the estimated costs of a Reclamation LOMR as determined by the mine/property owner and shall provide supporting documentation for the estimated LOMR cost. A Reclamation LOMR shall be completed within one year of the completion of mining. Upon failure of the property owner to obtain a Reclamation LOMR of the mining site within one year, the Reclamation Plan Bond for LOMR will be forfeited. (STATE RECOMMENDED BUT OPTIONAL)

17.88.100: Standards for Areas of Shallow Flooding (Zone AO, AH, AR/AO, or AR/AH)

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

1. The 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 {insert number} feet, above the highest adjacent grade; or at least {insert number} feet above the highest adjacent grade if no depth number is specified. *A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided.*
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article V, Section F.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article IV, Section C.3, and Article V, Section B.2.

3. Accessory structure (appurtenant structure) (sheds, detached garages, etc.)
 - a. Used solely for parking, and storage
 - i. Shall have the lowest floor elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of {insert number} feet, above the highest adjacent grade; or at least {insert number} 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; or
 - ii. Shall have flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of Article V, Section A.8.
 - b. Not used solely for parking, and storage
 - i. Shall be elevated per Article V. Section B.1. and 2.
4. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.
5. Hazardous Velocities: Where hazardous velocities are noted on the FIRM, proper construction techniques and methods shall be used to mitigate the effects of the velocities.

17.88.070110: ENFORCEMENT AND PENALTIES FOR VIOLATION:  

A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article 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 six (6) months. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Ketchum from taking such other lawful actions as is necessary to prevent or remedy any violation.

The provisions of this article shall be enforced by one or more of the following methods:

1. Requirements of floodplain development permit, waterways design review and/or stream alteration permit;
2. Requirements of building permit;
3. Inspection and ordering removal of violations;
4. Criminal liability;
5. Injunction; and
6. Civil enforcement.

B. Enforcement shall further be administered according to [chapter 17.156](#) of this title. (Ord. 1135, 2015)

Attachment B.

Title 17, Chapter 17.08, Definitions, draft amendments

~~AREA OF SHALLOW FLOODING: A designated AO or VO zone on the flood insurance rate map (FIRM). The base flood depths range from one foot to three feet (1'–3'); a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow, and AH indicates ponding. 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: The land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letters "A" or "V". The term "special flood hazard area", for the purposes of these regulations, is synonymous with the phrase "area of special flood hazard". See Special Flood Hazard Area (SFHA).~~

~~BASE FLOOD: The flood having one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood, the regulatory flood or the intermediate regional flood (IRF). Designation on maps always includes the letters "A" or "V".~~

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

~~DEVELOPMENT: Any subdivision, construction activity, or alteration of the landscape (except routine maintenance), its terrain contour or vegetation, including any construction of structures, establishment of a land use, or alteration of an existing structure or land use. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.~~

~~FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:~~

~~A. The overflow of inland or tidal water; and/or~~

~~B. The unusual and rapid accumulation or runoff of surface waters from any source.~~

~~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 INSURANCE RATE MAP (FIRM): The official map on which the ~~f~~ederal ~~i~~nsurance ~~a~~Administration has delineated both the areas of special flood hazard and risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of “flooding”).

FLOODPLAIN ADMINISTRATOR: the individual appointed to administer and enforce the floodplain management regulations.

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

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

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

Flood Protection Elevation (FPE): the Base Flood Elevation plus the Freeboard.

a. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard; and

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

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 ~~one foot (1’)~~. This term is also referred to as the "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 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.

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

LETTER OF MAP CHANGE (LOMC): a general term used to refer to the several types of revisions and amendments to FIRMs 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 or structure's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property or structure 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.

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

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement contained in 44 CFR § 60.3 subsection 17.88.060B2c of this title.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. The term "Manufactured Home" does not include a "Recreational Vehicle."

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.

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

PRE-FIRM: construction or other development for which the “start of construction” occurred before {insert effective date of community’s first FIRM}, the effective date of the initial Flood Insurance Rate Map (FIRM).

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

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (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 foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: Anything permanently constructed in or on the ground, or over the water, including gas or liquid storage tank that is principally above ground and manufactured homes; excluding fences less than six feet (6') in height, decks less than thirty inches (30") above grade, paved areas, and structural or nonstructural fill.

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 fifty percent (50%) of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

SUBSTANTIAL IMPROVEMENT: Includes the following:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement over a three (3) year time frame. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. either:

~~1. Before the improvement or repair is started; or~~

~~2. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

B. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing State or local Health, Sanitary, or Safety Code specifications ~~which are solely~~ 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 structure listed on the National Register of Historic Places or the Idaho Historic Sites Inventory 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.-

~~VARIANCE, FLOODPLAIN: A grant of relief from the requirements of chapter 17.88, article 1 of this title which permits construction in a manner that would otherwise be prohibited by said article.~~

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