

## CHAPTER 4 LAND USES

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### SECTION 4.1 BASE DISTRICT:

All lands, except as may be classified otherwise pursuant to Regional Planning as provided in the Comprehensive Plan or Idaho Code §67-6525 and §67-6526, in the unincorporated areas of the county are hereby classified into one Multiple Use Zone District.

#### 4.1.A MULTIPLE USE ZONE DISTRICT:

The purpose of one land use classification is to grant landowners maximum flexibility in using and developing their properties in a way that will protect, retain or enhance the natural beauty and open space characteristics of Boise County. All uses in the county have been classified as “allowed”, “conditional”, “not-allowed” or “regional planning”. It is necessary to classify some land uses as conditional so they can be reviewed and evaluated individually by the Commission and commented upon by neighboring landowners as to compatibility with existing uses and the physical surroundings of the use.

#### 4.1.B GENERAL TYPES OF USES:

- 4.1.B.1 An “**allowed**” land use is: a) one which may be established in compliance with this Ordinance and related laws by evidencing compliance with applicable requirements and paying required permit fees, 2) may be conducted when compliance with this Ordinance and related laws is demonstrated and maintained, 3) which by their nature are compatible with existing land uses in the Multiple Use Zone District. An approved allowed use shall meet the height and lot area regulations such as, but not limited to, setback requirements, lot size, and building heights, see Bulk and Placement Table 4.8.
- 4.1.B.2 A “**conditional**” use permit is required when a land use may possess characteristics that require review and evaluation by the Commission to determine the degree to which the use may impact the vicinity.
- 4.1.B.3 A “**not allowed**” land use is one which has been determined by this Ordinance to be unacceptable.
- 4.1.B.4 A “**regional plan**”, as provided for in the Regional Planning provisions of the Comprehensive Plan may be adopted following the procedure defined in Idaho Code §67-6509. The adoption procedure maybe initiated by the affirmative results of an advisory vote by the residents of the proposed regional plan area or vote of the Board. Until Boise County adopts a zoning ordinance that designates special land uses other than one Multiple Use Zone District, the conditions and zoning use recommendations adopted in a regional plan shall only be advisory to the Commission and the Board when making land use decisions.

**4.1.C NEW OR UNLISTED LAND USES:**

Any new use or unlisted land use may be approved by the Board with consideration of its compatibility and its impacts upon surrounding properties.

**4.1.D TABLES of USES:**

**TABLE 4.1.D.1**

**Agricultural Uses**

	Allowed Use	Conditional Use
Accessory Structures to allowed uses	X	
Animal Feeding Operation		X
Composting Facility, commercial		X
Confined Animal Feeding Operation (CAFO)		X
Crop cultivation and harvesting	X	
Dairy, commercial		X
Dangerous or Protected Animals		X
Feedlot, commercial		X
Fish husbandry, commercial		X
Irrigation, drainage and water management, dams, storage facilities	X	
Livestock husbandry	X	
Nursery, Wholesale	X	
Stables, Boarding – Riding		X
Storage of agricultural equipment and products	X	
Timber Harvesting (subject to state and federal laws)	X	
Truck gardening	X	
Tree farms	X	

**TABLE 4.1.D.2**

**Temporary Uses**

	Allowed Use	Conditional Use
Christmas tree lot for retail sales (less than 30 days)	X	
Construction trailer or field office	X	
Fire Works stand subject to I.C. 39-2604 & 39-2606	X	
Flea Markets (less than 30 days per calendar year)	X	
Roadside stands (less than 30 days)	X	
Uses approved through the Mass Gathering Ordinance process	X	

**TABLE 4.1.D.3**

**Residential Uses**

	Allowed Use	Conditional Use
Accessory structures	X	
Automotive, Hobby, Private collections of no more than five (5) unregistered vehicles	X	
Bed and Breakfast		X
Boarding House		X
Condominium, townhouse, or other multi-family residence		X
Dwelling, One family	X	
Dwelling, Two family, Multi-family		X
Group Homes, physically and mentally handicapped, elderly for eight (8) or fewer people	X	
Group Homes, for more than eight (8) people		X
Halfway House		X
Home Occupations	X	
Manufactured Home	X	
Manufactured, Mobile, or Modular Home Park		X
Mobile Home - Post 1976 which meets building requirements	X	
Mobile Home - Pre 1976 which meets state rehabilitation standards and building requirements	X	
Modular Home	X	
Mobile Home - Pre 1976 that has been located within Boise County since March 1997 to be used for other than residential unit - not rehabilitated	X	
Residential Care Facility		X
Treatment Facility		X
Transitional Housing		X
Tower or Antenna Structure (Private over 35 ft.)		X
Yard or Garage Sale (not to exceed 10 days per calendar year)	X	
Yard or Garage Sale (more than 10 days per calendar year)		X
Subdivisions		X
Planned Unit Development		X
Planned Community		X

**TABLE 4.1.D.4**

**Civic Uses**

	Allowed Use	Conditional Use
Airport		X
Camps		X
Care, Treatment or Rehabilitation Facility		X
Cemeteries		X
Churches		X
Club or Lodge or Social Hall		X
Designated Historic Sites/Monuments		X
Detention or Holding Center		X
Fire Station		X
Government Equipment or Materials Storage Yards		X
Library		X
Museum		X
Post Office		X
Prison		X
Public Fairgrounds		X
Public Parks		X
Public Uses		X
Public Utility Distribution Line 35 kV or less	X	
Public Utility Subtransmission lines 138 kV or less	X	
Public Utility Subtransmission lines 138 kV or more, within 100' of a residence		X
Public Utility Transmission line 230 kV or more		X
Public Utility Supply, Administration Buildings and Substations		X
Recycling Center-Owned or operated by public agency		X
Retreat Center		X
Sanitary Landfill/Waste Transfer Facilities		X
Schools		X
Sewer storage, Transfer and Treatment Facility		X
Tourist Information Center		X

**TABLE 4.1.D.5**

<b>Commercial Uses</b>	<b>Allowed Use</b>	<b>Conditional Use</b>
<b>General</b>		
<b>Neighborhood Business</b>		
Beauty/Barber Shops		X
Daycare Center, Family	X	
Daycare Center, Group Daycare Facility		X
Drug Store		X
Florist		X
Grocery Store		X
Laundromat/Cleaners		X
Repair business		X
<b>Service Business</b>		
Airport		X
Bar/Lounge/Tavern/Café		X
Car Wash		X
Gasoline, Diesel, or Alternative Fuel Facility		X
Motel, Hotel, Resort, Lodge		X
Taxi Service		X
Towers or Antenna Structure (Commercial)		X
<b>Area Business/Commerce</b>		
Animal Clinic; Animal Hospital, Veterinary Office		X
Automobile Sales, Service, Storage, Rental, Repair		X
Banks, Financial Institutions		X
Bowling Alley		X
Brewery or Distillery		X
Drive-In Establishment		X
Equipment Rental - Sales Yard, Heavy Equipment		X
Farm, Garden, Landscaping, Lumber, or Building Supply Store		X
Furniture and/or Appliance Store		X
Kennel		X
Model Homes/Sales Office		X
Mortuary, Crematory		X
Medical, or Professional Office/Clinic		X
Recycling Center		X
Restaurant		X
Salvage Yard or Storage		X
Shopping Center		X
Storage Rental		X
Theaters		X
Tower or Antenna Structure (Commercial)		X
Tower or Antenna Structure (Private over 35')		X
Wind Farm		X
Winery		X

**TABLE 4.1.D.5 continued**

**Commercial Uses**

Recreational	Allowed Use	Conditional Use
Airport		X
Amusement or Recreation Facility (Indoor)		X
Amusement or Recreation Facility (Outdoor)		X
Campground		X
Fairground-Private		X
Golf Course, Driving Range and Facilities		X
Guest (Dude) Ranch		X
Race Track		X
Recreation Vehicle Park		X
Riding Stables, Riding Arena, and Riding School		X
Rodeo Arena		X
Shooting (Game Bird) Preserve		X
Shooting Range		X
Skating Rinks		X
Ski Area, Lodge and Related Facilities		X

**TABLE 4.1.D.6**

Industrial Uses	Allowed	Conditional
	Use	Use
Asphalt or Concrete Batch Plant		X
Bulk Plant, Flammable Substance		X
Chemicals, Pesticides and Fertilizer Storage and Manufacturing		X
Contractors Yard or Shop		X
Exploratory Mining		X
Explosive Manufacturing or Storage		X
Flammable Substance Storage		X
Food Processing Plant		X
Junkyard		X
Laboratories		X
Lumber/Saw Mill, Permanent		X
Lumber/Saw Mill, Portable (30 operating days or less)	X	
Lumber/Saw Mill, Portable (more than 30 operating days)		X
Lumber Yard- Retail/wholesale		X
Machine Shop		X
Manufacturing- Enclosed		X
Meat, Fish, Poultry Packing Plant; Slaughter House		X
Mineral Extractions		X
Petroleum, Propane Storage		X
Pipe line		X
Pit, Mine or Quarry		X
Rock Crushing Operation		X
Salvage Yard or Storage		X
Sanitary Landfill Restricted		X
Sediment Storage		X
Sewer Storage Transfer or Treatment Facility		X
Soil or Water Remediation		X
Truck, Tractor repair		X
Vehicle Impound Yard		X
Wood Processing Plant		X
Wrecking Yard-Automobile		X
Warehousing		X

**TABLE 4.1.D.7**

**Not Allowed Uses**

	Not Allowed	Conditional
Mobile Homes (Pre-1976) that were <u>not</u> located in the county as of March 1997 that are not rehabilitated and comply with Idaho Code Title 44, Chapter 25 for residential or any other use.	X	

**TABLE 4.1.D.8 BULK & PLACEMENT STANDARDS & PARKING REQUIREMENTS:**

STANDARDS FOR ALL ALLOWED LAND DEVELOPMENT AND USES						
Use Description	Building setback in feet			Min. lot/parcel area in acres	Max. structure ht. in feet	Minimum parking spaces
	front	side	rear			
1. AGRICULTURAL USES	20	10	10		60*	
2. RESIDENTIAL USES	20	10	20	2**	35	
3. CIVIC USES	30	10	30	2**	45*	
4. COMMERCIAL USES	20	10	20	2**	35*	1 per 250 sq. ft. of floor area
5. TEMPORARY USES	30	10	30		35*	
6. DEVELOPMENT from all waterways , measured horizontally	25	25	25		45	

\* Except barns, silos, windmills, towers, and spires. Varies for cell towers and emergency communications antenna

\*\* May be reduced if on central/shared water and/or sewer, and approved by Central District Health Department

**TABLE 4.1.D.8 9 BULK & PLACEMENT STANDARDS & PARKING REQUIREMENTS:**

STANDARDS FOR ALL CONDITIONAL USES OF LAND DEVELOPMENT						
Use Description	Building setback in feet			Min. lot/parcel area in acres	Max. structure ht. in feet	Minimum parking spaces
	front	side	rear			
1. AGRICULTURAL USES	50	30	50	varies	35*	
2. RESIDENTIAL USES	20	10	20	2**	35	varies
3. CIVIC USES	30	10	30	varies	35*	varies
4. COMMERCIAL USES	30	10	30	varies	35*	1 per 250 sq. ft. of floor area
5. INDUSTRIAL USES	50	30	50	varies	45	1 per 250 sq. ft. of floor area
6. DEVELOPMENT from all waterways , measured horizontally	25***	25** *	25**		45	

\* Except barns, silos, windmills, towers, and spires. Varies for cell towers and emergency communications antenna

\*\* May be reduced if on central/shared water and/or sewer, and approved by Central District Health Department

\*\*\* Subject to Section 3.1.D.2 Setback definitions

**SECTION 4.2 NONCONFORMING PROPERTY USE OR STRUCTURE:**

This Ordinance provides, by exception, for the continuation of certain nonconforming uses, structures, and lots until such time as they are abandoned, altered in use or expanded.

**4.2.A APPLICABILITY:**



- 4.2.A.1 The lawful use of land existing on December 6, 2005; or, structures existing on March 24, 1997, may be continued.
- 4.2.A.2 A non-conforming structure may not be altered or expanded.
- 4.2.A.3 If a non-conforming use is discontinued for a period of twelve (12) consecutive months, the right to continue the non-conforming use shall be waived and any further use of the property shall conform to this Ordinance.
- 4.2.A.4 Any single family or duplex use lawfully existing on the effective day of this Ordinance shall be hereafter deemed a lawful use.
- 4.2.A.5 A non-conforming use, if changed to a conforming use, may not thereafter be changed back to a non-conforming use.
- 4.2.A.6 Normal repairs and alterations may be made to a non-conforming structure. No existing non-conforming structure designed, arranged, intended for or devoted to, a use not allowed under this Ordinance shall be enlarged, extended, reconstructed, structurally altered or moved unless such use is changed to a use allowed under the regulations specified by this Ordinance; and provided, further, that nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof.

**SECTION 4.3           CONDITIONAL USES:**

Every use that requires a Conditional Use Permit (CUP) shall be subject to review and appraisal by the Commission to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons, property, or natural resources. It is the responsibility of the applicant to present plans to implement a conditional use in a way which will avoid or limit the harm to existing or contemplated use of nearby lands or place additional demands on public services.

**4.3.A   APPLICABILITY:**

- 4.3.A.1 The regulations of this section shall apply to any use that requires conditional use approval as noted in Tables 4.1.D.1 through 4.1.D.7.
- 4.3.A.2 Any amendment or expansion of a previously approved conditional use shall require a conditional use application for amendment and approval for the amended or expanded use. Denial of the amended CUP application shall not invalidate the existing CUP.
- 4.3.A.3 A conditional use permit is granted to an applicant. The CUP shall run with the land if the applicant/successor is the owner of the land, otherwise the CUP will continue so long as the applicant/successor has a lease or right of use of the land. The conditional use shall remain valid upon change of ownership with all attached conditions. Conditional use permits are not transferable from one parcel to another. If an approved conditional use permit is abandoned for more than twelve (12) months it shall expire. Any attempts to resume operation without a current conditional use permit is a violation of this Ordinance.
- 4.3.A.4 Conditional uses may be permitted only after proper application, review, approval and conformance to the conditions of approval.

**4.3.B   MINIMUM STANDARDS:**

An approved conditional use permit shall at least meet the minimum bulk standards, such as, but not limited to, setback requirements, lot size and building height (*Table 4.1.D.8*).

**4.3.C   CONDITIONS OF PERMIT:**

- 4.3.C.1 In approving any conditional use permit, the Commission may prescribe appropriate conditions, bonds, and safeguards in conformity with this Ordinance or the Comprehensive Plan. Conditions may include, but shall not be limited to, specific requirements that:
  - 4.3.C.1.a Assure that development is maintained properly.
  - 4.3.C.1.b Control the sequence and timing of development.
  - 4.3.C.1.c Control the duration of development.
  - 4.3.C.1.d Designate the exact location and nature of development.
  - 4.3.C.1.e Minimize adverse impacts on other development.
  - 4.3.C.1.f Require the provisions for on-site or off-site public facilities or services.
  - 4.3.C.1.g Require more restrictive standards than those generally required in this Ordinance.
  - 4.3.C.1.h Require mitigation of effects of the proposed development upon service delivery by any political subdivision; including school districts providing services within the planning jurisdiction.
  - 4.3.C.1.i Require surety agreements.
  
- 4.3.C.2 A conditional use permit shall also be subject to the terms and conditions by which it is approved, including, but not limited to,
  - 4.3.C.2.a Bulk and Placement Standards. (See Table 4.1.D.8)
  - 4.3.C.2.b Fencing
  - 4.3.C.2.c Floodplains, fire hazards, etc.
  - 4.3.C.2.d Grading
  - 4.3.C.2.e Hours of operation
  - 4.3.C.2.f Landscaping
  - 4.3.C.2.g Natural resources impact mitigation including wildlife habitats, historic sites, shorelines
  - 4.3.C.2.h Parking
  - 4.3.C.2.i Road volumes, traffic control, road maintenance
  - 4.3.C.2.j Screening
  - 4.3.C.2.k Sight obstruction mitigation
  - 4.3.C.2.l Visibility from roads.

**4.3.D REQUIRED STANDARD CONDITIONS OF APPROVAL:**

- 4.3.D.1 The property must be in compliance, or brought into compliance by this action, with all applicable Idaho State Statutes and Boise County Ordinances prior to commencement of approved conditional use activity. All permits must be secured prior to commencement of work subject to permit approval.
- 4.3.D.2 Applicant must provide proof of property ownership or valid leasehold from the property owner.
- 4.3.D.3 All property taxes, including current year (prepaid) taxes, shall be paid in full.
- 4.3.D.4 Prior to commencement of work, applicant must provide proof of legal access and proof of the authority to alter/improve the access to accommodate fire and ambulance services.
- 4.3.D.5 Fire Department vehicular access shall meet the standards as set forth in this Ordinance.
- 4.3.D.6 The applicant shall comply with any required conditions imposed by Central District Health Department.

- 4.3.D.7 The applicant shall identify the days and hours of operation of the conditional use permit activity.
- 4.3.D.8 Building construction shall meet the requirements of the Idaho Building Code Act, Idaho Code Title 39, Chapter 41.
- 4.3.D.9 Applicant shall prepare and present to the Planning & Zoning Department its Emergency Services Action Plan, specifically, but not limited to, fire and ambulance services.
- 4.3.D.10 The conditional use shall be considered null and void if not started within a period of twelve (12) months from the date of approval by the Commission.
- 4.3.D.11 Prior to the expiration of the conditional use permit, the Administrator may, upon written request by the holder, grant a one (1) year time extension. Any extension request beyond one (1) year shall be subject to the review and approval by the Commission. A review before the Commission shall be scheduled for public hearing and with public notice. The hearing shall be for the purpose of modifying, amending or revoking approval of the Applicant's Conditional Use Permit. A maximum of three (3) extensions may be granted if good cause is shown. The Commission shall make the final decision on the extension request.
- 4.3.D.12 CUP approval does not include approval of any signage. A separate Sign Permit will be required from the Boise County Planning and Zoning Department prior to installation of a sign(s).
- 4.3.D.13 The Applicant shall comply with any and all applicable requirements of the U.S. Army Corps of Engineers.
- 4.3.D.14 No change in the terms and conditions of the conditional use approval shall be valid unless in writing and signed by the applicant or an authorized representative. Any change in the terms and conditions shall be reviewed and approved or denied by the Commission.
- 4.3.D.15 Any change by the applicant in the planned use of the property which is the subject of this application, shall require the applicant to comply with all rules, regulations, ordinances, plans, or other regulatory and legal restrictions in force at the time the applicant or its successors in interest advises the County of its intent to change the planned use of the property;
- 4.3.D.16 All development authorized by this conditional use approval must be completed within four (4) years from the date of the Commission's approval; and
- 4.3.D.17 Failure to abide by any condition of this Conditional Use Permit shall be grounds for revocation by the Commission.
- 4.3.D.18 The Applicant shall comply with all local, state and federal rules and regulations.

**4.3.E REQUIRED FINDINGS:**

- 4.3.E.1 That the use does constitute a conditional use as specified in Tables 4.1.D.1 through 4.1.D.7, or as determined by the Commission.
- 4.3.E.2 That the use is in accordance with the goals and policies of the Boise County Comprehensive Plan.
- 4.3.E.3 That the use is designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character and uses of the vicinity and that such use will not change the essential character of the same area.
- 4.3.E.4 That the use is not hazardous to, or in conflict with, existing neighboring uses.
- 4.3.E.5 That the use is served adequately by essential public facilities and services such as, but not limited to, highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, schools, etc., at reasonable marginal cost.

- 4.3.E.6 That the use does not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- 4.3.E.7 That the use does not involve uses, activities, processes, materials, equipment and conditions or operations that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, pollution or odors.
- 4.3.E.8 That the use does not have vehicular approaches to the property which create hazardous interference with traffic.
- 4.3.E.9 That the use does not result in the destruction of any significant natural, scenic or historic feature.

**4.3.F REGULATION OF CERTAIN AGRICULTURAL USES:**

**4.3.F.1** Continued development of agricultural resources within Boise County is encouraged. A Conditional Use Permit and additional land use regulations may be required for certain agricultural uses because of the unique ability of certain agricultural uses to create negative impacts on surrounding residents.

4.3.F.1.a As a minimum, conditions of approval for any composting or AFO operation shall consider:

- 4.3.F.1.a.i Retaining all raw manure and/or other objectionable waste (including noxious airborne chemicals) on-site,
- 4.3.F.1.a.ii Locating areas likely to be denuded of vegetation by the operation so as to prevent erosion materials from leaving the site, and
- 4.3.F.1.a.iii Limiting or eliminating groundwater effects caused by the operation.

4.3.F.1.b Unless otherwise demonstrated by the operator, any commercial operation confining more than three (3) average animal units per Table 4.3.F.1 per acre per year is presumed to be an AFO.

**TABLE 4.3.F.1  
ANIMAL UNIT FACTORS**

Animal Type	AU Factor (AU/animal)	Animal Type	AU Factor (AU/animal)
Cow, Mature	1.000	Swine, 55 pounds or less	0.050
Bull, Mature	1.400	Sheep, Mature	0.200
Cattle, Yearling	0.600	Lamb	0.150
Cattle, 2 years	0.800	Goat, Mature	0.150
Calf	0.300	Goat Kid, Yearling	0.100
Horse, Mature	1.250	Chickens 5 pounds or more	0.005
Horse, Yearling	0.900	Chickens, under 5 pounds	0.003
Horse, Colt	0.500	Turkeys, 5 pounds or more	0.018
Swine, over 300 pounds	0.400	Turkeys, under 5 pounds	0.005
Swine, over 55 pounds	0.300	Ducks	0.010

Notes

1. For an animal type not listed, use: Avg. weight/1000#.
2. For AFO determination, multiply the above factor by 1.50 for containment on land with an average slope exceeding seven percent (7.0%).
3. For AFO determination, multiply the above factor by 0.50 for containment on level irrigated pasture.
4. For determining the AFO exemption, use an AU factor of 0.0005 AU/dozen eggs sold.

**Calculation Examples:**

1. How many chickens may be sold in a year without exceeding the AFO exemption of 5 AU per year?

From the chart, the AU factor for mature chickens is 0.005 AU/chicken. Therefore:

$$(5 \text{ AU/year}) / (0.005 \text{ AU/chicken}) = 1,000 \text{ chickens per year}$$

2. How many horses per year may be kept without raising the presumption of an AFO?

Assume an annual average of 1 colt and 1 yearling for every 4 mature horse. From the chart: 0.5 AU/colt, 0.9 AU/yearling, and 1.25 AU/horse. Therefore:

$$(0.5 \text{ AU/colt} + 0.9 \text{ AU/yearling} + (4 \times 1.25 \text{ AU/horse})) / 4 = 6.4 / 4 = 1.6 \text{ effective AU/horse}$$

From the Ordinance, an operation is presumed to be an AFO if more than 3 AU/acre are kept. Therefore:

$$(3.0 \text{ AU/acre}) / (1.6 \text{ effective AU/mature horse}) = 1.875 \text{ mature horses w/ foals \& yearlings per acre.}$$

3. How many acres may 100 mature cows be confined to without raising the presumption of an AFO?

$$(100 \text{ mature cows}) \times (1.00 \text{ AU/cow}) / (3 \text{ AU/acre}) = 33.33 \text{ acres.}$$

4. For example 3, how many acres with an average slope of over 7%?

$$(100 \text{ mature cows}) \times (1.5 \text{ increase for steep ground}) \times (1.00 \text{ AU/cow}) / (3 \text{ AU/acre}) = 50.00 \text{ acres.}$$

5. For example 3, how many acres on irrigated land?

#### **4.3.G MULTIPLE USES ON ONE PARCEL:**

The Commission may grant more than one conditional use permit to a single parcel of property or may grant conditional use permits to a single parcel of property that currently contains an allowed use.

#### **4.3.G APPEAL**

Appeals of a Conditional Use Permit decision shall be subject to Section 2.10 of this Ordinance.

### **SECTION 4.4 WILDLAND-URBAN INTERFACE REGULATION:**

#### **4.4.A PURPOSE FOR FIRE PROTECTION:**

- 4.4.A.1 To establish general requirements which apply to all buildings, structures and premises located within the un-incorporated areas which are subject to the jurisdiction of Boise County.
- 4.4.A.2 To establish minimum requirements to mitigate the risk to life and property from wildland fire exposures, exposures from adjacent structures and to mitigate structure fires from spreading to adjacent wildland fuels.
- 4.4.A.3 To modify the fuel load in areas adjacent to structures to create a defensible space around those structures.

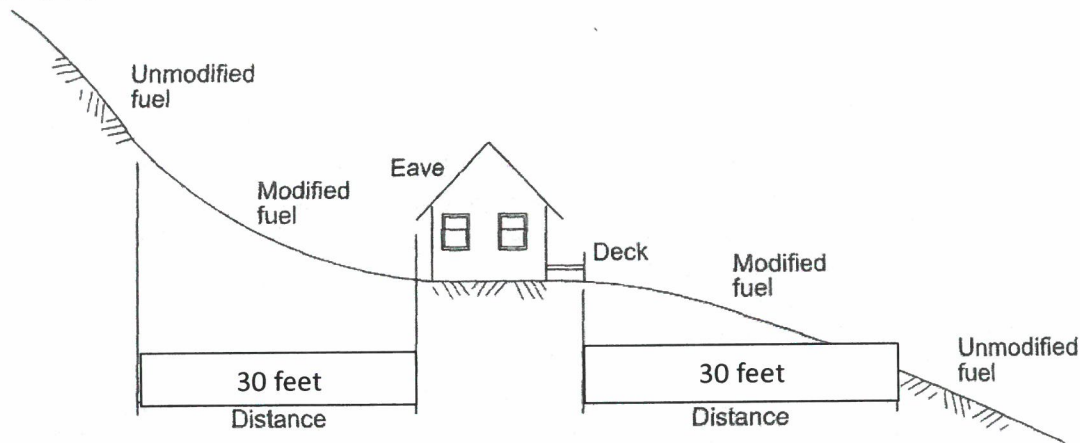
#### **4.4.B GENERAL REQUIREMENTS:**

- 4.4.B.1 Access for emergency vehicles will greatly enhance the ability of local agencies to protect life and property. This Section should be used in conjunction with local fire authorities to safeguard homes and developments in Boise County.
- 4.4.B.2 All new structures of two-hundred (200) square feet or greater or alterations made to any building or structure which would increase the footprint of the structure by more than fifty per-cent (50%) shall comply with this Section.
- 4.4.B.3 Driveways shall be constructed to a minimum width of twelve feet (12').  
**Exceptions:** Where a width of twelve feet (12') is not possible due to terrain, the Fire Chief or Sheriff has the authority to waive the twelve foot (12') requirement for the applicable portion of the driveway. In doing so, the Fire Chief or Sheriff will furnish written approval of such to the Planning & Zoning Department listing the applicants name, address, the reason for the waiver and the GPS coordinates of the start and end points of all waived portions of the driveway.

#### **4.4.C DEFENSIBLE SPACE:**

- 4.4.C.1 Upon issuance of a building permit for any construction, the Planning and Zoning Staff will advise the applicant on any requirements to mitigate fuels in accordance with this Ordinance. The applicant must inform the Planning and Zoning Staff and request a Wildland-Urban Interface inspection when the foundation backfill is complete. Failure to do so shall authorize the Administrator to declare the building permit revoked. Another building permit shall not be issued until said violation is corrected.
- 4.4.C.2 In order to qualify as a conforming defensible space for the purpose of structures on a property, fuel modification shall be a minimum of 30 feet or to the property line if less than thirty (30) feet. Distances may be increased due to site-specific analysis based on local conditions and the fire protection plan. Figure 4.4-1 demonstrates the application of this section.
- 4.4.C.3 Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for modifying or removing non-fire-resistant vegetation on the property.
- 4.4.C.4 Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees, and crowns of trees and structures, overhead electrical facilities or unmodified fuel is a minimum of ten (10) feet. Dead wood, pine needles and litter shall be regularly removed from the defensible space.
- 4.4.C.5 Ground cover, such as green grass, ivy, succulents are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native growth to any structure.

FIGURE 4.4-1



**4.4.D MAINTENANCE OF DEFENSIBLE SPACE:**

- 4.4.D.1 Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for maintaining non-fire-resistant vegetation on the property.
- 4.4.D.2 Non-fire-resistant vegetation or growth shall be kept clear of buildings or structures, in accordance with Section 4.4.B Defensible Space to provide a clear area for fire suppression operations.
- 4.4.D.3 Persons owning, leasing, controlling, operating or maintaining buildings or structures are responsible for maintenance of defensible spaces to the standards set forth in this Ordinance.
- 4.4.D.4 Tree crowns extending to within thirty (30) feet of any structure shall be pruned to maintain a minimum horizontal clearance of fifteen (15) feet. Tree crowns within the defensible space shall be pruned to remove limbs located less than

eighteen (18) feet or one-third (1/3) the height of the tree above the ground surface adjacent to the trees. Portions of tree crowns that extend within eighteen (18) feet of the outlet of a chimney shall be pruned to maintain a minimum horizontal clearance of eighteen (18) feet.

**4.4.E VEGETATION CONTROL ON ROADWAYS:**

The Fire Chief, Sheriff or authority having jurisdiction is authorized to require ten (10) feet of defensible space on each side of fire apparatus access roads.

**4.4.F OUTDOOR FIRES:**

All outside burning shall be conducted in general conformance with the procedures adopted by the Board in the Outdoor Burning Ordinance 2017-01.

**4.4.G SUBDIVISIONS, PLANNED COMMUNITIES, PLANNED UNIT DEVELOPMENTS, AND CONDITIONAL USE PERMITS:**

This section establishes minimum standards for emergency vehicle access and water supply for buildings and structures located in the WUI area. This Ordinance should be used in cooperation with local fire authorities to safeguard homes and developments in Boise County.

**4.4.G.1 ACCESS** to a subdivision, planned community, planned unit development or conditional use permits shall meet the following requirements:

4.4.G.1.a All road systems shall provide for unobstructed traffic circulation for residents, firefighters and fire equipment in case of an emergency. This requires wide, well-constructed roads with sufficient turn-arounds to prevent getting stuck off the road, and to allow simultaneous access by emergency vehicles and escape by local residents. Turns must be designed and hill grades established allowing for truck traffic.

4.4.G.1.b Where emergency vehicle access is restricted because of secured access roads or driveways or where immediate access is necessary for life-saving or fire-fighting purposes, the Fire Chief or Sheriff may require a key box to be installed in an accessible location. The key box shall be of a type approved by the Sheriff or Fire Chief and shall contain keys to gain necessary access as required. Combination locks are acceptable when appropriate codes are furnished to the local fire department and Boise County Dispatch. Should a key box not be installed the fire department or Sheriff may take such actions as necessary to access the property. The requirements of this subsection shall not apply if the access road is equipped with a knock-down gate.

**4.4.G.2 WATER**

A water supply shall be required for the use of the fire protection service having jurisdictional authority for fire-fighting purposes in accordance with the jurisdiction's fire mitigation plan and this Ordinance.

**4.4.G.3 FIRE MITIGATION PLAN:**

4.4.G.3.a A Fire Mitigation Plan shall be prepared by the applicant, approved by the P&Z Department, and implemented by the applicant.

The Fire Mitigation Plan shall be based on a site-specific wildfire risk assessment that includes considerations of the following:

4.4.G.3.a.i Climatic conditions;

- 4.4.G.3.a.ii Fire history;
- 4.4.G.3.a.iii Flammable vegetation;
- 4.4.G.3.a.iv Location;
- 4.4.G.3.a.v Response time from the nearest fire department;
- 4.4.G.3.a.vi Slope;
- 4.4.G.3.a.vii Topography;
- 4.4.G.3.a.viii Water sources;
- 4.4.G.3.a.ix Water source storage capacity.
- 4.4.G.3.b The plan shall address the following:
  - 4.4.G.3.b.i Access;
  - 4.4.G.3.b.ii Building ignition and fire resistance factors;
  - 4.4.G.3.b.iii Defensible space;
  - 4.4.G.3.b.iv Evacuation routes
  - 4.4.G.3.b.v Fire protection systems;
  - 4.4.G.3.b.vi Fire protection equipment;
  - 4.4.G.3.b.vii Vegetation management.
- 4.4.G.3.c The cost of preparing the Fire Mitigation Plan and review shall be the responsibility of the applicant.

**4.4.G.4 PROTECTION OF PUMPS AND WATER STORAGE FACILITIES:**

- 4.4.G.4.a To increase the reliability of water storage and pumping facilities and to protect such systems against loss from fire.
- 4.4.G.4.b Water storage and pumping facilities shall be provided with a defensible space of a minimum of thirty feet (30') clear of non-fire-resistant vegetation or growth around and adjacent to such facilities.
- 4.4.G.4.c Persons owning, controlling, operating or maintaining water storage and pumping systems are responsible for clearing and removing non-fire-resistant vegetation and maintaining the defensible space on the property.
- 4.4.G.4.d Parts of trees that extend to within thirty feet (30') of combustible portions of water storage and pumping facilities shall be removed.

**SECTION 4.5 FLOOD DAMAGE PREVENTION**

**4.5.A STATUTORY AUTHORITY:**

The Legislature of the State of Idaho, pursuant to Idaho Code §§ 46-1020 through 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.

**4.5.B FINDINGS OF FACTS:**

**4.5.B.1** The flood hazard areas of Boise County are subject to periodic inundation that results in:

- 4.5.B.1.a loss of life and property;
- 4.5.B.1.b health and safety hazards;
- 4.5.B.1.c disruption of commerce and governmental services;
- 4.5.B.1.d extraordinary public expenditures for flood relief and protection; and
- 4.5.B.1.e impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.



- 4.5.B.2 These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
- 4.5.B.3 Local government units have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

**4.5.C PURPOSE:**

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

- 4.5.C.1 Protect human life, health, and property;
- 4.5.C.2 Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- 4.5.C.3 Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
- 4.5.C.4 Minimize expenditure of public money for costly flood control projects;
- 4.5.C.5 Minimize the need for rescue and emergency services associated with flooding, generally undertaken at the expense of the general public;
- 4.5.C.6 Minimize prolonged business interruptions;
- 4.5.C.7 Ensure potential buyers are notified the property is in an area of special flood hazard; and
- 4.5.C.8 Ensure those who occupy the areas of special flood hazard assume responsibility for their actions.

**4.5.D OBJECTIVES AND METHODS OF REDUCING FLOOD LOSSES**

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

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

**4.5.E APPLICATION AND INTERPRETATION OF GENERAL PROVISIONS**

- 4.5.E.1 This Section shall apply to all Special Flood Hazard Areas within the jurisdiction of Boise County. Nothing in this Section is intended to allow uses or structures that are otherwise prohibited by this Ordinance.
- 4.5.E.2 The Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled, "Flood Insurance Study (FIS) for Boise County, Idaho And Incorporated Areas", dated April 5, 1988", and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting

data, are adopted by reference and declared to be a part of this Section. The FIS and FIRM are on file at the Boise County Planning and Zoning Department Office, Idaho City, ID.

- 4.5.E.3 A Floodplain Development Permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Subsection 4.5.F.1.
- 4.5.E.4 No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section and other applicable regulations.
- 4.5.E.5 This Section shall not in any way repeal, abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, etcetera. However, where this Section and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.
- 4.5.E.6 In the interpretation and application of this Section all provisions shall be:
  - 4.5.E.6.a Considered as minimum requirements;
  - 4.5.E.6.b Liberally construed in favor of the governing body; and
  - 4.5.E.6.c Deemed neither to limit nor repeal any other powers granted under state statutes.
- 4.5.E.7 The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Boise County or by any officer or employee thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder.
- 4.5.E.8 No structure or land shall hereafter be located, extended, converted, or altered unless in full compliance with the terms of this Section. Violation of this Section 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 be dealt with per Section 2.12 Violations of this Ordinance.

#### **4.5.F DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

The Administrator, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions.

- 4.5.F.1 The Floodplain Administrator shall perform, but not be limited to, the following duties:
  - 4.5.F.1.a Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements have been satisfied.
  - 4.5.F.1.b Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State, and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
  - 4.5.F.1.c Notify adjacent communities and the Idaho Department of Water Resources State Coordinator for the National Flood Insurance Program (NFIP) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

- 4.5.F.1.d Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- 4.5.F.1.e Prevent encroachments into floodways and flood fringe areas unless the certification and flood hazard reduction provisions of Subsection 4.5.N are met.
- 4.5.F.1.f Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Subsection 4.5.G.3.
- 4.5.F.1.g Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Subsection 4.5.G.3.
- 4.5.F.1.h Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Subsection 4.5.G.3.
- 4.5.F.1.i When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Subsection 4.5.G.3 and 4.5.K.2.
- 4.5.F.1.j Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or flood fringe areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Subsection.
- 4.5.F.1.k When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions, obtain, review, and reasonably utilize any BFE data, along with floodway data or flood fringe area data available from a Federal, State, or other source, including data developed pursuant to Subsection 4.5.G.2.b, in order to administer the provisions of this Section.
- 4.5.F.1.l When Base Flood Elevation (BFE) data is provided but no floodway or flood fringe area data has been provided in accordance with the provisions of Subsection 4.5.E.2, obtain, review, and reasonably utilize any floodway data or flood fringe area data available from a Federal, State, or other source in order to administer the provisions of this section.
- 4.5.F.1.m 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.
- 4.5.F.1.n Permanently maintain all records that pertain to the administration and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- 4.5.F.1.o 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 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.

- 4.5.F.1.p Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order shall be deemed a violation of this Ordinance and Section 2.12 shall apply.
- 4.5.F.1.q 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.
- 4.5.F.1.r 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.
- 4.5.F.1.s Follow through with corrective procedures of Subsection 4.5.H.
- 4.5.F.1.t Review, provide input, and make recommendations for variance requests.
- 4.5.F.1.u 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 Subsection 4.5.E.2 of this Section, 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.
- 4.5.F.1.v Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

#### **4.5.G FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT, AND CERTIFICATION REQUIREMENTS**

##### **4.5.G.1 FLOODPLAIN DEVELOPMENT APPLICATION**

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood

Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- 4.5.G.1.a A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - 4.5.G.1.a.i the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - 4.5.G.1.a.ii the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Subsection 4.5.E.2, or a statement that the entire lot is within the Special Flood Hazard Area;
  - 4.5.G.1.a.iii the flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Subsection 4.5.E.2;
  - 4.5.G.1.a.iv the boundary of the floodway(s) or flood fringe area(s) as determined in Subsection 4.5.E.2;
  - 4.5.G.1.a.v the Base Flood Elevation (BFE) where provided as set forth in Subsection 4.5.E.2; 4.5.E.3; or 4.5.L;
  - 4.5.G.1.a.vi the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - 4.5.G.1.a.vii the certification of the plot plan by a registered land surveyor or professional engineer.
- 4.5.G.1.b Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
  - 4.5.G.2.b.i Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
  - 4.5.G.2.b.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
  - 4.5.G.2.b.iii Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- 4.5.G.1.c 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.
- 4.5.G.1.d A 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:
  - 4.5.G.1.d.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
  - 4.5.G.1.d.ii Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with

Subsection 4.5.K.4.d when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A1-30.

- 4.5.G.1.e Usage details of any enclosed areas below the lowest floor.
- 4.5.G.1.f 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.
- 4.5.G.1.g Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
- 4.5.G.1.h Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Subsection 4.5.K.5 and K.6 of this Section are met.
- 4.5.G.1.i A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and
  - 4.5.G.1.i.i A map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

**4.5.G.2 THE FLOODPLAIN DEVELOPMENT PERMIT** shall include, but not be limited to:

- 4.5.G.2.a A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etcetera).
- 4.5.G.2.b The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 4.5.E.
- 4.5.G.2.c The Flood Protection Elevation required for the reference level and all attendant utilities.
- 4.5.G.2.d The Flood Protection Elevation required for the protection of all public utilities.
- 4.5.G.2.e All certification submittal requirements with timelines.
- 4.5.G.2.f A statement that no fill material or other development shall encroach into the floodway or flood fringe area of any watercourse, as applicable.
- 4.5.G.2.g The flood openings requirements, if in Zones A, AE, AH, AO, or A1-30.
- 4.5.G.2.h A statement of the limitations of below BFE enclosure uses, if applicable. (i.e., parking, building access and limited storage only).
- 4.5.G.2.i A statement that all materials below BFE/FPE must be flood resistant materials.

**4.5.G.3 CERTIFICATION REQUIREMENTS**

- 4.5.G.3.a Elevation Certificates
  - 4.5.G.3.a.i An Elevation Certificate (FEMA Form 86-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor, in relation to mean sea level. The Floodplain Administrator shall review the certificate

data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

4.5.G.3.a.ii

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 reference level 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" × 3". Digital photographs are acceptable.

4.5.G.3.b Floodproofing Certificate. If non-residential floodproofing is used to meet the Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant

prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- 4.5.G.3.c If a manufactured home is placed within Zone A, AE, AH, AO, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Subsection 4.5.K.3.b.
- 4.5.G.3.d If a watercourse is to be altered or relocated, the following shall all be submitted by the permit applicant prior to issuance of a floodplain development permit:
  - 4.5.G.3.d.i a description of the extent of watercourse alteration or relocation; and
  - 4.5.G.3.d.ii 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; and
  - 4.5.G.3.d.iii a map showing the location of the proposed watercourse alteration or relocation; and
  - 4.5.G.3.d.iv an Idaho Stream Channel Alteration Permit approval shall be provided by the applicant to the Floodplain Administrator.
- 4.5.G.3.e Certification Exemptions. The following structures, if located within Zone A, AE, AH, AO, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items a and b of this subsection:
  - 4.5.G.3.e.i Recreational Vehicles meeting requirements of Subsection 4.5.K.6.a;
  - 4.5.G.3.e.ii Temporary Structures meeting requirements of Subsection 4.5.K.7; and
  - 4.5.G.3.e.iii Accessory Structures less than 200 square feet meeting requirements of Subsection 4.5.K.8.

**4.5.G.4** Determinations for Existing Buildings and Structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- 4.5.G.4.a Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- 4.5.G.4.b Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;



- 4.5.G.4.c Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- 4.5.G.4.d Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the adopted State of Idaho Building Code and this ordinance is required.

**4.5.H CORRECTIVE PROCEDURES**

- 4.5.H.1 Violations to be Corrected. When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- 4.5.H.2 Actions in Event of Failure to Take Corrective Action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - 4.5.H.2.a that the building or property is in violation of the floodplain management regulations;
  - 4.5.H.2.b that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) calendar days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  - 4.5.H.2.c that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- 4.5.H.3 Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Section, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than One-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- 4.5.H.4 Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within fourteen (14) calendar days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- 4.5.H.5 Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

**4.5.I VARIANCE PROCEDURES FOR FLOOD DAMAGE PREVENTION ONLY**

- 4.5.I.1** The Board, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this Flood Damage Prevention Section.
- 4.5.I.2** Variances may be issued for:
- 4.5.I.2.a the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  - 4.5.I.2.b functionally dependent facilities, if determined to meet the definition as stated in this section, provided provisions of Subsection 4.5.I.9.b, c, and e 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
  - 4.5.I.2.c any other type of development, provided it meets the requirements of this Section.
- 4.5.I.3** In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in this and other sections, and:
- 4.5.I.3.a the danger that materials may be swept onto other lands to the injury of others;
  - 4.5.I.3.b the danger to life and property due to flooding or erosion damage;
  - 4.5.I.3.c the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 4.5.I.3.d the importance of the services provided by the proposed facility to the community;
  - 4.5.I.3.e the necessity to the facility of a waterfront location as defined under this Section as a functionally dependent facility, where applicable;
  - 4.5.I.3.f the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - 4.5.I.3.g the compatibility of the proposed use with existing and anticipated development;
  - 4.5.I.3.h the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - 4.5.I.3.i the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - 4.5.I.3.j the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - 4.5.I.3.k the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- 4.5.I.4** The applicant shall include a written report addressing each of the above factors in Subsection 4.5.I.3.a-k with their application for a variance.
- 4.5.I.5** Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- 4.5.I.6** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the

BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

**4.5.I.7** The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.

**4.5.I.8** Conditions for Variances:

4.5.I.8.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.

4.5.I.8.b Variances shall not be issued within any designated floodway or flood fringe area if the variance would result in any increase in flood levels during the base flood discharge.

4.5.I.8.c Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4.5.I.8.d Variances shall only be issued prior to development permit approval.

4.5.I.8.e Variances shall only be issued upon:

4.5.I.8.e.i a showing of good and sufficient cause;

4.5.I.8.e.ii a determination that failure to grant the variance would result in exceptional hardship; and

4.5.I.8.e.iii a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**4.5.I.9** A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

4.5.I.9.a The use serves a critical need in the community.

4.5.I.9.b No feasible location exists for the use outside the Special Flood Hazard Area.

4.5.I.9.c The reference level of any structure is elevated or floodproofed to at least the Flood Protection Elevation.

4.5.I.9.d The use complies with all other applicable Federal, State and local laws.

**4.5.I.10** The Board 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.

**4.5.I.11** Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in this Ordinance and Idaho Code 67-6535.

#### **4.5.J PROVISIONS FOR FLOOD HAZARD REDUCTION**

In all Special Flood Hazard Areas the following provisions are required:

**4.5.J.1** All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.