

ORDINANCE NO. 5__
CASE NO. ORA17-0002
AMENDMENTS RE: FLOOD DAMAGE PREVENTION STANDARDS

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO LAND USE REGULATION; AMENDING THE STANDARDS PERTAINING TO FLOOD DAMAGE PREVENTION SET FORTH **IN TITLE 8, CHAPTER 7, ARTICLE 7.2 OF THE KOOTENAI COUNTY CODE, AND AMENDING ASSOCIATED PROVISIONS OF CHAPTERS 1, 8 AND 9 OF THE KOOTENAI COUNTY CODE,** TO CONFORM TO THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP); PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-WAIVER OF ACTIONS OCCURRING WHILE PRIOR ORDINANCES WERE IN EFFECT; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF KOOTENAI COUNTY, IDAHO:

SECTION 1. That Section 8.1.103, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.1.103: PURPOSE: The purposes of this title are as follows:

- A. To promote the health, safety and the general welfare of **the citizens of** Kootenai County;
- B. To protect and promote property rights and enhance property values, while also ensuring that the use of property does not unduly interfere with the lawful use and enjoyment of other properties;
- C. To comply with the requirements of the Local Land Use Planning Act, Title 67, Chapter 65, Idaho Code, and to carry out its intent and purposes;
- D. To carry out the goals and policies of the Kootenai County Comprehensive Plan;
- E. To establish zoning districts within Kootenai County in conformance with section 67-6511, Idaho Code, and in accordance with the goals and policies of the Kootenai County Comprehensive Plan;
- F. To provide standards for the orderly growth and development of Kootenai County and to avoid undue concentration of population and overcrowding of land;
- G. **To ensure that ~~encourage development and ensure that it:~~**
 - 1. Is performed in conformance with Idaho Code, the requirements of this title, and the requirements of other agencies with jurisdiction;
 - 2. Mitigates negative environmental, social and economic impacts;
 - 3. Creates buildable lots of reasonable utility and livability;

4. Aids in the establishment of a transportation system that is safe, efficient, cost effective, and minimizes congestion;
5. Provides for adequate and affordable fire, water, sewer, stormwater and other services;
6. Encourages the conservation of open space and environmentally sensitive areas.

H. To protect property, surface water, and ground water against significant adverse effects from excavation, filling, clearing, unstable earthworks, soil erosion, sedimentation, and stormwater collection and runoff;

I. To provide maximum safety in the development and design of building sites, roads, and other service amenities.

J. To minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in special flood hazard areas;
6. To help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in a special flood hazard area;
8. To ensure that those who occupy special flood hazard areas assume responsibility for their actions; and
9. To meet Federal requirements so Kootenai County may participate in the National Flood Insurance Program.

K. To provide a method of administration and enforcement of the provisions of this title.

L. To ensure that all property owners and affected persons are afforded due process of law.

SECTION 2. That Section 8.7.201, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.7.201: GENERAL PROVISIONS:

A. Applicability. The provisions of this article shall apply to all special flood hazard areas within the jurisdiction of Kootenai County. Nothing in this ordinance is intended to allow uses or structures that are otherwise prohibited by other provisions of this title.

A. Basis for Special Flood Hazard Areas. The special flood hazard areas identified by FEMA in its Flood Insurance Study (FIS) for Kootenai County, Idaho, and Incorporated Areas, dated May 3, 2010, with accompanying Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are hereby adopted by reference and declared to be a part of this article. The FIS and the FIRM are on file with the Department. Additional special flood hazard areas may be designated in accordance with the procedures set forth in subsection 8.7.205(C) of this article.

B. Findings of Fact.

1. The special flood hazard areas of Kootenai County are subject to periodic inundation that results in the following adverse effects on the public health, safety, and general welfare:

- a. loss of life and property;
- b. health and safety hazards;
- c. disruption of commerce and governmental services;
- d. extraordinary public expenditures for flood relief and protection; and
- e. impairment of the tax base.

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

3. Pursuant to the authorities set forth in section 8.1.102 of this title, local governments have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

CB. Methods of Reducing Flood Losses. In order to accomplish its purposes, this article includes methods and provisions for:

1. 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 in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other floodplain development which may increase flood damage;
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazard in other areas; and
6. Requiring adherence to the regulations pertaining to erosion and sediment control, and stormwater management, contained in article 7.1 of this chapter.

D. Basis for Special Flood Hazard Areas. The special flood hazard areas identified by FEMA in its Flood Insurance Study (FIS) for Kootenai County, Idaho, and Incorporated Areas, dated May 3, 2010, with accompanying Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are hereby adopted by reference and declared to be a part of this article. The FIS and the FIRM are on file with the Department. Additional special flood hazard areas may be designated in accordance with the procedures set forth in subsection 8.7.205(D) of this article.

1. Base Flood Elevations Established. For purposes of this article, base flood elevations for the following lakes shall be considered to be the following elevations, as established in the FIS, according to the North American Vertical Datum of 1988 (NAVD88):

<u>Lake</u>	<u>Elevation (in feet)</u>
<u>Hauser Lake</u>	<u>2195.0</u>
<u>Spirit Lake</u>	<u>2448.1</u>
<u>Fernan Lake</u>	<u>2139.3</u>
<u>Hayden Lake</u>	<u>2246.8</u>
<u>Twin Lakes</u>	<u>2319.6</u>
<u>Lake Coeur d'Alene</u>	<u>2139.3</u>
<u>Lake Pend Oreille</u>	<u>2073.7*</u>

* Base Flood Elevation for Lake Pend Oreille established in the Bonner County FIS, as referenced in FEMA product ID#16017CV00013.

2. Base flood elevations for other bodies of water shall be determined through consideration of information provided by FEMA or other authoritative sources. Any affected person contesting the location of the boundary shall be given a reasonable opportunity to appeal any such interpretations in accordance with chapter 8, article 8.5 of this title.

E. Establishment of Floodplain Development Permit. A floodplain development permit shall be required in conformance with the provisions section 8.7.205 of this article before any floodplain development may begin.

F. Compliance. No structure or land within a special flood hazard area shall hereafter be located, constructed, developed, extended, converted, or altered in any way except in full compliance with the terms of this article and other applicable provisions of this title and Title 7, Chapter 1 of this

code. This subsection shall not apply to routine maintenance of structures or to agricultural or forestry activities.

SECTION 3. That Section 8.7.202, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.7.202: DEVELOPMENT IN FLOODWAYS: ~~Except as provided in this section, no development shall be permitted in floodways.~~

A. Description. Located within special flood hazard areas are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential.

B. Restrictions on Development in Floodways. No floodplain development shall be permitted in any designated floodway except new construction solely for the replacement or substantial improvement of an existing residential or commercial structure and accessory buildings in conjunction with an existing residential or commercial use, and except as provided in paragraph (6) of this subsection. Additionally, access roads may be permitted to cross the floodway where no alternative access ways which do not encroach on the floodway are possible. All floodplain development permitted in a floodway shall comply with the following standards:

1. Floodplain development based on a no-rise certification.

a. For approval of a floodplain development permit for floodplain development within a floodway based on a no-rise certification, a qualified professional engineer licensed by the State of Idaho must submit a no-rise certification which demonstrates, through hydrologic and hydraulic analyses prepared in accordance with standard engineering practice (with supporting technical data), that the proposed floodplain development would not result in an increase in flood levels during the occurrence of the base flood.

b. All foundations for new construction and substantial improvement shall be designed by a qualified engineer licensed by the State of Idaho and constructed to withstand the hydrodynamic and hydrostatic pressures during the discharge of the base flood. If flood velocities are excessive (greater than four feet (4') per second), foundation systems other than solid foundation walls are required so that obstructions to damaging flows are minimized.

2. Submittal of a Conditional Letter of Map Revision (CLOMR) approved by FEMA with a floodplain development permit application. A Letter of Map Revision (LOMR) must be obtained within six (6) months of the start of construction of the proposed floodplain development.

~~B. Development Allowed in Floodways.~~

~~1. Access roads to cross the floodway where there are no alternative access ways which do not encroach on the floodway provided that a No-rise Certification has been submitted, demonstrating through hydrologic and hydraulic analyses prepared by a qualified professional engineer licensed by the State of Idaho in accordance with standard engineering practice (with~~

supporting technical data) that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. ~~New construction for the replacement or substantial improvement of an existing residential or commercial structure and accessory buildings in conjunction with an existing residential or commercial use provided the following criteria are met:~~

~~a. A no-rise certification has been submitted, demonstrating through hydrologic and hydraulic analyses prepared by a qualified professional engineer licensed by the State of Idaho in accordance with standard engineering practice (with supporting technical data) that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. If so certified, all fill, new construction for the replacement of existing residential or commercial structures, accessory buildings in conjunction with existing residential or commercial uses and substantial improvements must comply with all other provisions for flood hazard reduction;~~

~~b. All foundations for new construction and substantial improvement shall be designed by a qualified engineer licensed by the State of Idaho and constructed to withstand the hydrodynamic and hydrostatic pressures during the discharge of the base flood. If flood velocities are excessive (greater than four (4) feet per second) foundation systems other than solid foundation walls are required so that obstructions to damaging flows are minimized;~~

3. On existing lots of record where sufficient lot area is available, all floodplain development, including fill, new construction, and substantial improvements to existing structures, shall occur outside of the floodway.

4. Construction pursuant to subsection 8.7.204(II) of this article (Alteration and Maintenance of Watercourses) is shall be allowed in floodways with a floodplain development permit.

5. Encroachments.

a. A floodplain development permit shall be required for all encroachments, regardless of whether or not the encroachment is in aid of navigation.

b. All permits required by other agencies with jurisdiction shall have been issued before a floodplain development permit may be issued.

c. The Director shall issue a floodplain development permit for an encroachment if the applicable requirements of section 8.7.203 of this article have been met.

6. A structure that increases the level of the base flood may be constructed in the floodway only if the Director finds that the structure would serve a substantial public interest, and the applicant has applied for a conditional FIRM and floodway revision, fulfills the requirements for such revisions in accordance with applicable FEMA requirements, and receives the approval of the Federal Insurance Administrator.

SECTION 4. That Section 8.7.203, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.7.203: GENERAL STANDARDS FOR FLOODPLAIN DEVELOPMENT ~~IN SPECIAL FLOOD HAZARD AREAS:~~

A. Building sites shall be reasonably safe from flooding.

B. All floodplain development, including new construction and substantial and improvements to existing structures, shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure.

C. All floodplain development, including new construction and substantial improvements to existing structures, shall be constructed with building materials and utility equipment that are shall be resistant to flood damage. Below base flood elevation, materials must meet FEMA requirements for “flood resistant materials.” Information on flood resistant materials is outlined in FEMA publication FIA-TB-2.

D. All floodplain development, including new construction and substantial improvements to existing structures, ~~Construction~~ shall use methods and practices that minimize or eliminate flood damages.

E. New and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, above ground storage tanks and other service facilities shall not be located below the base flood elevation.

F. Design and implementation of utility systems required for floodplain development are subject to approval.

G. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. If any portion of a public water system is in a special flood hazard area, an Emergency Flood Response Plan must be developed and provided to DEQ, Kootenai County and PHD. This plan must be implemented in the event that flood waters threaten to contaminate the water system, and must include:

1. Written instructions to the operator addressing circumstances necessitating shutdown of the water system,
2. Instructions for disinfecting and testing the system prior to start-up, and
3. A protocol for notifying DEQ, ~~the~~ PHD and all users when the water system is at risk of being contaminated.

H. New community or individual sanitary sewage disposal systems shall be located outside special flood hazard areas.

I. For new construction and substantially improved structures, a fully enclosed area which is below the lowest floor shall:

1. Be constructed entirely of flood resistant materials to at least the flood protection elevation; and

2. In Zones A and AE, flood openings shall be included which automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect, or must meet or exceed the following minimum design criteria:

a. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

b. The total net area of all flood openings must be at least one square inch (1 sq. in.) for each square foot of enclosed area subject to flooding;

c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

d. The bottom of all required flood openings shall be no higher than one foot (1') above exterior adjacent grade;

e. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

f. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

JJ. If there is no alternative to locating a replacement sanitary sewage disposal system within a special flood hazard area, the system shall be designed and located to minimize or eliminate both the infiltration of flood waters into the system, and discharge from the system into flood waters. The determination that there is no alternative will be made by ~~Kootenai County~~ the Director with input from PHD and/or DEQ.

K. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance approved pursuant to section 8.8.203 of this title. 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 to at least the flood protection elevation and certified in accordance with the provisions of subsection 8.7.204(C) of this article.

~~LJ. Prior to issuance of County permits~~ All required Federal and State permits must be received before a County floodplain development permit, building permit, or site disturbance permit may be issued.

MK. New floodplain development shall not increase flood heights except as permitted in this chapter.

N. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

O. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

SECTION 5. That Section 8.7.204, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.7.204: SPECIFIC FLOODPLAIN DEVELOPMENT STANDARDS:

A. Residential Structures.

1. New and replacement residential structures, accessory living units, and all improvements to residential structures, including manufactured homes and mobile homes, regardless of whether they meet the definition of a “substantial improvement,” shall have the top of the lowest floor, including the floor of an attached garage or basement, elevated to no lower than the flood protection elevation except as provided in paragraph (D)(1) of this section.

~~2. Substantial improvements to residential structures shall be required to elevate the new improvement and the existing structure so that the top of the lowest floor, including the floor of an attached garage or basement, is at a minimum to the flood protection elevation.~~

~~23. Solid perimeter foundation walls are allowable only if the lowest horizontal structural member is four (4)-feet (4') or less above interior grade (shown as “L” in Illustration 7-201). Enclosed foundation areas below the lowest floor that are subject to flooding are prohibited, except crawl spaces less than four (4)-feet (4') in height and, that are not below grade on all sides, and which are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. At least one side of the crawl space must be at grade (i.e., the same grade inside and outside the foundation) to allow for drainage 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:~~

a. The interior grade of a crawl space below the BFE must not be more than two feet (2') below the lowest adjacent exterior grade (LAG), shown as “D” in Illustration 7-201.

ba. A minimum of two openings on different sides of each enclosed area, 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. b. The bottom of all openings shall be no higher than one foot (1') above lowest adjacent exterior grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics such as soil types. Possible options include natural drainage

through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

de. Fill may be used to elevate the grade next to foundation walls so long as providing the fill meets the requirements of subsection (HG) of this section.

d. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

e. The velocity of floodwaters at the site should not exceed five feet per second (5 ft/sec) for any crawl space. For velocities in excess of five feet per second (5 ft/sec), other foundation types should be used.

f. Below-grade crawl space construction in accordance with the requirements listed in this subsection will not be considered a basement.

34. If the lowest horizontal structural member is more than four (4) feet above grade, the residential structure shall not be built on solid foundation walls, but shall be constructed on piers, posts, or piles. With the exception of structural piers, posts or piles, the space below the lowest floor must be free of obstruction. Single layer open wood lattice work or light mesh insect screening is permissible below the lowest floor. Exceptions to the pier, post, or pile construction are as follows:

a. Solid foundations under masonry chimneys are permissible.

b. Solid perimeter foundation walls may be permitted for an enclosed access way to the structure. Such access ways must meet the same requirements for openings as crawl spaces.

c. Solid foundation walls that do not create an enclosed foundation area (one or two walls) are acceptable provided that the walls are engineered and constructed to withstand the hydrodynamic pressure of water velocity and debris and ice flow.

45. Where base flood elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building or location permits shall be reviewed 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. In such locations, the top of the lowest floor of structures must be elevated at least four feet (4') above the highest adjacent natural grade.

B. Residential Accessory Structures.

1. Separate structures which are accessory to a residential use (e.g. garage, barn) are not required to be elevated as outlined in subsection (A) of this section. For purposes of this article, Residential accessory structures do not include accessory living units shall be considered to be residential structures, and shall comply with the applicable requirements of subsection 8.7.204(A) of this article.

2. Residential accessory structures shall be designed to comply with the requirements of paragraph 8.7.203(I)(2) of this article.

3. Crawl spaces and other enclosed foundation areas shall comply with the requirements of paragraph (A)(2) of this section. cannot be more than four feet (4') in height, and cannot be below grade on all sides. At least one side must be at grade to allow for drainage of floodwaters.

3. ~~Such structures shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:~~

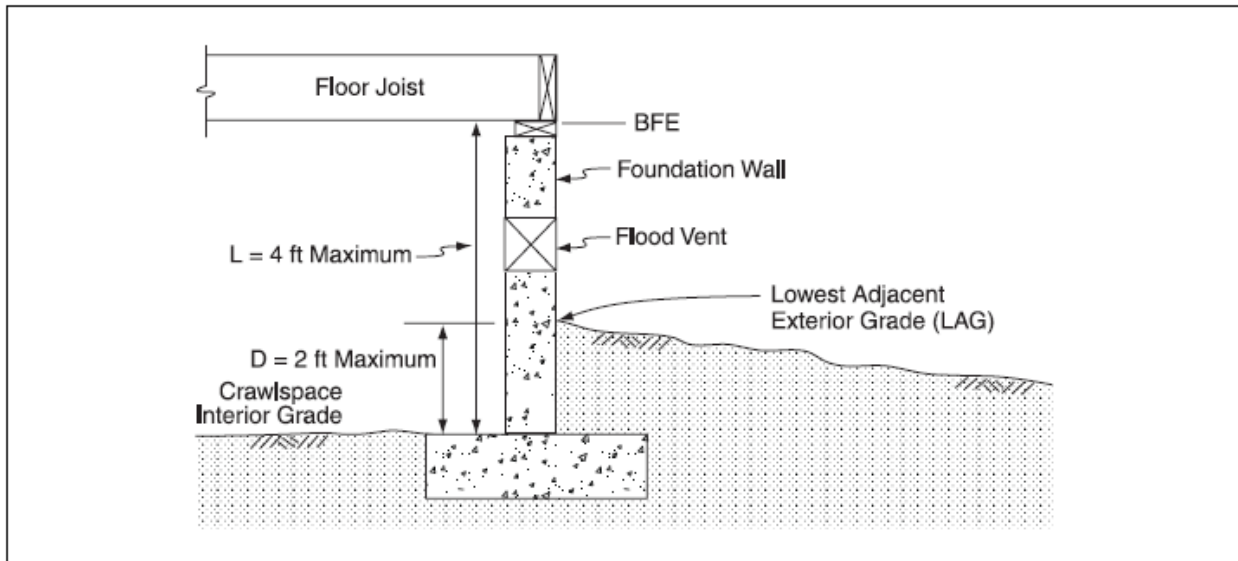
a. ~~A minimum of two openings on different sides of the enclosed area, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~

b. ~~The bottom of all openings shall be no higher than one foot above lowest adjacent grade.~~

c. ~~Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~

4. As part of any addition to an existing residential accessory structure, the existing structure shall comply with must meet the requirements for openings as outlined in paragraph (A)(2) of this section above.

Illustration 7-201 **Construction Diagram**



C. Nonresidential Structures.

1. New and replacement non-residential structures, and all improvements to non-residential structures, regardless of whether they meet the definition of a “substantial improvement,” shall have the top of the lowest floor, including the floor of an attached garage or basement, elevated a minimum of three (3)-feet (3’) above the base flood elevation.

~~2. Substantial improvements to non-residential structures shall be required to elevate the new improvement and the existing structure so that the top of the lowest floor, including the floor of an attached garage or basement, is a minimum of three (3) feet above the base flood elevation.~~

~~23. Solid perimeter foundation walls are allowable only if the lowest horizontal structural member is four (4)-feet (4’) or less above interior grade. Enclosed foundation areas below the lowest floor that are subject to flooding are prohibited, except for crawl spaces less than four feet (4’) in height, that are not below grade on all sides, and which are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. At least one side of the crawl space must be at grade (i.e., the same grade inside and outside the foundation) to allow for drainage of floodwaters. Designs for meeting this requirement must shall comply with the requirements of paragraph (A)(2) of this section. either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:~~

~~a. A minimum of two openings on different sides of each enclosed area, 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.~~

~~b. The bottom of all openings shall be no higher than one foot (1’) above lowest adjacent grade.~~

~~c. Fill may be used to elevate the grade next to foundation walls providing the fill meets the requirements of subsection (H) of this section.~~

~~d. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~

~~34. If the lowest horizontal structural member is more than four (4)-feet (4’) above grade, the structure shall not be built on solid foundation walls, but shall be constructed on piers, posts, or piles. With the exception of structural piers, posts or piles, the space below the lowest floor must be free of obstruction. Single layer open wood lattice work or light mesh insect screening is permissible below the lowest floor. Exceptions to the pier, post, or pile construction are as follows:~~

~~a. Solid foundations under masonry chimneys are permissible.~~

~~b. Solid perimeter foundation walls may be permitted for an enclosed access way to the structure. Such access ways must meet the same requirements for openings as crawl spaces.~~

c. Solid foundation walls that do not create an enclosed foundation area (one or two walls) are acceptable provided that the walls are engineered and constructed to withstand the hydrodynamic pressure of water velocity and debris and ice flow.

45. Where base flood elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed 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. In such locations, the top of the lowest floor of structures must be elevated at least four feet (4') above the highest adjacent ~~natural~~ grade.

D. Additions and Improvements.

1. Structures originally constructed prior to March 1, 1982 (Pre-FIRM structures):

a. If additions and improvements to pre-FIRM structures, in combination with any interior modifications to the existing structure, do not constitute a substantial improvement, the additions and improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

b. If additions and improvements to pre-FIRM structures, in combination with any interior modifications to the existing structure, constitute a substantial improvement, both the existing structure and the additions and improvements must comply with the standards for new construction set forth in this article.

2. Structures originally constructed on or after March 1, 1982 (Post-FIRM structures):

a. Additions to post-FIRM structures that constitute a substantial improvement shall require only the addition to comply with the standards for new construction set forth in this article so long as there are no modifications to the existing structure other than a standard door in the common wall.

b. If additions and improvements to post-FIRM structures, in combination with any interior modifications to the existing structure, do not constitute a substantial improvement, only the additions and improvements will be required to comply with the standards for new construction set forth in this article; or

c. If additions and improvements to post-FIRM structures, in combination with any interior modifications to the existing structure, constitute a substantial improvement, both the existing structure and the additions and improvements shall be required to comply with the standards for new construction set forth in this article.

3. Any substantial improvement must comply with the standards for new construction set forth in this article. Improvements completed within the previous five (5) year period shall be counted cumulatively. If a structure has sustained substantial damage, any repairs shall be considered substantial improvements regardless of the actual repair work performed. The requirement does not, however, include either:

a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to ensure safe living conditions; or

b. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

ED. Manufactured Homes and Mobile Homes.

1. All manufactured homes and mobile homes to be placed or substantially improved within A zones on the FIRM shall be elevated on a permanent foundation in compliance with section 8.7.203 of this article and subsection (A) of this section.

2. Manufactured homes and mobile homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by a certified engineered foundation system, or in accordance with the most current edition of the Idaho Division of Building Safety's *Idaho Manufactured Home Installation Standard* in accordance with subsection 44-2201(2), Idaho Code. Additionally, when the elevation of the chassis is thirty-six inches (36") or less above the elevation of the grade on site, the chassis shall be supported by reinforced piers or an engineered foundation. When the elevation of the chassis is above thirty-six inches (36") in height, an engineering certification shall be required.

3. All enclosures or skirting below the lowest floor shall meet the requirements of paragraph 8.7.203(I)(2) of this article.

4. An evacuation plan shall be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within special flood hazard areas. This plan shall be filed with and approved by the Director and the Kootenai County Office of Emergency Management.

FE. Recreational Vehicles. Recreational vehicles and park model recreational vehicles shall not be used as dwellings, shall meet the applicable requirements of article 3.4 of this title, and, in addition, when placed on sites within A Zones on the community's FIRM shall be:

1. On site for fewer than 120 consecutive days within one year; and

2. Fully licensed and ready for highway use, be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no attached additions.

GF. Land Division, Mobile Home Parks, and Planned Unit Developments.

1. All lots created after September 14, 1999 shall have a building site that is a minimum of 4000 square feet in size and accessible by a driveway which meets the minimum standards of Chapter 3, Article 3.2 of this title, all located outside of any special flood hazard area.

2. If platted, the face of the plat shall indicate the location of any special flood hazard area within the boundaries of the plat and a note shall be placed on the plat restricting development

to areas outside the designated special flood hazard area. Such areas shall be preserved as open space and left in their natural condition.

3. The following provisions shall also be met:

a. All projects shall be consistent with the need to minimize flood damage, and shall be reasonably safe from flooding.

b. All projects shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. If any portion of a public water system is in a special flood hazard area, an Emergency Flood Response Plan must be developed and provided to DEQ, Kootenai County and PHD. This plan must be implemented in the event that flood waters threaten to contaminate the water system, and must include:

i. written instructions to the operator addressing circumstances necessitating shutdown of the water system,

ii. instructions for disinfecting and testing the system prior to start-up, and

iii. a protocol for notifying DEQ, PHD and all users when the water system is at risk of being contaminated.

c. All projects shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data is not available either through the Flood Insurance Study or from another authoritative source, it shall be generated by the developer's engineer for projects which contain at least five (5) lots or five (5) acres (whichever is less).

e. All projects shall include a maintenance plan that includes the cleaning and maintenance of culverts, ditches, and drainage swales to reduce the risk of flood damage. Maintenance activities must be carried out in accordance with all Federal, State, and local regulations and all required permits must be obtained.

f. For each project, if a public entity will not be responsible for maintenance, a maintenance entity, such as a homeowners' association or utility corporation, shall be established. If maintenance requirements are not met, the County may contract to have the maintenance done at the expense of the responsible party(s). The County may also take enforcement measures as provided by law.

HG. Placement of Fill in Special Flood Hazard Areas.

1. Fill must be placed and compacted in accordance with the requirements of the International Building Code and of ~~Chapter 7~~, Article 7.1 of this ~~chapter title~~. Such fill must be compacted for at least fifteen 15-feet (15') beyond the limits of any structure placed on it; and

2. After placement and compaction, fill must be protected from erosion and scour by rip rap or sod forming grass or equivalent vegetation.

3. Compensatory Storage Required for Fill.

a. Fill within the special flood hazard area shall result in no net loss of natural floodplain storage. The volume of the loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site.

III. Alteration and Maintenance of Watercourses.

1. Stream and channel maintenance in special flood hazard areas may be necessary, for example, when rock and other debris restrict the flow of floodwaters. The cleaning of this debris and the creation of sediment pools will be carried out in accordance with all applicable Federal, State, and local regulations and all necessary permits shall be obtained with copies provided to Kootenai County.

2. The following are required before an alteration of any watercourse:

a. Notify adjacent property owners within one-half ($\frac{1}{2}$) mile upstream and downstream from the project boundaries, any affected cities, and the Idaho Department of Water Resources prior to any alteration, maintenance, or relocation of a watercourse, and submit evidence of such notification, along with any required permits, to the Federal Insurance Director and Kootenai County.

b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

3. The provisions of this subsection do not apply to the routine removal of debris or navigational hazards.

J. Storage Tanks.

1. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

a. Underground storage tanks in special 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 storage 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. Non-elevated above-ground storage tanks that do not meet the elevation requirements of this subsection shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement

resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

d. Storage 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 storage 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.

K. Development of Public Interest Projects. Floodplain development may occur within a special flood hazard area outside of a floodway without having to comply with the normally applicable requirements of this section if the Director finds that such floodplain development would serve a substantial public interest.

L. Other Activities. ~~Any construction or~~ Floodplain development not specifically permitted in this article ~~activity within special flood hazard areas other than those specifically permitted by this article~~ shall be prohibited unless all of the following criteria are met:

1. The activity shall not result in any decrease in flood storage capacity during discharge of the base flood; and-
2. The activity shall not impair the natural and beneficial functions of the floodplain.

SECTION 6. That Section 8.7.205, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.7.205: ADMINISTRATION: The Director shall act as the Floodplain Administrator for purposes of administration and enforcement of ~~administer and implement~~ the provisions of this article ~~by granting or denying permit applications in accordance with its provisions.~~ Duties of the Director shall include, without limitation, the following:

A. Granting or denying floodplain development permits in accordance with section 8.7.206 of this article.

BA. Permit Review of Building and Site Disturbance Permits. The Director shall review all building, location and site disturbance development ~~development~~ permits associated with floodplain development to determine whether:

1. The applicable requirements of this article have been satisfied;
2. All necessary permits have been obtained from the federal, state, and ~~or~~ local governmental agencies from which prior approval is required; and

3. The proposed floodplain development is located in a floodway. If located in a floodway, the Director shall ensure that the proposed floodplain development is allowed under, and complies with, the provisions of section 8.7.202 of this article.

CB. Information to be Obtained and Maintained. For all floodplain development ~~in special flood hazard areas~~, the Director shall:

1. Prevent encroachments into floodways and special flood hazard areas unless the applicable certification and flood hazard reduction provisions of this article have been met;

2. Require ~~and~~ fully completed construction drawings, building under construction, and finished construction elevation certificates, whenever applicable;

3. Obtain actual elevation, in relation to mean sea level, of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures whenever required under the provisions of this article.

4. Maintain fully completed finished construction ~~pre and post development~~ elevation certificates; and

52. Maintain all records pertaining to the provisions of this article for public inspection.

DC. Interpretation and Use of Other Data. The Director shall make interpretations, where needed, as to exact location of the boundaries of special flood hazard areas and floodways (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), and shall consider any information provided by FEMA, or other authoritative sources, or local observations (in order of priority). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal any such interpretations in accordance with chapter 8, article 8.5 of this title.

SECTION 7. That Section 8.7.206, Kootenai County Code, shall be, and the same is hereby redesignated as Section 8.7.207, Kootenai County Code.

SECTION 8. That a new Section 8.7.206, Kootenai County Code, shall be, and the same is hereby added as follows:

8.7.206: FLOODPLAIN DEVELOPMENT PERMITS:

A. An application for a floodplain development permit shall be made to the Director before any floodplain development may begin.

B. Application Requirements. In addition to the items required by the provisions of section 8.8.204 of this title, the following items shall be submitted to the Director in conjunction with an application for a floodplain development permit:

1. A site plan drawn to scale which shall include, without limitation, the following specific details:

- a. The nature, location, dimensions, and elevations of the area of floodplain development or disturbance, including, without limitation, existing and proposed structures, utility systems, grading and pavement areas, fill materials, storage areas, drainage facilities, and any other proposed floodplain development;
 - b. The boundary of the special flood hazard area as delineated on the FIRM or as set forth in paragraph 8.7.201(B)(1) of this article, or a statement that the entire lot is within the special flood hazard area;
 - c. The flood zone designation(s) of the proposed floodplain development area as determined pursuant to this article;
 - d. The boundary of any floodways or flood fringe areas;
 - e. The Base Flood Elevation (BFE) where provided as set forth in this article;
 - f. The old and new location of any watercourse that will be altered or relocated as a result of the proposed floodplain development; and
 - g. The certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all floodplain development, including, without limitation, elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.
 3. Foundations within a special flood hazard area shall be designed by a qualified professional engineer licensed by the State of Idaho in accordance with standard engineering practice. A foundation plan, drawn to scale, shall be submitted which includes details of the proposed foundation system that ensure that all applicable provisions of this article are met. These details include, without limitation:
 - a. The proposed method of elevation, if applicable (e.g., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation, or on columns, posts, piers, piles or shear walls); and
 - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with paragraph 8.7.203(I)(2) of this article when solid foundation perimeter walls are used in Zones A and AE.
 4. A statement detailing the proposed uses of any enclosed areas below the lowest floor.
 5. Plans detailing the methods to be used to protect public utilities and facilities, such as sewer, gas, electrical, and water systems, to be located and constructed to minimize flood damage.
 6. A certification that all other local, state, and federal permits required have been received.
 7. Documentation for placement of recreational vehicles, when applicable, to ensure that the provisions of subsection 8.7.204(F) of this article are met.

8. When applicable, a description of any proposed watercourse alteration or relocation, including, without limitation, the following:

- a. An engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and
- b. A map showing the location of the proposed watercourse alteration or relocation, if not shown on the site plan.

C. Certification Requirements.

1. Elevation Certificates (FEMA Form 86-0-33).

a. Construction drawings. A construction drawings elevation certificate is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Director a certification of the elevation of the lowest floor in relation to mean sea level. The Director shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder before the start of construction.

b. Building under construction. **An elevation certificate for a building under construction** 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 Director 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 Director shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately, and all necessary corrections must be completed before any further work is permitted to proceed.

c. Finished construction elevation certificates.

i. A final as-built finished construction elevation certificate is required after construction is completed and before a certificate of occupancy or equivalent may be issued. It shall be the duty of the permit holder to submit to the Director a certification of final as-built construction of the elevation of the lowest floor and all attendant utilities. The Director shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately, and all necessary corrections must be completed before a certificate of occupancy or equivalent may be issued. In some instances, another certification may be required to certify corrected as-built construction.

ii. The engineer providing the finished construction elevation certificate shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days after the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in subsection (B) of this section. To the extent possible, these photographs should show the entire building including the foundation. If the building has split-level or multi-level areas,

at least two (2) additional photographs showing side views of the building shall also be provided. In addition, when applicable, an additional photograph of the foundation showing a representative example of the flood openings or vents shall be provided.

d. Failure to submit any required certification or to make required corrections shall constitute good cause to issue a stop-work order for the project, to deny, revoke or suspend a floodplain development permit, or to deny, revoke or suspend any associated building, location, or site disturbance permit.

2. If a manufactured home is placed within Zone A or AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of subsection 8.7.204(E) of this article.

3. If a watercourse is to be altered or relocated, the following shall be submitted by the applicant before a floodplain development permit is issued:

a. A description of the extent of watercourse alteration or relocation;

b. A professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream;

c. A map showing the location of the proposed watercourse alteration or relocation; and

d. An approved Idaho stream channel alteration permit.

4. Certification Exemptions. If located within Zone A or AE, the following structures shall be exempt from the elevation certification requirements specified in paragraph (1) of this subsection:

a. Recreational vehicles which comply with the requirements of subsection 8.7.204(F) of this article; and

b. Residential accessory structures of less than 200 square feet in size which comply with the requirements of subsection 8.7.204(B) of this article.

D. Encroachments. Encroachments shall be exempt from the requirements of subsections (B) and (C) of this section. In lieu of those requirements, the applicant shall submit the encroachment permit issued by IDL for the encroachment, all other permits issued by other agencies with jurisdiction, and the entire contents of each case file pertaining to such permits.

E. Approval Procedure. Applications for floodplain development permits shall be processed in accordance with this section and section 8.8.204 of this title, except that the issuance of an order of decision shall not be required.

F. Decisions made by the Director may be appealed to the Board in accordance with article 8.5 of this chapter.

SECTION 9. That Section 8.8.203, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.8.203: VARIANCES:

A. General Provisions.

1. Purpose. The purpose of this section is to authorize such variances from the provisions of this title in specific cases as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship.

2. Description. A variance is a modification of the bulk and placement requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other provision of this title affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.

3. No nonconforming use of neighboring land, structures, or buildings in the same zone, and no permitted or nonconforming use of lands, structures, or buildings, in other zones shall be considered grounds for the issuance of a variance.

B. Application Requirements. The following items constitute a complete application:

1. A completed application form signed by the property owner;
2. The appropriate application fee;
3. Photographs of the site, including the area that pertains to the variance or appeal (if applicable);
4. A map of the vicinity of the property for which the variance is sought;
5. A narrative that includes:
 - a. a written explanation of the variance or appeal that is requested;
 - b. the applicable sections of this title, and
 - c. an explanation of how the request meets the approval standards and conditions outlined in this section.
6. A site plan for the property, drawn to scale, showing a north arrow, property lines, structures, driveways, surface water, retaining walls, easements, rights-of-way, wells, sewage systems, slopes, stormwater systems and other items as may be required by the County. The maximum allowable size of the site plan is 11" x 17".

C. Procedures for Granting Variances.

1. The Applicant shall submit a complete application meeting the application requirements set forth in subsection (B) of this section. Incomplete applications will not be processed.
2. Notice of public hearing shall be given, and a public hearing held, in accordance with article 8.4 of this chapter.
3. The Hearing Body shall not recommend for approval, and the Board shall not approve, a variance except upon the following findings:
 - a. The applicable procedural requirements have been met;
 - b. An undue hardship exists because of characteristics of the site;
 - c. The granting of the variance will not be in conflict with the public interest; and
 - d. The variance is the minimum variance that will make possible the use associated with the request.
4. In conjunction with the granting of any variance request, the hearing body may recommend, and the Board may impose, conditions of approval which further the purposes of this title and are roughly proportional, both in nature and extent, to the impacts of the variance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation governed under article 8.6 of this chapter.

D. Specific Approval Standards and Conditions for Flood Variances.

1. The issuance of variances to flood damage prevention standards contained in chapter 7, article 7.2 of this title shall be for flood plain management purposes only. The granting of a variance to such standards will not reduce, and may increase, flood insurance premiums, which are determined on the basis of actuarial risk in accordance with federal law.
2. The granting of variances will generally be limited to new construction and substantial improvements on lots of one-half ($\frac{1}{2}$) acre or less, contiguous to and surrounded by lots with existing structures constructed below the base flood elevation level. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance will increase.
3. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed work will not preclude the structure's continued designation as an historic structure, and that the variance is the minimum necessary to preserve the historic character and design of the structure.
4. Variances shall not be issued within a designated floodway.
5. Variances shall be issued only upon the findings set forth in paragraph (C)(~~23~~) of this section, and the following additional findings:

a. Good and sufficient cause exists for the variance. For purposes of this subsection, a variance is based on “good and sufficient cause” if:

i. The variance solely concerns site-specific physical characteristics which are uniquely inherent to the property that is the subject of the request and will not change or be significantly altered over time;

ii. The property possesses physical characteristics so unusual that full compliance with the provisions of this article would create an exceptional hardship related to the property, the surrounding property owners, or the community in general; and

iii. The unusual physical characteristics are unique to the property and are not shared by adjacent parcels or typical of other parcels in the community.

b. Failure to grant the variance would result in exceptional hardship to the applicant;

ca. The granting of the variance will not result in increased flood heights, will not harm other properties, will not result in additional threats to public safety or result in extraordinary public expense, and will not create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances;

db. Adequate measures will be taken to minimize flood damage; and

ee. The variance is the minimum necessary, considering the flood hazard, to afford relief.

6. In reviewing applications, the following factors shall be considered:

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

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, 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 floodplain development;

h. The compatibility 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 flood waters expected at the site;

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;

l. Any technical evaluations in the record;

m. Any applicable standards specified in other sections of this title; and

n. All other factors relevant to the request.

7. Any applicant to whom a variance is granted shall be given written notice, signed by the chairman of the Board and maintained with the record of the variance action, of the following:

a. That the issuance of a variance is for flood plain management purposes only and that it will not reduce, and may increase, flood insurance premiums, which are determined on the basis of actuarial risk in accordance with federal law;

b. That the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for every \$100 of insurance coverage;

c. That such construction below the base flood level increases risks to life and property; and

d. That the County shall not be liable for any flood damages that result.

8. In approving a variance, the Board may attach conditions which further the purposes of this title and are roughly proportional, both in nature and extent, to the impacts of the variance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation subject to enforcement action pursuant to article 8.8 of this chapter, and shall render the variance null and void.

9. The County shall maintain the records of all variance and appeal actions, including justification for their issuance, and report any variances issued in its annual report to the Federal Insurance Administrator.

E. Administrative Exceptions. An administrative exception, not to exceed one (1) foot of any dimensional requirement pertinent to front, side, rear, and flanking streets setbacks may be granted by administrative action of the Director without public notice and without public hearing. No administrative exception which constitutes a variance to flood damage prevention standards shall be granted.

SECTION 10. That the following definition in Section 8.9.102, Kootenai County Code, shall be, and the same is hereby amended as follows:

~~BASE FLOOD: Also referred to as the “100-year flood.” This is The flood having a one percent chance of being equaled or exceeded in any given year.—Such designations on the FIRM always include the letters A or V.~~

SECTION 11. That the following definitions in Section 8.9.104, Kootenai County Code, shall be, and the same are hereby added and amended as follows:

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

DEVELOPMENT: Any man-made change to improved or unimproved real estate property which requires a permit or approval pursuant to this title or Title 7, Chapter 1 of this code, including but not limited to buildings or other structures, without limitation, construction of a structure, mining, dredging, filling, grading, paving, excavation or, drilling operations or, and permanent storage of equipment or materials. For purposes of all provisions of this title other than Chapter 7, Article 7.2 thereof, this definition shall apply only to those activities which require a permit or approval pursuant to this title or Title 7, Chapter 1 of this code.

SECTION 12. That the following definitions in Section 8.9.201, Kootenai County Code, shall be, and the same are hereby added and amended as follows:

ELEVATION CERTIFICATE: A form supplied by FEMA which is used to document important elevation information for buildings within special flood hazard areas. It is used to determine the proper flood insurance premium rate and to document elevation information necessary to ensure compliance with community floodplain management regulations. It may also be used to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision Based on Fill (LOMR-F).

ENCLOSURE: an area enclosed by solid walls below the BFE or FPE or an area formed when any space below the BFE or FPE is enclosed on all sides by walls or partitions. Insect screening or open wood lattice used to surround space below the BFE or FPE is not considered an enclosure.

ENCROACHMENT: Any structure located below the ordinary high water mark of a navigable lake, river, or other body of water which is subject to the permitting authority of the Idaho Department of Lands.

SECTION 13. That the following definitions in Section 8.9.202, Kootenai County Code, shall be, and the same are hereby added and amended as follows:

FLOOD PLAIN or FLOODPLAIN: Any land area susceptible to being inundated by water from any source (see definition of FLOOD).

FLOODPLAIN DEVELOPMENT: Any development occurring within a special flood hazard area. Floodplain development shall be subject to the regulations and permitting requirements set forth in chapter 7, article 7.2 of this title regardless of whether any other permit or approval would be required pursuant to this title or Title 7, Chapter 1 of this code.

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. The channel of a river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

FREEBOARD: A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the Flood Protection Elevation (FPE). Freeboard shall be three feet (3').

SECTION 14. That the following definition in Section 8.9.204, Kootenai County Code, shall be, and the same is hereby added as follows:

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

SECTION 15. That the following definitions in Section 8.9.301, Kootenai County Code, shall be, and the same are hereby added and amended as follows:

LETTER OF MAP CHANGE (LOMC): A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished via the issuance of an official letter by FEMA. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F), each of which is further defined as follows:

1. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's location in relation to the special flood hazard area (SFHA). LOMAs are usually issued whenever a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.

2. Letter of Map Revision (LOMR): An official modification to an effective Flood Insurance Rate Map (FIRM), 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 SFHA. The LOMR officially revises the FIRM or 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 an SFHA as shown on the 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 FIRM or FIS. Upon submission and approval of certified as-built documentation, a LOMR may be issued by FEMA to revise the effective FIRM. Neither building permits nor flood development permits may 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 next to the structure. Refer to the FEMA Elevation Certificate for LAG related to building elevation information.

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including a basement, which is used for living purposes, including, without limitation, working, storage, cooking and eating, recreation, or any combination thereof. This definition also includes any floor that could be converted to such a use, including a basement or a crawl space that does not comply with the requirements of subsection 8.7.204 of this title. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor. A crawl space is not considered a building's lowest floor so long as it complies with the requirements of subsection 8.7.204 of this title, provided that such enclosure is less than four (4) feet in height, and is at or above grade (ground level) on at least one side. The height of the lowest floor helps determine the flood insurance premium for a building, home or business.

SECTION 16. That the following definition in Section 8.9.303, Kootenai County Code, shall be, and the same is hereby amended as follows:

NONRESIDENTIAL STRUCTURE: Any structure which is not used for residential purposes and is not considered accessory to a residential use (garage, barn, etc.). Examples of nonresidential structures include, without limitation, commercial, industrial, and community buildings. This definition shall not include encroachments.

SECTION 17. That the following definitions in Section 8.9.401, Kootenai County Code, shall be, and the same are hereby added as follows:

POST-FIRM: Floodplain development in which the start of construction occurred on or after March 1, 1982, the effective date of the initial Flood Insurance Rate Map (FIRM).

PRE-FIRM: Floodplain development in which the start of construction occurred before March 1, 1982, the effective date of the initial Flood Insurance Rate Map (FIRM).

SECTION 18. That the following definitions in Section 8.9.402, Kootenai County Code, shall be, and the same are hereby added and amended as follows:

REGULATORY FLOODWAY: See FLOODWAY.

RESIDENTIAL ACCESSORY STRUCTURE: A structure which is accessory to, and detached from, a residential structure, including, without limitation, garages, barns, or storage sheds. This definition shall not include accessory living units, ~~or~~ temporary hardship uses, or encroachments.

RESIDENTIAL STRUCTURE: Any building that contains living facilities, including provisions for sleeping, eating, cooking and sanitation. This definition includes accessory living units and temporary hardship uses, but shall not include encroachments.

SECTION 19. That the following definitions in Section 8.9.403, Kootenai County Code, shall be, and the same are hereby amended as follows:

SPECIAL FLOOD HAZARD AREA (SFHA): The land within a 100-year floodplain which is subject to a one percent (1%) or greater chance of flooding any given year. The boundaries of the special flood hazard area shall include all areas designated as Zone A or AE on the FIRM, and shall also include all areas designated in accordance with the procedures set forth in subsection 8.7.205(C) of this title based on the greatest flood of record or the best available data available from FEMA or other authoritative sources.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other 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. This term also includes structures which have incurred “substantial damage,” regardless of the type or cost of the actual repair work performed.

1. For purposes of this definition, the start of construction shall be deemed to be the date on which the building permit was issued so long as actual construction, repair, reconstruction, placement, or other improvement begins within one hundred eighty (180) days after that date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

2. The market value of the structure shall be the market value of the structure before the start of the initial repair or improvement, or in the case of damage, the market value of the structure before the damage occurred. Market value of the existing structure shall be considered to be the most current value of the structure as determined by the Office of the Kootenai County Assessor, or in an appraisal from an Idaho licensed or certified appraiser. The value of the proposed work shall be determined using the Department’s valuation as figured in establishing building permit fees. ~~Improvements completed within the previous five (5) year period shall be counted cumulatively.~~

SECTION 20. If any section, subsection, sentence, clause, phrase or portion of this chapter is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 21. Neither the adoption of this Ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this Ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the Kootenai County Board of Commissioners or the validity of any such action to be taken upon matters pending before the Kootenai County Board of Commissioners on the effective date of this Ordinance.

SECTION 22. This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the *Coeur d'Alene Press*.

ADOPTED this _____ day of _____, 2019.

**KOOTENAI COUNTY
BOARD OF COMMISSIONERS**

**ATTEST:
JIM BRANNON, CLERK**

Chris Fillios, Chairman

By: _____
Deputy Clerk

Leslie Duncan, Commissioner

Bill Brooks, Commissioner

Publication Date: _____

C: Community Development, Prosecuting Attorney (Civil Division), Ordinance File