

**ORDINANCE 2015-1**  
**BOUNDARY COUNTY, IDAHO**  
**FLOOD DAMAGE PREVENTION ORDINANCE**

AN ORDINANCE OF BOUNDARY COUNTY, IDAHO, SETTING FORTH ITS AUTHORITY TO ESTABLISH A "FLOOD DAMAGE PREVENTION ORDINANCE" TO INCLUDE STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE, DEFINITIONS, GENERAL PROVISIONS, ADMINISTRATION, PROVISIONS FOR FLOOD HAZARD REDUCTION, AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS:** Section 67-6511, Idaho Code, does require that governing boards adopt zoning ordinances and to establish standards in each of the various zone districts, including the Flood Plain Overlay Zone; and

**WHEREAS:** Idaho Code 67-6523 provides authority for the Board of Boundary County Commissioners, acting as governing board on planning and zoning matters, to enact ordinance provisions when a finding of imminent peril to the public health, safety or welfare is made; and

**WHEREAS:** Officials from the Federal Emergency Management Agency have informed Boundary County that current Floodplain Overlay provisions contained in Ordinance 2006-4, the Interim Flood Damage Prevention Ordinance, are insufficient to protect human life and health and to minimize damage from potential flood events; and

**WHEREAS:** Failure to adopt flood damage prevention ordinances to standards established by the Federal Emergency Management Agency will result in Boundary County becoming ineligible for participation in the National Flood Insurance Program; and

**WHEREAS:** Boundary County Commissioners find that failure to adopt flood damage prevention ordinances in compliance with Federal Emergency Management Agency standards poses imminent peril to the health, safety and welfare to the citizens of Boundary County; and

**WHEREAS:** It is necessary in the interest of public health, safety and general welfare that the creation of Federal Emergency Management Agency-compliant Flood Damage Prevention Ordinance:

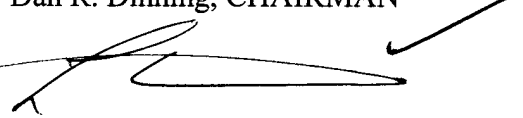
**NOW, THEREFORE BE IT ORDAINED** by the Board of County Commissioners of Boundary County, Idaho, that Ordinance 2006-4, Interim Flood Damage Prevention Ordinance, is hereby repealed and made null and void, and the following 2015- 1 Flood Damage Prevention Ordinance be and is hereby adopted as an ordinance of Boundary County.

The Motion and Adoption of this Ordinance was passed and adopted by the Boundary County Commissioners on this 1<sup>st</sup> day of June, 2015, with the vote by the Commissioners recorded as follows:

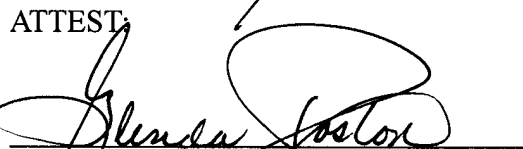
Chairman Dinning, "aye"  
Commissioner Pinkerton, "aye"  
Commissioner Kirby, "aye"

BOUNDARY COUNTY  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Dan R. Dinning, CHAIRMAN

  
\_\_\_\_\_  
LeAlan L. Pinkerton, COMMISSIONER

  
\_\_\_\_\_  
Walt Kirby, COMMISSIONER

ATTEST:  
  
\_\_\_\_\_  
Glenda Poston  
Clerk of the Board of County Commissioners



STATE OF IDAHO }  
County of Boundary } SS.  
Filed by: Commissioner  
on 6-17-15 at 1:25pm  
Glenda Poston  
County Recorder M. Richardson  
By Deputy  
Fee \$ 10  
Mail to File County Clerk

## **SECTION 1.0**

### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, OBJECTIVES AND SEVERABILITY**

#### **1.1 STATUTORY AUTHORIZATION**

The Legislature of the State of Idaho has, in Title 67, Chapter 65, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Boundary County, Idaho does ordain as follows:

#### **1.2 FINDINGS OF FACT**

The flood hazard areas of Boundary County 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.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards, 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.

#### **1.3 STATEMENT OF PURPOSE**

It is the purpose of this ordinance 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:

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

for their actions.

#### **1.4 OBJECTIVES; METHODS OF REDUCING FLOOD LOSSES**

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

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

#### **1.5 SEVERABILITY**

The provisions of this ordinance are declared to be individually severable. Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, such declaration will not affect the validity of remaining provisions.

### **SECTION 2.0**

#### **DEFINITIONS**

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

**“ACCESSORY STRUCTURES”** means low cost buildings that do not exceed 1,000 square feet, such as detached garages, boathouses, small pole barns and storage sheds not to be used for human habitation shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; and shall be anchored to prevent floatation which may result in damage to other structures; service utilities such as electrical and heating equipment shall be elevated or flood-proofed.

**“APPEAL”** means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

**“AREA OF SHALLOW FLOODING”** means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; 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”** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation

on maps always includes the letters A or V.

“BASE FLOOD” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.

“BASE FLOOD ELEVATION” means the computed elevation to which floodwater is anticipated to rise during the base flood. The BFE is the regulatory requirement for the elevation or floodproofing of structures.

“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides.

“BUILDING” see “STRUCTURE.”

“CRAWLSPACE” is an enclosed area below the base flood elevation and as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exist of floodwaters.

“CRITICAL FACILITY” means 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, installations which produce, use or store hazardous materials or hazardous waste.

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

“DEVELOPMENT” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“Digital FIRM (DFIRM).” means Digital Flood Insurance Rate Map. It depicts flood risk and zones and flood risk information The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

“ELEVATED BUILDING” means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

“EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)” is the agency with the overall responsibility for administering the National Flood Insurance Program.

“FLOOD” OR “FLOODING” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

“FLOOD FRINGE” means the portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Insurance Administration or U.S. Department of Housing and Urban Development, where the boundaries of areas of special flood hazard have been designated as Zone A. The FHBM usually is the initial flood hazard map.

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“FLOOD INSURANCE STUDY” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

“Floodplain” means the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe. (I.C. 46-1021)

“Flood Proofing” means 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.

“FLOOD PROTECTION ELEVATION” The Flood Protection Elevation is equal to BFE, plus one (1) foot of freeboard.

“FLOODWAY” means 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.

“FREEBOARD” means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams and the hydrologic effects of urbanization in a watershed.

**“Functionally Dependent Facility”** means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**“Highest Adjacent Grade (HAG)”** means the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the FEMA Elevation Certificate for HAG related to building elevation information.

**“HISTORIC STRUCTURE”** means a structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district.

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior, or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

- i. By an approved state program as determined by the Secretary of the Interior, or
- ii. Directly by the Secretary of the Interior in states without approved programs.

**“Letter of Map Change (LOMC)”** means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are issued in the following categories:

#### **Letter of Map Amendment (LOMA)**

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

#### **Letter of Map Revision (LOMR)**

A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and lanimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure of parcel has been elevated by fill above the base flood elevation and is excluded from the special flood hazard area.

#### **Conditional Letter of Map Revision (CLOMR)**

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway

Maps, or Flood Insurance Studies.

“LEVEE” means a man-made structure, usually an earthen embankment, designed and constructed according to sound engineering practices, to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

“LEVEE SYSTEM” means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

“Lowest Adjacent Grade (LAG)” means the lowest point of the ground level next to the structure. Refer to the FEMA Elevation Certificate for LAG related to building elevation information.

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2).

“MANUFACTURED HOME” means 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 attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“MEAN SEA LEVEL” means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community’s FIRM are referenced.

“NEW CONSTRUCTION” means structures for which the “start of construction” commenced on or after the effective date of this ordinance.

“NEW MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“RECREATIONAL VEHICLE” means a vehicle, which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and



4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“REPETITIVE LOSS” means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.

“REGULATORY FLOODWAY” means 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.

“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 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 foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“STRUCTURE” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“SUBSTANTIAL DAMAGE” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent 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 purposes 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.

The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“VARIANCE” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

“WATER DEPENDENT” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

“WATER SURFACE ELEVATION” means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other specified datum) of floods of various magnitudes and frequencies in the flood plains of costal or riverine areas.

## **SECTION 3.0**

### **GENERAL PROVISIONS**

#### **3.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Boundary County, Idaho.

#### **3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the unincorporated areas of Boundary County, Idaho,” dated August 2, 1982, and any revisions thereto, with accompanying Flood Insurance Maps, and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Boundary County Planning and Zoning Office. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 4.3-2.

#### **3.3 PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$300 or imprisoned for not more than six months, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Boundary County, Idaho, from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **3.4 ABROGATION AND GREATER RESTRICTIONS**

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

### 3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit or repeal any other powers granted under State statutes.

### 3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Boundary County, Idaho, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

## **SECTION 4.0**

### **ADMINISTRATION**

#### 4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

##### 4.1-1 Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

##### 4.1-2 Application for Development Permit

Application for a development permit shall be made on forms furnished by the Planning and Zoning office and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

## 4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Boundary County Planning and Zoning Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

## 4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the local administrator shall include, but not be limited to:

### 4.3-1 Permit Review

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met.

### 4.3-2 Use of Other Base Flood Data (In A Zones)

When base flood elevation data has not been provided (A Zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local 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 Sections 5.2, SPECIFIC STANDARDS, and 5.3 FLOODWAYS.

### 4.3-3 Information to be Obtained and Maintained

1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, 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.
2. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.3-2:
  - a. Verify and record the actual elevation (in relation to mean seal level), and
  - b. Maintain the floodproofing certifications required in Section 4.1-2(3).
3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

### 4.3-4 Alteration of Watercourses

1. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said

watercourse so that the flood carrying capacity is not diminished.

#### 4.3-5 Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (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 Section 4.4.

#### 4.4 VARIANCE PROCEDURE

##### 4.4-1 Appeal Board

1. The Board of County Commissioners shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Board of County Commissioners shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by Boundary County in the enforcement or administration of this ordinance.
3. Those aggrieved by the decision of the Board of County Commissioners, or any taxpayer, may appeal such decision in a court of law.
4. In passing upon such applications, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Upon consideration of the factors of Section 4.4-1(4) and the purposes of this ordinance,

the Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

6. The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

#### 4.4-2 Conditions for Variances

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.
6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or 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.
7. 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 4.4-2(1), and otherwise complies with Sections 5.1-1 and 5.1-2 of the GENERAL STANDARDS.
8. 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 floor 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.

## **SECTION 5.0**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### 5.1 GENERAL STANDARDS

In all areas of special flood hazards, the following standards are required:

##### 5.1-1 Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. 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 FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

##### 5.1-2 AH Zone Drainage

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

##### 5.1-3 Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. 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.

##### 5.1-4 Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

##### 5.1-5 Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

#### 5.1-6 Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), 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 above grade in these zones may result in higher insurance rates.

#### 5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, Use of Other Base Flood Data (In A Zones), the following provisions are required:

##### 5.2-1 Residential Construction

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the FPE (Flood Protection Elevation).
2. 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 be either certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  1. A minimum of two 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.
  1. The bottom of all openings shall be no higher than one foot above grade.
  2. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  3. Below grade, crawlspaces are prohibited at sites where the velocity of floodwaters exceeds five (5) feet per second.
  4. All building utility systems within the crawlspace shall be elevated above base flood elevation or be designed so that floodwaters cannot enter or accumulate within the system component during flood conditions.
  5. The interior of a crawlspace below the base flood elevation must not be more than 2 feet below the lowest adjacent exterior grade (LAG) and the height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation must not exceed 4 feet at any point.



6. Below grade, crawlspaces constructed in accordance with the requirements listed in this subsection shall not be considered basements. However, applicants who construct buildings that have below grade crawlspaces are hereby advised that such buildings will have higher flood insurance premiums than buildings that have crawlspaces with interior elevations at or above the lowest adjacent grade.

#### 5.2-2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the eFPE (Flood Protection Elevation); or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection 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 Section 4.3-3(2);
4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2);
5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below).

#### 5.2-3 Manufactured Homes

1. All manufactured homes to be placed or substantially improved on sites:
  - a. Outside of a manufactured home park or subdivision,
  - b. In a new manufactured home park or subdivision,
  - c. In an expansion to an existing manufactured home park or subdivision, or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at or above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:
  - a. The lowest floor of the manufactured home is elevated at or above the base flood elevation, or

- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

#### 5.2-4 Recreational Vehicles

Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of 5.2-3 above and the elevation and anchoring requirements for manufactured homes.

#### 5.3 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

#### 5.4 FLOODWAYS

Located within areas of special flood hazard established in Section 3.2 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 by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

#### 5.5 STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the

depth number specified on the FIRM (at least two feet if no depth number is specified).

2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
  - a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
  - b. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 5.2-2(3).
3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
4. Recreational vehicles placed on sites within AO Zones on the community's FIRM either:
  - a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - c. Meet the requirements of 5.5 above and the elevation and anchoring requirements for manufactured homes.

#### 5.6 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.