**ORDINANCE NUMBER 1120**

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 17, CHAPTER 17.88 FLOODPLAIN MANAGEMENT OVERLAY DISTRICT (FP) BY REPEALING THE EXISTING CHAPTER IN ITS ENTIRETY AND ENACTING NEW CODE THAT ADDS NEW LANGUAGE, DELETES LANGUAGE, CLARIFYS DEFINITIONS, TERMS OF APPROVAL, ADMINISTRATION AND OTHER PROVISIONS; AND AMENDING TITLE 17, CHAPTER 17.64 COMMUNITY CORE DISTRICT (CC) BY DELETEING REFERENCES TO TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; PROVIDING A REPEALER CLAUSE; AND, PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City participates in the Federal Emergency Management Agency (FEMA)'s National Flood Insurance Program (NFIP) in order to protect the health, safety and welfare of its citizens and to ensure that flood insurance is available to them;

**WHEREAS,** FEMA has performed a review of the existing code and has provided the City with a list of required code amendments to bring the code into compliance with NFIP standards;

**WHEREAS,** the City participates in the NFIP's Community Rating System (CRS) program, which provides flood insurance rate reductions to the City's citizens based on the City's compliance with CRS standards, including code standards that exceed minimum NFIP requirements;

**WHEREAS,** City staff has aspired to clarify code language, streamline the development approval processes for smaller projects and ensure that terms of approval have limits, so that projects will be subject to current regulations, and ensure that the code aligns with State Statute;

**WHEREAS,** the Planning and Zoning Commission considered these text amendments in work sessions on September 9, 2013, October 28, 2013 and February 10, 2014; and,

**WHEREAS,** the Planning and Zoning Commission held a duly notice public hearing on the amendments and made a recommendation of approval to the City Council on July 14, 2014; and,

**WHEREAS,** the City Council held a duly noticed first reading and public hearing on this matter on August 18, 2014, and a second reading on September 2, 2014 on this matter in accordance with the provisions of the Ketchum Municipal Code and Idaho Statutes; and,

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO:**

**SECTION 1.** Repeals CHAPTER 17.88, FLOODPLAIN MANAGEMENT OVERLAY DISTRICT (FP) in its entirety.

**SECTION 2.** Replaces the former CHAPTER 17.88, FLOODPLAIN MANAGEMENT OVERLAY DISTRICT (FP) with the attached ordinance, Exhibit "A".

**SECTION 3.** CHAPTER 17.64, COMMUNITY CORE DISTRICT (CC), Section 17.64.010.I Hotel Uses to be amended by deleting therefrom the stricken language and adding the underlined language hereinbelow, to wit:

1. *Number Of Floors: Hotels may build a fourth floor. If a site meets the criteria for five-story hotel site designation, a fifth floor may be built. Five-story hotels may only be approved via a planned unit development (PUD) as outlined in title 16, chapter 16.08 of this code. However, with the exception of limited architectural elements, hotel projects may not request waivers to the mass and height specifications of subsection L9c of this section, building type 6 hotel.*

    a. *Five-Story Hotel Site Designation Criteria: A property shall meet all of the following criteria to be designated as a five-story hotel site:*
        (1) *Is located in subdistrict A, retail core.*
        (2) *Is highly visible to visitors.*
        (3) *Is convenient to walk to retail center.*
        (4) *Is near the center town plaza, Main Street and Sun Valley Road.*
        (5) *Contributes to the retail vibrancy.*
        (6) *Is not located on Main Street between First Street and Sixth Street.*
        (7) *Has a minimum lot area of thirty three thousand (33,000) square feet.*
        (8) *Respects the general parameters of any massing studies which may be applicable in the area.*

~~2. *Designated Sending Areas Restricted: Without exception, hotels cannot build fourth or fifth floors in designated sending areas, as may be adopted by the city council.*~~

~~3.~~2. *Employee Housing: Hotel developments are required to mitigate employee housing impacts at a ratio of twenty five percent (25%) of the total number of employees calculated by the following formula: One employee per hotel room or bedroom. A development agreement or other similar tool shall be utilized to outline employee housing commitments.*

~~4.~~3. *Employee Housing Plan: The applicant shall provide an employee housing plan which outlines the number of employees, income categories and other pertinent data. The employee housing plan shall be the basis of the applicant's proposal for*

*the mix of employee housing which addresses the range of employees needed to serve the hotel.*

~~5.~~4. *Alternate Means To Satisfy Square Footage: The city council may consider a request by the hotel developer to satisfy any required employee or community housing square footage by alternate means. Off site mitigation, payment of in lieu fees, land in lieu of units, or other considerations may be proposed by the hotel developer. Larger sites are encouraged to include employee and/or community housing on site. The city council has full discretionary power to deny said request.*

~~6.~~5. *Development Agreement: Hotels shall enter into a development agreement with the city as part of the PUD approval process. Said development agreement may address the following subjects: community housing, hotel room uses and restrictions, public access on the property, alternatives and remedies if the hotel use ceases, and any other issue the planning and zoning commission or city council deems appropriate. Said development agreement shall follow the public hearing process as outlined in title 16, chapter 16.08 of this code. Said development agreement shall be subject to sections 17.154.060, "Enforcement", and 17.154.070, "Modification And Termination", of this title.*

**SECTION 4.** CHAPTER 17.64, COMMUNITY CORE DISTRICT (CC), Section 17.64.020.H Historic Buildings to be amended by deleting therefrom the stricken language and adding the underlined language hereinbelow, to wit:

1. *Design Regulations: ~~Owners of properties that have entered into the TDR program by establishing TDRs are required to meet the secretary of interior's standards for the treatment of historic properties when renovating or modifying their building.~~None.*

**SECTION 5. SAVINGS AND SEVERABILITY CLAUSE**. It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 6. CODIFICATION CLAUSE.** The City Clerk is instructed to immediately forward this ordinance to the codifier of the official municipal code for proper revision of the code.

**SECTION 7. PUBLICATION.** This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form attached hereto as Exhibit "B," shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

**SECTION 8. REPEALER CLAUSE**. All City of Ketchum code sections, ordinances or resolutions or parts thereof, which are in conflict herewith are hereby repealed.

**SECTION 9. EFFECTIVE DATE**. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 15th day of September, 2014.

Nina Jonas, Mayor

ATTEST:

Sandra E. Cady, CMC
City Treasurer/Clerk

**Exhibit A**

## Article I. Flood Damage Prevention

### 17.88.010: FINDINGS OF FACT:

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

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

C. The Big Wood River and its tributaries and floodplains in Ketchum are important to the well being of its citizens as a source of recreation, fish and wildlife habitat, aesthetic beauty, a source of irrigation water as well as other economic and lifestyle values.

D. The studies listed below are hereby adopted as the primary sources of flood hazard analysis:

1. "Flood Insurance Study (FIS) For Blaine County, Idaho And Incorporated Areas", Flood Insurance Study ~~flood insurance study~~ numbers 16013CV001A and 16013CV002A, dated November 26, 2010, and any amendments thereto;

2. Digital Flood Insurance Rate Maps ~~flood insurance rate maps~~ (DFIRMs) for Blaine County, Idaho, and incorporated areas: map number 16013CIND0A; map number 16013C0433E, community panel number 0433E; map number 16013C0434E, community panel number 0434E; map number 16013C0441E, community panel number 0441E; map number 16013C0442E, community panel number 0442E; map number 16013C0453E, community panel number 0453E; map number 16013C0461E, community panel number 0461E, and any amendments thereto; and

3. Other flood hazard studies, as may be adopted by the city, will be utilized in determining flood hazard.

E. Regulations pertaining to development on property affected by the 1% annual chance flood (100-year flood), as defined herein, are necessary in addition to those of the underlying zoning district in order to promote the health, safety and welfare of the citizens of and visitors to the City ~~city~~ of Ketchum, Idaho. (Ord. 1078, 2010: Ord. 702 § 1, 1997: Ord. 525 § 1, 1989: Ord. 278 § 1, 1978)

**17.88.020: STATEMENT OF PURPOSE:**

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

A. To protect human life, ~~and~~ health, safety and welfare;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the sound ~~second~~ use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To ensure that potential buyers are notified that property is in an area of special flood hazard;

H. To ensure that those who occupy the areas of special flood hazard assume the responsibility for their actions;

I. To allow the river and creeks and their adjacent lands to convey floodwaters to minimize property damage;

J. To regulate uses in the floodplain for the purpose of preserving, protecting, and enhancing the abundance and diversity of fish, wildlife and riparian resources;

K. To protect, preserve and enhance the waterways and floodplains as a recreation resource;

L. To provide a formal procedure for stream alteration permit applications;

M. To restrict or prohibit uses which are injurious to health, safety or property in times of flood, which result in environmental damage, or that cause increased flood heights or velocities; and

N. To guide development and city review of development in the floodplain and adjacent to waterways in order to establish the most appropriate building envelopes for lots existing and in new subdivisions. (Ord. 525 § 1, 1989: Ord. 278 § 1, 1978)

**17.88.030: METHODS OF REDUCING FLOOD LOSSES:**

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

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

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction, at time of substantial damage or substantial improvement and throughout their intended lifespan;

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

D. Controlling, filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which may unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 525 § 1, 1989: Ord. 278 § 1,1978)

**17.88.040: DEFINITIONS:**

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application.

0.2% ANNUAL CHANCE FLOOD: The flood having a 0.2% chance of being equaled or exceeded in any given year. Also referred to as the 500-year flood.

1% ANNUAL CHANCE FLOOD: See BASE FLOOD.

AREA OF SHALLOW FLOODING: A designated AO or VO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet (1' - 3'); a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow, and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letters

"A" or "V". The term "special flood hazard area", for the purposes of these regulations, is synonymous with the phrase "area of special flood hazard".

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

BASE FLOOD ELEVATION (BFE): The water surface elevation of the 1% annual chance flood.

BASEMENT: Any area of a building having its floor sub-grade (below ground level) on all sides. A crawlspace that is not built to the specifications of Section 17.88.070B2c is considered a basement.

CRAWLSPACE: The unfinished area of a structure, enclosed by foundation walls, between the ground below and the floor system above. A crawlspace is generally under four feet (4') in height and unfinished. A crawlspace built to the specifications of Section 17.88.070B2c is not considered a basement. (See Section 17.88.070B2c, Figure 1: Preferred Crawlspace Construction.)

CRAWLSPACE, BELOW-GRADE: A crawlspace where the ground level in the enclosed space is below the lowest adjacent grade next to the building. (See Section 17.88.070B2c, Figure 2: Below-grade Crawlspace Construction.)

CRITICAL FACILITY: A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, or installations which produce, use or store hazardous materials or hazardous waste.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, ~~or~~ drilling operations or permanent (root ball) removal of trees and large shrubs.

FERTILIZER: Any substance containing one (or more) recognized plant nutrient which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, and includes limes and gypsum. It does not include unmanipulated animal manure and vegetable organic waste derived material, or biosolids regulated under 40 CFR Part ~~part~~ 503.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Insurance Administration ~~federal insurance administration~~ has delineated both the areas of special flood hazard and risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS): The official report provided by the Federal Insurance

Administration ~~federal insurance administration~~ that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

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

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

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

FLOOD DAMAGE RESISTANT MATERIAL: Any building material capable of withstanding direct and prolonged contact with floodwaters (minimum 72 hours) without sustaining significant damage (i.e. damage requiring more than cleaning, sanitizing or resurfacing). Refer to Federal Emergency Management Agency (FEMA) Technical Bulletin 2 - 2008, Flood Damage Resistant Materials for more information.

FLOOD PROTECTION ELEVATION (FPE): An elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood) plus any increased flood elevation due to floodway encroachment, plus any required freeboard. This is required by Idaho State Statute 46-1021. The Ketchum Municipal Code has more stringent requirements.

FLOODPLAIN: Any land area susceptible to being inundated by water from any source.

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

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1'). This term is also referred to as the "regulatory floodway".

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HABITABLE FLOOR: Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for garage, storage or access purposes is not a "habitable floor".

INTERMEDIATE REGIONAL FLOOD (IRF): See BASE FLOOD.

LOWEST ADJACENT GRADE: The lowest point of the ground level immediately next to a building.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements contained in Subsection ~~subsection 17.88.070B1b~~17.88.070B2c of this article.

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

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MEAN HIGH WATER MARK: A water level corresponding to the natural or ordinary high water mark and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes.

NEW CONSTRUCTION: Structures for which the "start of construction" commenced on or after the effective date hereof.

ORGANIC FERTILIZER: A nonsynthetic fertilizer.

PESTICIDE:

A. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, plant, fungus or virus;

B. Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and

C. Any nitrogen stabilizer.

Pesticide shall not include any article that is a "new animal drug" within the meaning of Section ~~section~~ 321(w) of Title ~~title~~ 21 of the United States Code, that has been determined by the secretary of Health and Human Services ~~health and human services~~ not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of Section ~~section~~ 321(x) of Title ~~title~~ 21 of the United States Code bearing or containing a new animal drug.

RESTRICTED USE CHEMICAL: Any pesticide, pesticide use, soil sterilant, or fertilizer classified for restricted use by the United States Environmental Protection Agency (EPA) ~~environmental protection agency~~. Restricted use pesticides typically may not be applied by anyone not licensed to apply restricted use pesticides.

RECREATIONAL VEHICLE: Means a vehicle that is:

a. Built on a single chassis;
b. Four hundred (400) square feet or less in size when measured at the largest horizontal projection;
c. Designed to be self-propelled or permanently towable by a light duty truck; and
d. Design primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RIPARIAN ZONE: That area along the banks of any waterway twenty five feet (25') in width measured horizontally from the mean high water mark.

SOIL STERILANT: A chemical that temporarily or permanently prevents the growth of all plants and animals.

SPECIAL FLOOD HAZARD AREA: See AREA OF SPECIAL FLOOD HAZARD.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STREAM ALTERATION: To obstruct, diminish, destroy, alter, modify, relocate, or change the natural existing shape of the stream channel or to change the direction of flow of water of any stream channel within or below the mean high water mark. It includes removal of material from the stream channel and emplacement of material or structures in the stream channel.

STRUCTURE: A walled and roofed building including a gas or liquid storage tank that is principally aboveground, as well as a manufactured home.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

1. Before the improvement or repair is started; or

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

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

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

2. Any alteration of a structure listed on the National Register of Historic Places ~~national register of historic places~~ or the Idaho Historic Sites Inventory ~~a state inventory of historic places~~.

VARIANCE: A grant of relief from the requirements of this article which permits construction in a manner that would otherwise be prohibited by this article. (Ord. 997 § 1, 2006: Ord. 608 § 1, 1993: Ord. 525 § 1, 1989: Ord. 278 § 2, 1978)

**17.88.050: GENERAL PROVISIONS:**

A. Establishment ~~Of The~~ of the Floodplain Management Overlay Zoning District: The Floodplain Management Overlay Zoning District ~~floodplain management overlay zoning district~~ is hereby established. The regulations of this district apply to all lands within the jurisdiction of the city that lie within the 1% annual chance ~~100 year~~ floodplain boundaries as determined by the graphic representation shown on the Flood Insurance Rate Map ~~flood insurance rate map~~ (FIRM) and by the elevations of the ~~IRF~~ base flood contained in the Flood Insurance Study ~~flood insurance study~~ referred to hereinbelow in addition to the regulations contained in the underlying zoning district.

1. Establishment ~~Of The~~ of the Floodway Subdistrict ~~And The~~ and the Floodplain Subdistrict: The floodplain areas are divided into two (2) subdistricts: the Floodway Subdistrict ~~floodway subdistrict~~ and the Floodplain Subdistrict ~~floodplain subdistrict~~.

2. Rules For Interpretation ~~Of The~~ of the Floodplain Management Overlay Zoning District Boundaries ~~And The~~ and the Floodway Subdistrict ~~And The~~ and the Floodplain Subdistrict Boundaries: The Floodplain Management Overlay Zoning District ~~floodplain management overlay zoning district~~ boundaries are represented on the official zoning map of the city. However, the precise intermediate regional flood (IRF) location shall be determined by ~~on~~ a site survey and elevations as interpreted from the adopted Flood Insurance Rate Map ~~flood insurance rate map~~ and the Flood Insurance Study ~~flood insurance study~~. All land within the external boundary of the 1% annual chance ~~100-year~~ floodplain and all parcels with any portion thereof affected by said 1% annual chance ~~100-year~~ floodplain shall be considered to be within the Floodplain Management Overlay Zoning District ~~floodplain management overlay zoning district~~ governed thereby in addition to the underlying zoning district. The city may make necessary interpretations of the boundary based upon the recommendation of the city engineer or other expert.

3. Basis ~~For~~ for Establishing ~~The~~ the Areas ~~Of~~ of Special Flood Hazard: The areas of special flood hazard identified by the Federal Insurance Administration ~~federal insurance administration~~ in a scientific and engineering report entitled "The Flood Insurance Study (FIS) ~~For~~ for Blaine County, Idaho ~~And~~ and Incorporated Areas" with accompanying Digital Flood Insurance Rate Maps ~~digital flood insurance rate maps~~ (DFIRMs) bearing an effective date of November 26, 2010, to establish the areas of special flood hazard for land which has been or will be annexed into the city limits of the City ~~city~~ of Ketchum, Idaho, since the adoption of said study for the incorporated area of the city are hereby adopted by reference and declared to be a part of this article. The Flood Insurance Studies ~~flood insurance studies~~ are on file at the office of the city clerk, City Hall, 480 East Avenue North, Ketchum, Idaho.

B. Establishment ~~Of~~ of Waterways Design Review Subdistrict: The city hereby makes the following findings of fact with regard to establishing a Waterways Design Review Subdistrict ~~waterways design review subdistrict~~:

1. Flooding is aggravated by the collection of debris upstream of the many channel obstructions located in the floodplain areas. Such obstructions include bridges, fences, houses, trees, etc. The accumulation of debris has resulted in significantly higher water surface elevations upstream from the obstructions than would otherwise be expected. Obstructions can and tend to cause flooding to extend beyond anticipated FEMA 1% annual chance ~~100-year~~ flood boundaries at points of debris accumulation which cannot be predicted.

2. All structures located roughly within the limits of the 0.2 % annual chance~~500-year~~ floodplain are subject to inundation, if not direct impact by the channel itself, during floods of return frequencies of ten (10) to twenty (20) years. This is

due to the tendency of the channel to change abruptly, often cutting a totally new channel in a few hours, during high water periods because the Big Wood River is wide, flat and has relatively shallow channel in many areas.

3. The levees built by the U.S. Army Corps of Engineers ~~army corps of engineers~~ are not considered by the corps to be adequately designed to be classified as permanent structures capable of withstanding a 1% annual chance ~~100-year~~ flood.

4. Encroachments (i.e., houses, fill, etc.) on floodplains reduce the flood carrying capacity and increase flood heights, thus increasing flood hazards beyond the encroachment. With every new structure or other development since the FEMA 1% annual chance ~~100-year~~ boundary was determined, the ability of the floodplain to function as originally assumed changes.

5. Historically, development adjacent to waterways has had a direct effect on methods chosen by owners to protect their property and often to the detriment of the natural stream by destroying or greatly altering fish and wildlife habitat and by unnaturally armoring the banks of the waterways to prevent erosion and, thus, future damage to manmade structures.

   a. The purposes for which said subdistrict is established are as follows:

      (1) To guide development adjacent to waterways toward the most appropriate building envelope for its particular site;

      (2) To minimize the impact of development adjacent to waterways on adjacent properties upstream, downstream and across waterways;

      (3) To review development plans for property adjacent to waterways to minimize the obstruction of the conveyance of floodwaters;

      (4) To provide for the maintenance and/or enhancement of the riparian environment including wildlife habitat along waterways;

      (5) To carry out the provisions of the comprehensive plan as well as health, safety and welfare with regard to properties adjacent to waterways;

      (6) To warn that city review and approval is not going to prevent flooding and that ~~it~~flooding may occur;

      (7) To advise of flood hazards and studies and options available;

(8) To review drainage/obstructions to flood carrying capacity and to advise on methods that may be used to moderate impact of the development; and

(9) To review landscaping and access for flood carrying capacity and preservation or enhancement of riparian vegetation.

b. The Waterways Design Review Subdistrict ~~waterways design review subdistrict~~ is hereby established and shall be defined as including all those parcels of property within the city limits lying adjacent to or within twenty five feet (25') of the mean high water mark of the Big Wood River, Trail Creek and Warm Springs Creek and any and all channels, having year round or intermittent flow, thereof.

c. Development, as defined in Section ~~section 17.88.060~~17.88.040 of this article, and construction or placement of buildings or structures, including additions to any such structures or buildings existing at the effective date hereof, and landscaping changes within the riparian zone, upon real property within the Waterways Design Review Subdistrict ~~waterways design review subdistrict~~ shall be subject to design review and shall require said approval under Section ~~section~~ 17.88.060 of this article, prior to issuance of a building permit, excavation/grading permit or commencement of any work associated with any such activity.

d. Applications for design review shall be made and processed according to the regulations contained in Chapter ~~chapter~~ 17.96 of this title and according to Section ~~section~~ 17.88.060 of this article.

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

1. Encroachments in the floodway including fill, new construction, substantial improvements and other development are prohibited unless certification, with supporting calculations, by a registered professional hydraulic engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and uses within

the floodway shall be restricted to those which are required by public necessity (for example, bridges, water pumps), recreational use (for example, paths), wildlife habitat improvements (for example, vegetation, nesting structures, pool/riffle improvements), and gravel extraction; provided, that the use/encroachment meets the approval of the Federal Emergency Management Agency ~~federal emergency management agency~~ and National Flood Insurance Program ~~national flood insurance program~~ and does not jeopardize the city's participation in the National Flood Insurance Program ~~national flood insurance program~~. New residential structures and residential substantial improvements are prohibited in the floodway.

2. If Subsection ~~subsection~~ D1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section ~~section~~ 17.88.070, "Provisions For Flood Hazard Reduction", of this article.

3. No use of restricted use chemicals or soil sterilants will be allowed within one hundred feet (100') of the mean high water mark on any property within the city limits at any time.

4. No use of pesticides, herbicides, or fertilizers will be allowed within twenty five feet (25') of the mean high water mark on any property within the city limits unless approved by the city arborist.

5. All applications of herbicides and/or pesticides within one hundred feet (100') of the mean high water mark, but not within twenty five feet (25') of the mean high water mark, must be done by a licensed applicator and applied at the minimum application rates.

6. Application times for herbicides and/or pesticides will be limited to two (2) times a year; once in the spring and once in the fall unless otherwise approved by the city arborist.

7. The application of dormant oil sprays and insecticidal soap within the riparian zone may be used throughout the growing season as needed.

8. It shall be unlawful to dump, deposit or otherwise cause any trash, landscape debris or other material to be placed in any stream, channel, ditch, pond or basin that regularly or periodically carries or stores water.

D. General Notice Requirements: In order to provide reasonable notice to the public of the flood hazard potential within all areas of the ~~floodplain management overlay zoning district~~Floodplain Management Overlay Zoning District, the following notice regulations

and requirements are hereby adopted for all real property and structures located within said district:

1. All subdivision plats shall identify and designate the 1% annual chance ~~100-year~~ floodplain boundary and the floodway boundary including a certification by a registered surveyor that the boundaries were established consistent with the FIRM map for the city or Blaine County, whichever applies. All subdivision plats shall contain a note or notes that warn prospective buyers of property that sheet flooding can and will occur and that flooding may extend beyond the floodway and floodplain boundary lines identified.

2. All subdivision plats shall contain note(s) that refer to the required ~~twenty-five~~ twenty-five foot (25') setback from all waterways called the riparian zone in which no development ~~structure~~ is permitted, and require that riparian vegetation shall be maintained in its natural state for the protection and stabilization of the river bank, and that removal of trees or other vegetation will be considered as part of the function of design review as set forth in Section ~~section~~ 17.88.060 of this article and Chapter ~~chapter~~ 17.96 of this title.

3. Prior to issuance of any building permit for a structure located partially or wholly within the 1% annual chance floodplain, a pre-construction ~~the~~ elevation certificate shall be completed by a registered professional engineer, architect or surveyor and submitted to the City of Ketchum building inspector. The elevation certificate form shall be made available from the city. The certificate shall again be completed by the owner and/or his/her agents and submitted to the city upon completion of the foundation and construction of the lowest floor, and again prior to issuance of a certificate of occupancy or a final inspection by the building inspector to evidence the as built elevation of the lowest floor including basement.

4. Each and every real estate agent, sales person and broker, and each and every private party who offers for sale a parcel of real property and/or structure within said district shall provide the prospective purchaser with notice that said real property and/or structure is located within said district.

5. Prior to issuance of any floodplain development permit, the property owner or his or her authorized agent shall acknowledge by executed written affidavit that said property is located within the 1% annual chance ~~100-year~~ floodplain as defined herein and that a violation of the terms of this article shall cause the city to seek legal remedies.

E. Compliance: No structure or land shall hereinafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other

applicable regulations. Should the regulations specified in any other ordinance of Ketchum be less restrictive, the regulations of this section shall apply.

F. Abrogation And Greater Restrictions: This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance or section herein, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

G. Interpretation: In the interpretation and application of this section, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

H. Warning And Disclaimer Of Liability: The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This section shall not be deemed or construed to create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration ~~federal insurance administration~~ for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder. (Ord. 1078, 2010: Ord. 997 § 2, 2006: Ord. 735 § 1, 1999: Ord. 702 § 2, 1997: Ord. 525 § 1, 1989: Ord. 278 § 3, 1978)

**17.88.060: ADMINISTRATION:**

A. Establishment ~~Of~~ of Floodplain Development Permit: A floodplain development permit shall be obtained prior to issuance of a building or excavation/grading permit for any and all "development" as defined in Section ~~section~~ 17.88.040 of this article, and construction, including "stream alteration", as defined herein, within the ~~floodplain management overlay district~~ Floodplain Management Overlay District established in Subsection ~~subsection~~ 17.88.050A of this article.

B. Establishment ~~Of~~ of Waterways Design Review: Approval of waterways design review shall be obtained prior to issuance of a building or excavation/grading permit and prior to commencement of construction for any and all "development" defined in Section ~~section~~ 17.88.040 of this article within the ~~waterways design review subdistrict~~

Waterways Design Review Subdistrict as defined in Subsection ~~subsection~~ 17.88.050B of this article.

C. Applications: Applications shall be made on forms furnished by the city and may be made simultaneous with application for design review, where applicable, and prior to application for a building permit ~~or application for design review, where applicable~~. The application shall contain the following information and any additional information which may be reasonably required by the administrator or commission:

1. Engineer, owner of property, applicant if different than owner, address, phone, email address, etc.

2. Fees as set by resolution of council.

3. Vicinity map.

4. Site plan(s), drawn to scale, showing:

   a. Nature, location, dimensions and elevations of lot, including one foot (1') contours.

   b. Location of existing and proposed structures, fill, storage of materials, ~~and~~ drainage facilities and infrastructure.

   c. Location of existing channels and ditches and other significant natural features, boundaries of floodway and regulatory floodplain, including intermediate regional flood (IRF), elevation, and other site specific information from the studies referred to in Subsection ~~subsection~~ 17.88.050A3 of this article.

   d. Location and elevations of adjacent streets, water supply and sewer lines, including private wells and/or septic systems.

   e. Elevation of the lowest floor (including basement) of all structures existing and proposed partially or wholly located in the 1% annual chance floodplain, including elevation to which any structure has been or will be floodproofed.

   f. Existing vegetation and proposed landscape plan, including identification of sizes and types of trees and other plants to be saved, removed, and/or planted.

   g. Identification of the riparian zone and the "mean high water mark", as defined in Section ~~section~~ 17.88.040 of this article.

h. Location of previous stream alterations upstream, downstream and along both banks from subject lot.

i. Location of drainageways intermittent and year round including potential overflow channels or channel movement.

j. Proposed excavation or land fill including resulting slope grades for the building pad(s), driveways, and any other element of the proposed development where excavation or fill will take place.

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

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

5. Description of proposed development.

6. Specifications for building construction and materials, floodproofing, filling, grading, dredging, channel improvement/changes and utilities.

7. Elevation certificate, prepared by a licensed surveyor or engineer and/or floodproofing certification prepared by a professional engineer for any existing and proposed residential and nonresidential structures located partially or wholly within the 1% annual chance floodplain. Said floodproofing methods shall meet the criteria in Subsection ~~subsection~~ 17.88.070B of this article.

8. Copy of Letter of Map Amendment based on Fill (LOMA-F) application for any proposed fill in the floodplain. LOMA-F approval shall be obtained from FEMA prior to issuance of a floodplain development permit.

9. Copies of applications sent to the U.S Army Corps of Engineers (USACE) ~~army corps of engineers~~ and Idaho Department of Water Resources (IDWR) ~~department of water resources~~ (stream alteration only). USACE and ISWR approvals shall be obtained prior to issuance of a stream alteration permit.

~~9.~~10. Cross section of proposed work (stream alteration only).

~~10.~~11 Length of stream to be worked, type of work to be done, type of equipment to be used and starting and completion dates of work (stream alteration only).

~~11.~~12 A valley cross section showing stream channel, floodway limits, elevations of adjacent land areas, intermediate regional flood (IRF), proposed development, and high water information and a profile showing the slope of the bottom of the channel or flow line of the stream may be required upon review of all other material submitted (stream alteration only).

13. A No-net Rise Certificate, including supporting calculations, prepared by registered professional hydraulic engineer for any work proposed in the floodway.

D. Duties ~~And~~ and Responsibilities: The planning and zoning administrator is hereby appointed to administer and implement this article in accordance with its provisions.

1. The planning and zoning administrator shall have the authority to consider and approve, approve with conditions, or deny applications for floodplain development permits and for waterways design review, as required herein, for minor projects that do not constitute substantial improvement/damage, including, but not limited to, small additions or structures located entirely outside the floodplain, interior remodels, small second story additions, replacement roofing, minor exterior changes or repair or minor landscaping and/or riparian enhancement changes that do not conflict with the requirements of this article nor impact any adjacent properties. Said approval shall be issued in writing by the planning and zoning administrator prior to issuance of a building permit, or commencement of any development. Should the planning and zoning administrator determine that the proposal cannot be considered a minor project, said proposal shall receive floodplain development permit/waterways design review approval before the planning and zoning commission prior to issuance of a building permit.

2. The Ketchum planning and zoning commission shall consider and approve, approve with conditions, or deny applications for all other floodplain development permits as required herein, for all other waterways design review as required herein and for stream alterations at a duly noticed meeting. The administrator shall provide written notice of said application to owners of property immediately adjacent to the subject property. Said notice shall inform adjacent property owners they may comment on the application during a period of not less than ten (10) days after mailing of the notice and prior to final action on said application.

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

~~1.~~a. Permit Review:

~~a.~~(1) Review of all applications for proposed construction within the city to determine whether such construction is proposed, in whole or in part, within the floodplain management overlay district and/or the waterways design review district herein.

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

~~c.~~(3) Review all floodplain development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

~~d.~~(4) Review all floodplain development permit applications to determine that the proposed project shall be reasonably safe from flooding and if the proposed development adversely affects the velocity of flow and the flood carrying capacity of the area of special flood hazard. For the purposes of this section, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot (1') at any point.

~~e.~~(5) Review proposed development to assure that all necessary permits have been obtained from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act, as amended, or by wide-area agencies, prior to issuing a development permit. ~~Contact for review and comment when found necessary~~ ~~o~~Other agencies ~~such as~~ may include Idaho Fish and Game, Idaho Department of Water Resources, Soil Conservation Service, Environmental Protection Agency ~~EPA~~ and U. S. Army Corps of Engineers. Such documentation shall be maintained on file with the floodplain development permit.

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

~~2.~~b. Use Of Other Base Flood Data: When base flood elevation data has not been provided in accordance with subsection 17.88.050A3, "Basis For Establishing The Areas Of Special Flood Hazard", of this article, the administrator shall obtain,

review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source in order to administer Subsections ~~subsections 17.88.070B1~~17.88.070B2, "Residential Construction", ~~B2~~B3, "Nonresidential Construction", and C, "Floodways", of this article.

~~3.~~c. Information To Be Obtained And Maintained:

~~a.~~(1) Where base flood elevation data is provided through the ~~flood insurance study~~ Flood Insurance Study or required as in Subsection D3b ~~subsection D2~~ of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

~~b.~~(2) For all new or substantially improved floodproofed structures:

~~(1)~~(a) Verify and record the actual elevation (in relation to mean sea level); and

~~(2)~~(b) Maintain the floodproofing certifications required in Subsection ~~subsection~~ C7 of this section.

~~c.~~(3) Maintain in perpetuity for public inspection all records pertaining to the provisions of this section.

~~d.~~(4) Maintain in perpetuity records on all permits and appeals and report all variances to federal insurance administration.

~~4.~~d. Alteration Of Watercourses:

~~a.~~(1) Notify adjacent communities and all state agencies with jurisdiction over the special flood hazard areas identified in Subsection ~~subsection~~ 17.88.050A of this article and/or with jurisdiction over the corresponding watercourse, river, stream or tributaries prior to any alteration or riprapping, or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration ~~federal insurance administration~~.

~~b.~~(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

~~5.~~e. Interpretation ~~Of~~of FIRM Boundaries: Make interpretations where needed as to the exact location of the boundaries of the areas of special hazard (for example,

where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection ~~subsection~~ G of this section.

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

1. Preservation or restoration of the inherent natural characteristics of the river and creeks and floodplain areas. Development does not alter river channel.

2. Preservation or enhancement of riparian vegetation and wildlife habitat, if any, along the stream bank and within the required minimum twenty five foot (25') setback or riparian zone. No construction activities, encroachment or other disturbance into the twenty five foot (25') riparian zone~~, except for restoration,~~ shall be allowed at any time without written City approval per the terms of this ordinance.

3. No development, other than development by the City ~~city~~ of Ketchum or development required for emergency access, shall occur within the twenty five foot (25') riparian zone with the exception of approved stream stabilization work. The planning and zoning commission may approve access to property where no other primary access is available. Private pathways and staircases shall not lead into or through the riparian zone unless deemed necessary by the planning and zoning commission.

4. A landscape plan and time frame shall be provided to restore any vegetation within the twenty five foot (25') riparian zone that is degraded, not natural or which does not promote bank stability.

5. New or replacement planting and vegetation shall include plantings that are low growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings include: red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle.

6. Landscaping and driveway plans to accommodate the function of the floodplain to allow for sheet flooding. Floodwater carrying capacity is not diminished by the proposal. Surface drainage is controlled and shall not adversely impact adjacent properties including driveways drained away from paved roadways. Culvert(s) under driveways may be required. Landscaping berms shall be designed to not

dam or otherwise obstruct floodwaters or divert same onto roads or other public pathways.

7. Impacts of the development on aquatic life, recreation, or water quality upstream, downstream or across the stream are not adverse.

8. Building setback in excess of the minimum required along waterways is encouraged. An additional ten foot (10') building setback is encouraged to provide for yards, decks and patios outside the twenty five foot (25') riparian zone.

9. The ~~bottom~~ top of the lowest floor of a building located in the 1% annual chance floodplain shall be a minimum of ~~one foot (1')~~ twenty-four inches (24") above the ~~IRF~~ base flood elevation of the subject property. (See Section 17.88.070.B.2.c, Figures 1 and 2.)

10. The backfill used around the foundation in the floodplain shall provide a reasonable transition to existing grade but shall not be used to fill the parcel to any greater extent. Compensatory storage shall be required for any fill placed within the floodplain. A LOMA-F shall be obtained prior to placement of any additional fill in the floodplain.

11. All new buildings shall be constructed on foundations that are approved by a licensed professional engineer.

~~11~~12. Driveways shall comply with effective street standards; access for emergency vehicles has been adequately provided for.

~~12~~13. Landscaping or revegetation shall conceal cuts and fills required for driveways and other elements of the development.

~~13~~14. (Stream Alteration.) The proposal is shown to be a permanent solution and creates a stable situation.

~~14~~15. (Stream Alteration.) No increase to the 1% annual chance ~~100-year~~ floodplain upstream or downstream has been certified, with supporting calculations, by a registered Idaho hydraulic engineer.

~~15~~16. (Stream Alteration.) The recreational use of the stream including access along any and all public pedestrian/fisher's easements and the aesthetic beauty shall not be obstructed or interfered with by the proposed work.

~~16~~17. ~~Wetlands shall not be diminished.~~Where development is proposed that impacts any wetland, first priority shall be to move development from the wetland area.

Mitigation strategies shall be proposed at time of application that replace the impacted wetland area with a comparable amount and/or quality of new wetland area or riparian habitat improvement.

~~17~~18. (Stream Alteration.) Fish habitat shall be maintained or improved as a result of the work proposed.

~~18~~19. (Stream Alteration.) The proposed work shall not be in conflict with the local public interest, including, but not limited to, property values, fish and wildlife habitat, aquatic life, recreation and access to public lands and waters, aesthetic beauty of the stream and water quality.

~~19~~20. (Stream Alteration.) The work proposed is for the protection of the public health, safety and/or welfare such as public schools, sewage treatment plant, water and sewer distribution lines and bridges providing particularly limited or sole access to areas of habitation.

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

1. Riparian vegetation and other landscaping is maintained in perpetuity as shown on approved plans.

2. As built certification shall be required to be submitted prior to occupancy of structure or upon completion of the proposed work (stream alteration).

3. Other permits (i.e., Idaho Department of Water Resources ~~department of water resources~~ and U. S. Army Corps of Engineers ~~corps of engineers~~) shall be obtained by the applicant prior to commencement of construction.

4. Restoration of damaged riparian vegetation within riparian zone shall be required prior to completion of the proposed project. A bond to assure such restoration may be required prior to commencement of such work.

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

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

1. Whether there have been significant amendments to the city's comprehensive plan, downtown master plan or ordinances which will apply to the subject approval;

2. Whether significant land use changes have occurred in the project vicinity which would adversely impact the project or be adversely impacted by the project;

3. Whether hazardous situations have developed or have been discovered in the project area; or

4. Whether community facilities and services required for the project are now inadequate.

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

H. Inspection Procedures:

1. For structures located wholly or partially in the regulatory floodplain:

a. Upon completion of the foundation and placement of the lowest floor, but prior to construction of exterior walls, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer who is authorized to certify such information in the State, and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. A city planner and the building inspector shall perform a site inspection to verify the conditions noted on the elevation and/or floodproofing certificates.

b. The floodplain administrator shall review the lowest floor elevation and/or floodproofing certificates. Should these documents be found not in conformance with the requirements of this ordinance, the permit holder shall immediately cease further work and shall correct any deficiencies. Failure of the permit holder to submit the surveyed elevation and/or flood proofing certificate, and failure to correct said deficiencies required hereby, shall be the cause to issue a stop-work order for the project.

c. Prior to final building permit inspection and issuance of a certificate of occupancy, it shall be the duty of the permit holder to submit to the floodplain administrator a final construction, as built, complete FEMA elevation certification and/or as-built floodproofed elevation certification per the procedures outlined in Sections a and b above. A planner and the building inspector shall perform a site inspection to verify the conditions noted on the elevation and/or floodproofing certificates.

2. For Waterways Design Review projects:

Prior to final building permit inspection and issuance of a certificate of occupancy, planning staff shall conduct a site inspection to verify that the project was constructed per the approved Waterways Design Review plans and that all conditions of approval have been satisfied.

I. Variance Procedure:

1. General:

a. Generally, variances may be issued for ~~a~~ new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided Subsection I2 ~~subsection G2~~ of this section has been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

b. Upon consideration of the factors of Subsection I2~~subsection G2~~ of this section and the purposes of this article, the commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

2. Considerations: In passing upon such applications, the commission shall consider the planning and zoning administrator's recommendations, all technical

evaluations, and all relevant factors and standards specified in other sections herein and:

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

b. Whether the structure is designed, constructed and placed upon the lot to minimize flood damage exposure and minimize the effect upon the danger to life and property due to flooding or erosion damage;

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

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

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

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

l. Variances shall only be issued in accordance with the guidelines found at Section ~~section~~ 60.6, Code of Federal Regulations ~~federal regulations~~ (Title ~~title~~ 44 CFR), as set forth therein on the effective date hereof.

3. Conditions ~~For~~ for Variance:

a. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Idaho Historic Sites Inventory ~~State Inventory of Historic Places~~, without regard to the procedures set forth in the remainder of this article.

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

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

d. A variance shall only be issued upon:

(1) A showing of good and sufficient cause;

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

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Subsection I2 ~~subsection G2~~ of this section, or conflict with existing local laws or ordinances.

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

f. Variances as interpreted in the National Flood Insurance Program ~~national flood insurance program~~ are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria,

except Subsection13a~~subsection G3a~~ of this section, and otherwise complies with Subsections ~~subsections~~ 17.88.070A1 and A2 of this chapter.

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

4. Appeals:

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

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

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

(3) Authority ~~Of~~ of Commission: Upon hearing the appeal, the commission shall consider the record, the order, requirement, decision or determination of the planning and zoning

administrator and the notice of appeal, together with oral presentation by the appellant and the planning and zoning administrator. The commission may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the planning and zoning administrator.

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

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

(1) Action Required ~~By The~~ by the Planning ~~And~~ and Zoning Administrator: The planning and zoning administrator shall certify that all procedural requirements have been satisfied and fees paid and transmit to the council the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the commission. Upon written request of the appellant or any affected person, as defined in Idaho Code Section ~~section~~ 67-6521, as that section may be amended from time to time, and the advance payment of the cost thereof, a verbatim transcript of the commission proceedings shall be prepared and transmitted to the council. The planning and zoning administrator shall maintain the records of all appeals and report any variances to the Federal Insurance Administration ~~federal insurance administration~~ upon request.

(2) Hearing ~~And~~ and Notice: The council shall, following receipt of the planning and zoning administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a copy of the decision thereon, to the appellant, the commission, and to

any other affected person, as defined in Idaho Code Section ~~section~~ 67-6521, as that section may be amended from time to time, all in accordance with Idaho Code Code Section ~~section~~ 67-6501 et seq., as may be amended from time to time.

(3) Authority ~~Of~~ of Council: Upon hearing the appeal, the council shall consider only matters which were previously considered by the commission as evidenced by the record, the order, requirement, decision, or determination of the commission and the notice of appeal, together with oral presentation by the appellant and the commission. The council may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the commission. Furthermore, the council may remand the application to the commission for further consideration with regard to specific criteria stated by the council.

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

c. Time ~~For~~ for Filing Appeals: All appeals permitted or authorized by this article shall be taken and made in the manner and within the time limits as follows: The written notice of appeal shall be filed before five o'clock (5:00) P.M. of the fifteenth calendar day after the order, requirement, decision or determination of the planning and zoning administrator has been made or after findings of fact have been approved by the commission, whichever is applicable. The failure to physically file a notice of appeal with the planning and zoning administrator of the city within the time limits prescribed by this Subsection I4c~~subsection G4c~~ shall be jurisdictional and shall cause automatic dismissal of such appeal.

d. Fee ~~For~~ for Appeals: A fee equal to the expense of giving notice as required by Subsection I4a(2) or I4b(2)~~subsection G4a(2) or G4b(2)~~ of this section, as applicable, shall be paid within two (2) days after receipt from the planning and zoning administrator of the amount thereof. In the event the fee is not paid as required, the appeal shall not be considered filed.

e. Notice ~~Of~~ of Appeal; Form And Contents: The notice of appeal shall be in writing and in such form as shall be available from the office of the

planning and zoning administrator, which shall require to be set with specificity all bases for appeal, including the particulars regarding any claimed error or abuse of discretion. (Ord. 997 § 3, 2006: Ord. 941 § 1, 2004: Ord. 735 § 1, 1999: Ord. 608 § 2, 1993: Ord. 525 § 1, 1989: Ord. 278 § 4, 1978)

**17.88.070: PROVISIONS FOR FLOOD HAZARD REDUCTION:**

A. General Standards: In all areas of special flood hazard, the following standards are required:

1. Anchoring:

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

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

2. Construction Materials ~~And~~ and Methods:

a. ~~All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~ All structural and non-structural building materials utilized at or below the base flood elevation must be flood resistant. Flood damage resistant materials must be used for all building elements subject to exposure to floodwaters, including floor joists, insulation, and ductwork. If flood damage resistant materials are not used for building elements, those elements must be elevated above the base flood elevation. This requirement applies regardless of the expected or historical flood duration.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or

located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities:

   a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

   b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

   c. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals:

   a. All subdivision proposals shall be consistent with the need to minimize flood damage;

   b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

   c. All subdivision proposals shall have adequate drainage provided to ensure that the post-development stormwater (of a 25-year storm) discharge will not exceed the amount of runoff under pre-development conditions. Drainage plans and pre- and post-development hydrology calculations shall be prepared by a civil engineer licensed in the State of Idaho. ~~reduce exposure to flood damage~~;

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

   e. All requirements of the Code of Federal Regulations, 44 CFR 60.3 shall be met; and

5. Review ~~Of~~ of Building Permits: Where elevation data is not available either through the Flood Insurance Study ~~flood insurance study~~ or from another

authoritative source (Subsection ~~subsection~~ 17.88.060D3b of this article), 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. Failure to elevate at least two feet (2') above grade in these zones may result in higher insurance rates.

B. Specific Standards: In all areas of special flood hazard where base flood elevation data has been provided as set forth in Subsection ~~subsection~~ 17.88.050A3, "Basis For Establishing The Areas Of Special Flood Hazard", or 17.88.060D3b, "Use Of Other Base Flood Data", of this article, the following provisions are required:

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

2. Residential Construction:

a. New construction and substantial improvement of any residential structure in any A1-30, AE and AH zone shall have the ~~bottom~~top of the ~~floor structure of the~~ lowest floor, including basement, elevated a minimum of ~~one foot (1')~~ twenty-four inches (24") above the base flood elevation.

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

c. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria (See Figure 1: Preferred Crawlspace Construction and Figure 2: Below-grade Crawlspace Construction):

(1) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. Openings shall be placed on at least two (2) walls to permit entry and exit of flood waters.

(2) The bottom of ~~all openings~~ each flood vent opening shall be no higher than one foot (1') above the lowest adjacent exterior grade.

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

(4) Portions of the building below the base flood elevation shall be constructed with material resistant to flood damage.

(5) The interior grade of a below-grade crawlspace (See Figure 2: Below-grade Crawlspace Construction) below the base flood elevation shall not be more than two feet (2') below the lowest adjacent exterior grade.

(6) The height of a below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, shall not exceed four feet (4') at any point.

(7) A below-grade crawlspace shall have an adequate drainage system that removes floodwaters from the interior area of the crawlspace within a reasonable time after a flood event.

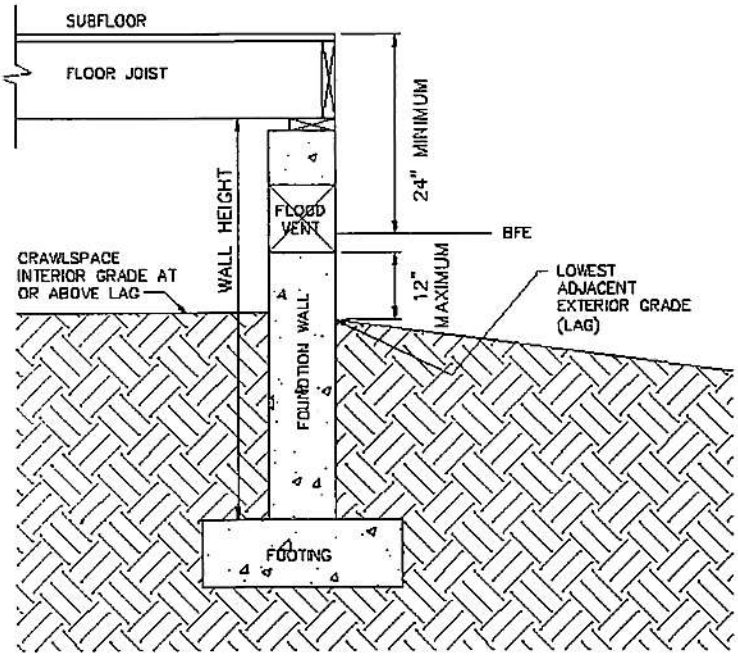


Figure 1: Preferred Crawlspace Construction

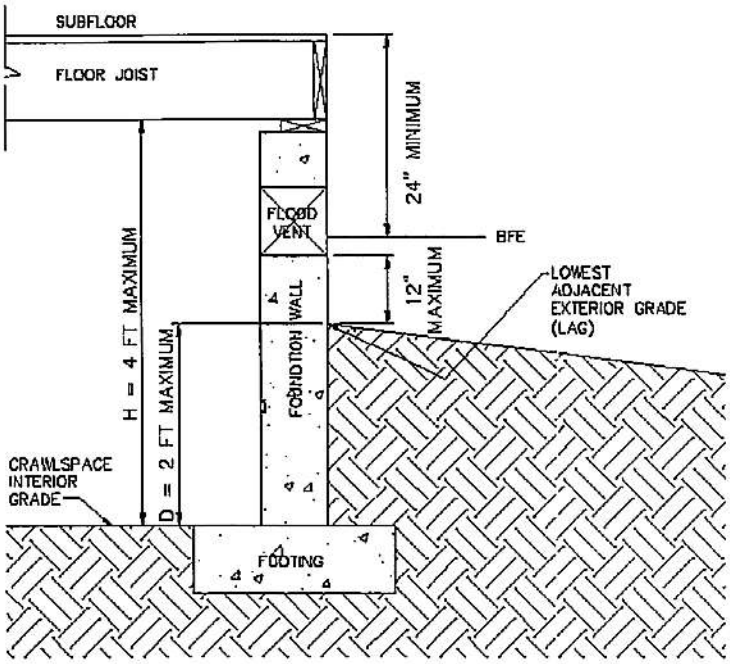


Figure 2: Below-grade Crawlspace Construction (Note: A below-grade crawlspace shall be subject to higher flood insurance rates through the NFIP.)

~~2~~3. Nonresidential Construction:

a. New construction and substantial improvement of any commercial, industrial, nonresidential portion of a mixed use or other nonresidential structure in any A1-30, AE and AH zone shall either have the ~~bottom~~ top of the floor structure of the lowest floor, including basement, elevated to twenty-four inches (24") above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

~~a~~(1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

~~b~~(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

~~c~~(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this article based on their development and/or review of the structural design, specifications and plans. Such certifications shall

be provided to the official as set forth in SubsectionD3c(2) ~~subsection 17.88.060D3b~~ of this article;

~~d~~(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Subsection B2c ~~subsection B1b~~ of this section; and

~~e~~(5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g., a building constructed to the base flood level will be rated as ~~1~~ one foot (1') below that level).

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

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

(2) Together with the attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in Section 3a above.

~~3~~4. Manufactured Homes: All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is ~~at or~~ twenty-four inches (24") above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection ~~subsection~~ A1b of this section.

5. Recreational vehicles: All recreational vehicles to be place on a site within zones A1-30, AH, and AE shall meet the requirements of Section 4 above, or be placed on the site for less than one hundred and eighty (180) consecutive days and be fully licensed and highway ready.

6. Critical facilities shall be constructed on properly compacted soil and shall have the lowest floor (including basement) elevated at least twenty-four inches (24") above the elevation of the 0.2% annual chance flood. A critical facility shall have at lease one (1) access road connected to land outside the 0.2% annual chance floodplain that meets fire code access requirements. The top of the road must be no lower than six inches (6") below the elevation of the 0.2% annual chance flood.

C. Floodways: Located within areas of special flood hazard established in Subsection ~~subsection~~ 17.88.050A of this article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification, with supporting calculations, by a registered professional hydraulic engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Uses within the floodway shall be restricted to those which are required by public necessity (for example, bridges, water pumps), recreational use (for example, paths), wildlife habitat improvements (for example, vegetation, nesting structures, pool/riffle improvements), and gravel extraction; provided, that the use/encroachment meets the approval of the Federal Emergency Management and National Flood Insurance Program and does not jeopardize the city's participation in the National Flood Insurance Program. New residential structures and residential substantial improvements are prohibited in the floodway.

2. If Subsection ~~subsection~~ C1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

3. Be certified by a registered professional engineer, except in an existing mobile home park or existing mobile home subdivision. (Ord. 525 § 1, 1989: Ord. 278 § 5, 1978)

**17.88.080: ENFORCEMENT AND PENALTIES:**

A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. The provisions of this article shall be enforced by one or more of the following methods:

1. Requirements of ~~special construction permit~~ floodplain development permit, waterways design review and/or stream alteration permit;

2. Requirements of building permit;

3. Inspection and ordering removal of violations;

4. Criminal liability;

5. Injunction; and

6. Civil enforcement.

B. Enforcement shall further be administered according to Chapter ~~chapter~~ 17.156 of this title. (Ord. 525 § 1, 1989: Ord. 278 § 7, 1978)

## Article II. Emergency Stream Bank Stabilization

**17.88.090: TITLE:**

This article shall be known and may be cited as the *CITY EMERGENCY STREAM BANK STABILIZATION ORDINANCE*. (Ord. 706 § 1, 1997)

**17.88.100: GUIDELINES:**

Guidelines for determining if an emergency for purposes of this article is imminent are as follows:

A. The water equivalent measurements at Galena, Galena Summit, Dollar Hide and Lost Wood Divide as recorded by the National Resource Conservation Service (NRCS) SNOTEL sites;~~soil conservation service in Hailey, Idaho~~;

B. The forecast temperatures available from the National Weather Service ~~national weather service~~;

C. The flow of the Big Wood River as measured at the Hailey gauging station and recorded by the United States Geological Survey (USGS) in Boise, Idaho; and

D. Failure to submit an application under Section ~~section~~ 17.88.120 of this article far enough in advance of the desired start date for bank stabilization work shall not be considered an emergency. (Ord. 706 § 2, 1997)

**17.88.110: PROCEDURE:**

To obtain an emergency bank stabilization permit, an applicant must submit an application as described in Section ~~section~~ 17.88.120 of this article and receive written approval to perform the bank stabilization work from at least two (2) Ketchum planning and zoning commissioners and the planning and zoning administrator. The planning and zoning commissioners and/or the administrator may consult a qualified engineer or professional regarding the proposed emergency bank stabilization work. A site inspection must be performed by the planning and zoning administrator and at least two (2) planning and zoning commissioners before approval can be granted. Under no circumstances shall bank stabilization work commence without the approvals required herein. ~~An application form must be submitted describing proposed bank stabilization work.~~ (Ord. 706 § 3, 1997)

**17.88.120: APPLICATION FOR EMERGENCY STREAM BANK STABILIZATION:**

The applicant shall first complete and submit an emergency bank stabilization application provided by the city which shall include, but not be limited to, the following information:

A. Description of the emergency impact to public health, safety or welfare;

B. Name of proposed contractor or executor of work;

C. Description of proposed work;

D. Nonrefundable application fee in the amount as set by the city council ~~of one hundred fifty dollars ($150.00)~~; and

E. A waiver from the Idaho Department of Water Resources ~~department of water resources~~ as specified under Idaho Code Section ~~section~~ 42-3808, and the stream channel alteration rules of the Idaho Water Resource Board ~~water resource board~~. (Ord. 706 § 4, 1997)

**17.88.130: ACTION UPON SUBMITTAL OF STREAM BANK STABILIZATION APPLICATION:**

Upon submittal of the application, the applicant shall contact the planning and zoning administrator to arrange for a site inspection. (Ord. 706 § 5, 1997)

**17.88.140: SITE INSPECTION:**

Upon receipt and review of a completed application, a site inspection shall be performed by the planning and zoning administrator and at least two (2) planning and zoning commissioners. Written findings of fact and conclusions of law granting or denying the application will be prepared for city records and the applicant upon the conclusion of the site inspection and within five (5) working days from the date of the decision. (Ord. 706 § 6, 1997)

**17.88.150: BASIS FOR DENIAL OF AN EMERGENCY STREAM BANKSTABILIZATION PERMIT:**

No permit shall be granted if the planning and zoning commission members determine that the proposed emergency stream bank stabilization work is contrary to the public health, safety or welfare or that it is contrary to adopted city policies regarding riparian areas and river systems. (Ord. 706 § 7, 1997)

**17.88.160: CONDITIONS OF EMERGENCY STREAM BANK STABILIZATION APPROVAL:**

Conditions which may be required for the granting of a permit include, but are not limited to, the following:

A. The planning and zoning commissioners may require the applicant to post financial security, and enter into an agreement with the city, to mitigate possible impacts of the proposed bank stabilization work.

B. The proposed work for the emergency stream bank stabilization work shall be conducted so as to minimize the impact on riparian vegetation and soil stability.

C. If an emergency stream bank stabilization permit is granted, the applicant shall apply for a waterways design review/stream alteration permit under ~~article~~ Article I of this chapter within six (6) months from the date of the issuance of the emergency stream bank stabilization permit.

D. If a waterways design review/stream alteration permit under Article ~~article~~ I of this chapter and all other applicable state and federal agency permits are granted, the applicant shall then complete restoration of the affected property to city and state standards by either March 31 of the year following the issuance of the emergency stream bank stabilization permit or by another date specified by the planning and zoning commissioners or other governmental agency.

E. Copies of the approved emergency stream bank stabilization permit shall be posted on site throughout the duration of the stabilization work. (Ord. 706 § 8, 1997)

**17.88.170: ENFORCEMENT:**

A. It is unlawful for any person, firm or corporation to:

1. Fail to obtain a permit before commencing stream bank stabilization work.

2. Perform stream bank stabilization work beyond that expressly allowed by the permit.

3. Provide false documentation in connection with the work performed during stream bank stabilization.

B. Any person, firm, or corporation violating any provision of this article shall, for each offense, be subject to the enforcement procedures established in Chapter ~~chapter~~ 17.156 of this title. (Ord. 706 § 9, 1997)