

**ORDINANCE NO. \_\_\_\_\_**  
**CASE NO. ORA20-0005**  
**AMENDMENT RE: DEVELOPMENT IN FLOODWAYS**

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO LAND USE REGULATION; AMENDING SECTION 8.7.202 OF THE KOOTENAI COUNTY CODE TO PROVIDE THAT DEVELOPMENT IN FLOODWAYS MAY BE PERMITTED BASED ON EITHER A NO-RISE CERTIFICATION PREPARED BY A PROFESSIONAL ENGINEER OR UPON PRESENTATION OF A CONDITIONAL LETTER OF MAP REVISION (CLOMR) APPROVED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA); 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 8.7.202, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.7.202: DEVELOPMENT 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 otherwise 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. Floodplain development based on an approved CLOMR. ~~Submittal of~~ A Conditional Letter of Map Revision (CLOMR) approved by FEMA may be submitted with a floodplain development permit application in lieu of a no-rise certification. A Letter of Map Revision (LOMR) must be obtained within six (6) months of the start of construction of the proposed floodplain development.

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(I) of this article (Alteration and Maintenance of Watercourses) is 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, has fulfilled applicable FEMA requirements for such revisions, and has received the approval of the Federal Insurance Administrator.

**SECTION 2.** 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 3.** 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 4.** 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 \_\_\_\_\_, 2020.

**KOOTENAI COUNTY  
BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chris Fillios, Chairman

\_\_\_\_\_  
Leslie Duncan, Commissioner

\_\_\_\_\_  
Bill Brooks, Commissioner

**ATTEST:**  
JIM BRANNON, CLERK

By: \_\_\_\_\_  
Kathryn Ford, Deputy Clerk

Publication Date: \_\_\_\_\_, 2020