

ORDINANCE NO. 1214

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, AMENDING TITLE 17, ZONING REGULATIONS, SECTION 17.08.020, TERMS DEFINED; REPEALING ARTICLE I, FLOOD DAMAGE PREVENTION, OF CHAPTER 17.88, FLOODPLAIN MANAGEMENT OVERLAY ZONING DISTRICT (FP); ADOPTING A NEW ARTICLE I, FLOOD DAMAGE PREVENTION; AMENDING CHAPTER 17.88, FLOODPLAIN MANAGEMENT, OVERLAY ZONING DISTRICT (FP), ARTICLES II – IV TO RENUMBER SECTIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Ketchum is authorized to amend the city zoning ordinance pursuant to Idaho Code § 67-6511; and

WHEREAS, the City first adopted an ordinance regulating development in the floodplain in 1974 with the passage of Ord. 208 and first distinguished between Floodplain and Floodway areas and established a streambank alteration and riparian regulations in 1989 with the adoption of Ord. 525; and

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; and

WHEREAS, by participating in the NFIP the City's responsibilities include requiring permits for all development within the 100-year floodplain, ensuring all other permits required by local, State, and Federal laws are obtained, maintaining records of all development permits, and ensuring flood carrying capacity of altered or relocated watercourses is maintained; and

WHEREAS, the City desires to implement regulations that facilitate the protection of property from inundation of flood waters that simultaneously mitigate reduction of the floodplain's carrying capacity; and

WHEREAS, the Planning and Zoning Commission held a public hearing and considered public input on July 13th, August 11th, and September 15th, 2020, and recommended approval to the City Council;

WHEREAS, the City Council, having reviewed the proposed subdivision code amendments, held public hearings on December 7th, 2020, December 21st, 2020, January 4th 2021, and January 19th, 2021.

WHEREAS, the City Council, having considered the recommendation of the Planning and Zoning Commission and submitted comments and testimony from the public, having determined that it is in the best interests of the public to adopt the proposed amendments to Title 17, Zoning Regulations:

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

Section 1. AMENDMENTS TO SECTION 17.08.020, TERMS DEFINED. That Title 17 of the Ketchum Municipal Code, Section 17.08.020, Terms Defined, be amended with the following new, revised, and deleted definitions as attached and incorporated as Exhibit A to this Ordinance.

Section 2. AMENDMENTS TO CHAPTER 17.88, FLOODPLAIN MANAGEMENT OVERLAY ZONING DISTRICT (FP), ARTICLE I, FLOOD DAMAGE PREVENTION. That Title 17 of the Ketchum Municipal Code be amended by repealing Article 1, Flood Damage Prevention, of Chapter 17.88 Floodplain management, in its entirety and replacing it with a new Article 1, Flood Damage Prevention, as attached and incorporated as Exhibit B to this Ordinance.

Section 3. AMENDMENTS TO CHAPTER 17.88, FLOODPLAIN MANAGEMENT, OVERLAY ZONING DISTRICT (FP), ARTICLES II – IV. That Title 17 of the Ketchum Municipal Code be amended as follows to renumber the sections of Chapter 17.88, Articles II-IV as follows:

- 17.88.130: Title
- 17.88.140: Guidelines
- 17.88.150: Procedure
- 17.88.160: Application for Emergency Stream Bank Stabilization
- 17.88.170: Action Upon Submittal of Stream Bank Stabilization Application
- 17.88.180: Site Inspection
- 17.88.190: Basis for Denial Of An Emergency Stream Bank Stabilization Permit
- 17.88.200: Conditions of Emergency Stream Bank Stabilization Approval
- 17.88.210: Enforcement

- 17.88.220: Title
- 17.88.230: Guidelines
- 17.88.240: Procedure
- 17.88.250: Application for Emergency Riparian Alteration
- 17.88.260: Action Upon Submittal of Emergency Riparian Alteration Application
- 17.88.270: Site Inspection
- 17.88.280: Basis for Denial of An Emergency Riparian Alteration Permit
- 17.88.290: Conditions of Emergency Riparian Alteration Approval
- 17.88.300: Enforcement

- 17.88.310: Title
- 17.88.320: Guidelines
- 17.88.330: Procedure
- 17.88.340: Application
- 17.88.350: Action Upon Submittal of Emergency Application
- 17.88.360: Conditions of Emergency Application Approval

- 17.88.370: Uses Permitted
- 17.88.380: Use Restrictions

17.88.390: Application for Temporary Flood Control Barriers
17.88.400: Enforcement

Section 4. 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 5. REPEALER CLAUSE. All City of Ketchum Ordinances or parts thereof which are in conflict herewith are hereby repealed.

Section 6. PUBLICATION. This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form annexed hereto as Exhibit C, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

Section 7. EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval and publication, according to law.

PASSED BY the CITY COUNCIL and APPROVED by the MAYOR of Ketchum, Idaho, on this 19 day of January, 2021.

APPROVED BY the Mayor of the City of Ketchum, Idaho, this 19 day of January, 2021.



APPROVED:

Neil Bradshaw, Mayor

ATTEST:

Katrin Sharp, Deputy City Clerk

ADVERSE IMPACT: An adverse impact with respect to floodplain development includes impacts that cause damage to property, threaten public safety and health, or cause loss of natural floodplain functions. These can be caused by increases in flood stages or elevations, increases in flood velocity, increases in flow rates, decreases in conveyance areas, decreases in flood storage, increased potential for erosion and sedimentation, or degradation of water quality. Development within the regulatory floodway and all other waterways, whether within the SFHA or not, shall be required to certify by a registered professional engineer that the development does not adversely affect flood risks for other properties as measured by increased flood stages, increased flood velocity, increased flows, increased potential for erosion and sedimentation, or any other impact deemed important or as specified by the City of Ketchum, unless the impact is mitigated. This certification shall employ industry standards for hydraulic and hydrological analysis to determine no adverse impact and all data shall be provided in hard copy and digitally for review and corroboration by the city's engineer or any governmental review agency acceptable to the City of Ketchum.

AREA OF SHALLOW FLOODING: A designated AO or VO zone on the flood insurance rate map (FIRM). The base flood depths range from one foot 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. A designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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". See Special Flood Hazard Area (SFHA).

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 one percent (1%) annual chance flood. A determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Flood Protection Elevation.

Cleaning (irrigation): mowing, cutting, or burning of weeds, trees and other nuisance growth, including algae growth, application of pesticides as permitted, removal of beaver dams, and removal of trash or other debris whether floating, lodged or otherwise obstructing the conveyance of water flow through channels and works.

DEVELOPMENT: Any man-made change to improved or unimproved land, including subdivision, construction activity, or alteration of the landscape (except for routine pruning and maintenance of riparian vegetation to benefit the health of the vegetation) (except routine maintenance), its terrain contour or vegetation, including any construction of structures, establishment of a land use, or alteration of an existing structure or land use. ~~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, streambank stabilization, placement of manufactured or mobile homes, construction of fences, hedges, berms, walls, or storage of equipment or materials on a temporary or permanent basis.

DEVELOPMENT ACTIVITY: For the purpose of floodplain management, Development Activity is development as defined in this title that will require a Floodplain Development Permit.

~~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.~~

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

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

3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph a.2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the ~~f~~Federal ~~i~~Insurance ~~a~~Administration has delineated both the areas of special flood hazard and risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

~~FLOOD INSURANCE~~INSURANCE STUDY (FIS): an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of "flooding").

FLOODPLAIN ADMINISTRATOR: the individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT: any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT: the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS: zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

~~FLOOD PROTECTION ELEVATION~~ Flood Protection Elevation (FPE): the Base Flood Elevation plus the Freeboard.

a. In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard; and

b. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

FLOOD PROTECTION SYSTEM: those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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 a designated height ~~one~~ feet (1'). This term is also referred to as the "regulatory floodway".

FREEBOARD: a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the Flood Protection Elevation (FPE). Freeboard shall be two (2) feet.

Functionally Dependent Use: 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.

General Irrigation Floodplain Development Permit (GIFD Permit): The intent of the GIFD permit is to collectively authorize low-to-no impact irrigation and drainage development activities or uses in the floodplain which inherently do not increase the BFE. GIFD permits apply to all qualifying activities within the spatial extents of an irrigation delivery or drainage system and within the regulatory floodway or SFHA, over a predetermined period of time, not to exceed five years. Issuance of a GIFD permit requires coordination between the irrigation entity and the Floodplain Administrator.

HEC-RAS (Hydrologic Engineering Center-River Analysis System): A computer program for modeling water flowing through systems of open channels and computing water surface profiles.

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

~~Intermediate Regional Flood (IRF): The flood having a 0.2% annual chance of being equaled or exceeded in any given year.~~

LETTER OF MAP CHANGE (LOMC): a general term used to refer to the several types of revisions and amendments to FIRMs that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F)

1. Letter of Map Amendment (LOMA): an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's or structure's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property or structure has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.
2. Letter of Map Revision (LOMR): FEMA's modification to an effective Flood Insurance Rate Map (FIRM) or a Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
- 1-3. Letter of Map Revision Based on Fill (LOMR-F): FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.

2-4. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS). Upon submission and approval of certified as-built documentation, a Letter of Map Revision (LOMR) may be issued by FEMA to revise the effective FIRM. Building Permits and/or Flood Development Permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

LOWEST ADJACENT GRADE (LAG): The lowest point of the ground level immediately next to a building. Refer to the FEMA Elevation Certificate for LAG related to building elevation information.

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 non-elevation design requirement contained in 44 CFR § 60.3 and subsection 17.88.060B2c of this title.

Maintenance (irrigation): the act of ongoing upkeep of existing structures required to keep channels in a condition adequate to support the conveyance of irrigation and drainage water (this does not include the complete replacement or substantial replacement of an existing structure). Maintenance is further defined as the care or upkeep of channels, works, appurtenances, easements, utility corridors and property; to keep in an existing state, specified state of repair, and efficiency; return to a former condition, elevation, place, and position; to preserve from failure or decline; or repair or renovate so as to return it to its original condition. Maintenance does not include dredging as defined herein.

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. The term "Manufactured Home" does not include a "Recreational Vehicle."

MARKET VALUE: the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

NEW CONSTRUCTION: for floodplain management purposes, a structure for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Any construction started after February 17th, 1976 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

Operation (irrigation): the regular and reoccurring performance of typical work by an irrigation or drainage entity including, but not limited to: the delivery or drainage of water, measurement of water, and adjustment of irrigation and drainage works and all related appurtenances.

POST-FIRM: construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map (FIRM).

PRE-FIRM: construction or other development for which the "start of construction" occurred before November 20, 1978, the effective date of the initial Flood Insurance Rate Map (FIRM).

RECREATIONAL VEHICLE: a vehicle that is:

a. Built on a single chassis, and

- b. 400 square feet or less when measured at the largest horizontal projection, and
- c. Designed to be self-propelled or permanently towed by a light duty truck, and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY: See Floodway

Repair (irrigation): the restoration to good or sound conditions of any part of an existing structure, channel, channel bank, or service road for the purpose of maintenance (this does not include the complete replacement or substantial replacement of an existing structure). Repair does not include dredging as defined herein.

RIPARIAN ZONE: That area along the banks of any waterway twenty-five feet (25') in width measured horizontally from the mean high-water mark; this area is the regulated Riparian Zone in Ketchum city limits. All parcels that contain Riparian Zone are included in the Waterways Review District.

SPECIAL FLOOD HAZARD AREA (SFHA): the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard", 100-year floodplain, and one percent (1%) annual chance floodplain.

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. 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: Anything permanently constructed in or on the ground, or over the water, including gas or liquid storage tank that is principally above ground and manufactured homes; excluding fences less than six feet (6') in height, decks less than thirty inches (30") above grade, paved areas, and structural or nonstructural fill.

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. See definition of "substantial improvement".

SUBSTANTIAL IMPROVEMENT: Includes the following:

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 before the "start of construction" of the improvement over a three (3) year time frame. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. 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~~ 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 the Idaho Historic Sites Inventory provided that the alteration will not preclude the structure's continued designation as a "historic structure" and the alteration is approved by variance issued pursuant to this ordinance.

~~VARIANCE, FLOODPLAIN: A grant of relief from the requirements of chapter 17.88, article I of this title which permits construction in a manner that would otherwise be prohibited by said article.~~

VIOLATION (FLOODPLAIN ORDINANCE): the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Article I. Flood Damage Prevention

17.88.010: Statutory Authorization and Findings of Fact

17.88.020: Statement of Purpose

17.88.030: Methods of Reducing Flood Losses

17.88.040: General Provisions

17.88.050: Administration

17.88.060: Provisions for Flood Hazard Reduction

17.88.070: Standards for Floodplains without Established Base Flood Elevations – Zone A

17.88.080: Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodway

17.88.090: Standards for Floodways

17.88.100: Standards for Areas of Shallow Flooding (Zone AO, AH, AR/AO, or AR/AH)

17.88.110: Floodplain Development Permit Exemptions and Irrigation Activities and Development

17.88.120: Enforcement and Penalties

17.88.010: STATUTORY AUTHORIZATION AND FINDINGS OF FACT:

A. Statutory Authority: The Legislature of the State of Idaho, pursuant to Idaho Code §§ 46-1020, 46-1023, and 46-1024, authorizes local governments to adopt floodplain management ordinances that identify floodplains and minimum floodplain development standards to minimize flood hazards and protect human life, health, and property.

Therefore, the Council of the City of Ketchum Idaho does hereby ordain as follows:

1. 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.
2. These flood losses are caused by the cumulative effects of obstruction in areas of special flood hazard which increase flood heights and velocities and by development that is inadequately floodproofed, elevated, anchored, or otherwise protected from flood damage.
3. The Big Wood River, its tributaries, and their associated floodplains in Ketchum are important to the well-being of our citizens as they provide recreation, fish and wildlife habitat, aesthetic beauty, a source of irrigation water, as well as other economic and lifestyle values.

B. 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 16013CV001A and 16013CV002A, dated November 26, 2010, and any amendments thereto;
2. Digital 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.
4. Additionally, other flood hazard analysis sources as determined by the City Engineer, Floodplain Manager, or other expert hired by the City may be utilized.

- C. Regulations pertaining to development on property affected by the one percent (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 of Ketchum, Idaho.
- D. Local government units have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

17.88.020: STATEMENT OF PURPOSE:

It is the purpose of this chapter 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, health, safety, property, 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 use and development of areas of special flood hazard so as to minimize future flood damaged areas;
- G. To ensure that potential buyers and leaseholders are notified that property is in an area of special flood hazard or riparian zone, where the regulations of this ordinance apply;
- H. To ensure that those who occupy the areas of special flood hazard assume the responsibility for their actions.
- I. To ensure potential buyers of property in an area of special flood hazard are notified.
- J. To allow the river and creeks and their adjacent lands to convey floodwaters to minimize property damage;
- K. To regulate uses in the floodplain and Riparian Zone for the purpose of preserving, protecting, and enhancing the abundance and diversity of fish, wildlife and riparian resources;
- L. To protect, preserve and enhance the waterways and floodplains as a recreation resource;
- M. To provide a formal procedure for stream alteration permit applications;
- N. 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
- O. 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.

17.88.030: METHODS OF REDUCING FLOOD LOSSES:

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

- A. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
- B. Requiring that uses necessary for general health, safety and welfare of citizens, including facilities which serve such uses, be protected against flood damage at the time of initial construction, at time of substantial improvement, and throughout their intended life span;
- C. Preserving and restoring natural floodplains, stream channels, and natural protective barriers that carry and store flood waters;
- D. Controlling, filling, grading, dredging, and other development which may increase flood damage or erosion; and
- E. Preventing or regulating the construction of flood barriers which may unnaturally divert floodwaters, or which may increase flood hazards to any other properties.

17.88.040: GENERAL PROVISIONS:

- A. Establishment of The Floodplain Management Overlay Zoning District: The floodplain management overlay zoning district is hereby established. In addition to the regulations contained in the underlying zoning district, the regulations of this district apply to all lands within the jurisdiction of the city that lie within the Special Flood Hazard Area (SFHA) boundaries as determined by the graphic representation shown on the Flood Insurance Rate Map (FIRM) and by the elevations of the base flood contained in the Flood Insurance Study (FIS).
 1. Establishment of The Floodway Subdistrict and The Floodplain Subdistrict: The floodplain areas are divided into two (2) subdistricts: the Floodway Subdistrict and the Floodplain Subdistrict.
 2. Rules for Interpretation of The Floodplain Management Overlay Zoning District Boundaries and The Floodway Subdistrict and The Floodplain Subdistrict Boundaries: The floodplain management overlay zoning district boundaries are represented on the official zoning map of the city.
 - a. All land within the external boundary of the Special Flood Hazard Area (SFHA) and all parcels with any portion thereof affected by said SFHA shall be considered to be within the Floodplain Management Overlay Zoning district.
 - b. All land areas within the external boundary of the SFHA shall be considered to be within the Floodplain Subdistrict of the Floodplain Management Overlay Zoning District. The city may make necessary interpretations of the boundary based upon the recommendation of the city engineer or other expert.
 - c. All land areas within the external boundary of the regulatory floodway shall be considered to be within the Floodway Subdistrict of the Floodplain Management Overlay 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 Establishing the Areas Of Special Flood Hazard and Floodway: The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) For Blaine County, Idaho And Incorporated Areas" with accompanying 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 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 FIS and FIRM are on file at the office of the City Clerk, City Hall, 480 East Avenue North, Ketchum, Idaho.

- B. Establishment of Waterways Review District: The city hereby makes the following findings of fact with regard to establishing a Waterways Review District:
1. Flooding is aggravated by the collection of debris upstream of channel obstructions located in floodplain areas. Such obstructions include, but are not limited to, bridges, fences, houses, and trees. The accumulation of debris can result in significantly higher water surface elevations and flooding beyond limits of the SFHA shown on the FIRMs upstream from the obstructions.
 2. Structures located in proximity to waterways, even if the structure's location is outside the boundaries of the SFHA, may be subject to inundation and damages during flood events due to the potential of the channel to change direction abruptly during high flows. In particular, this risk affects lands adjacent to the Big Wood River, which is wide and flat with a relatively shallow channel in many areas.
 3. The levees built by the U.S. Army Corps of Engineers are not considered by the Corps or FEMA to be adequately designed to be classified as permanent structures capable of withstanding a one percent (1%) annual chance flood.
 4. Encroachments (i.e., houses, fill, etc.) on floodplains reduce the flood carrying capacity of the river and its floodplain and increase flood heights, thus increasing flood hazards on land beyond the encroachment. With every new development since the FEMA one percent (1%) annual chance 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, often to the detriment of the natural stream. Methods often destroy or greatly alter fish and wildlife habitat, unnaturally armor the banks of the waterways to prevent erosion or cause future damages to manmade structures.
 6. Rules for Interpretation of the Waterways Review District: The Waterways Review District is not indicated on the zoning map due to the nature of how the boundaries are established. The Waterways Review District includes all parcels containing lands that are within twenty-five feet (25') of the mean high-water mark as measured horizontally from the mean high-water mark of any Waterway. Waterways include the Big Wood River, Trail Creek, and Warm Springs Creek, and any and all channels having year-round or intermittent flow. These lands within twenty-five feet (25') of the mean high-water mark area also known as the Riparian Zone that is regulated by the City of Ketchum.
 - a. Some parcels of land may be located within the Waterways Review District and contain Riparian Zone but may not contain SFHA, 0.2% annual chance floodplain, floodway, or the channel due to the proximity of the parcel to a waterway. Nevertheless, if a parcel contains land that is within twenty-five feet (25') of the mean high-water mark of a waterway, said parcel is within the Waterways Review District and the Riparian Zone is subject to riparian regulations.
 - b. Some parcels of land may be located within the SFHA and/or 0.2% annual chance floodplain and/or floodway and may also contain Riparian Zone. These parcels are located within the Waterways Review District and riparian regulations apply to the Riparian Zone.
 7. Special purposes for the establishment of the Waterways Review District: Some parcels of land may be located in proximity to a waterway but may not contain SFHA, 0.2% annual chance floodplain, floodway, or the waterway's channel and therefore local, state and federal regulations to preserve these ecologically important areas are largely inapplicable. The Waterways Review District is a local designation created to build upon local, state and federal regulations when lands contain SFHA, 0.2% annual chance floodplain, floodway, and waterway channel, when applicable, but also to

preserve and enhance the Riparian Zone when the aforementioned designations are not applicable. The purposes for which the Waterways Review District is established are as follows:

- a. To guide development adjacent to waterways toward the most appropriate building envelope for its particular site;
 - b. To minimize the impact of development adjacent to waterways on adjacent properties upstream, downstream and across waterways;
 - c. To review development plans for property adjacent to waterways to minimize the obstruction of the conveyance of floodwaters;
 - d. To provide for the stewardship, maintenance and/or enhancement of the Riparian Zone and riparian environment, including wildlife habitat along waterways;
 - e. To carry out the provisions of the comprehensive plan as well as health, safety, and welfare with regard to properties adjacent to waterways;
 - f. To warn that City review and approval is not going to prevent flooding and that flooding may occur;
 - g. To advise of flood hazards and studies and options available;
 - h. To review obstructions to flood carrying capacity and to advise on methods that may be used to moderate impact of the development;
 - i. To review landscaping and access for flood carrying capacity and preservation or enhancement of riparian vegetation; and
 - j. To provide regulations for the Riparian Zone.
8. "Development", as defined in section [17.08.020](#) of this title, and construction or placement of buildings or structures, including additions to any such structures or buildings permitted after November 20th, 1989, and landscaping changes within the Riparian Zone for parcels under development with new structures and parcels developed with structures after November 20th, 1989, upon real property within the Waterways Review District shall require said approval under section [17.88.050](#) of this article, prior to issuance of a building permit, excavation/grading permit or commencement of any work associated with any such activity.
- C. Uses Permitted and Prohibited in the Floodplain Management Overlay Zoning District and the Waterways Review District: Due to the potential hazard to individuals as well as public health, safety and welfare, uses allowed in the Floodplain Management Overlay Zoning District and the Waterways Review 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 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:
1. Encroachments in the floodway: Encroachments in the floodway are subject to the standards of Section 17.88.090.
 2. 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.

3. 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.
 4. 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.
 5. 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.
 6. The application of dormant oil sprays and insecticidal soap within the Riparian Zone may be used throughout the growing season as needed.
 7. 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 and Disclosure 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 and the Waterways Review District, the following notice regulations and requirements are hereby adopted for all real property and structures located within said districts:
1. Floodplain Acknowledgement Authorization Required: 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 one percent (1%) annual chance floodplain (SFHA) as defined herein and that a violation of the terms of this article shall cause the City to seek legal remedies.
 2. Real Estate Sales and Leasing Disclosures: Each and every real estate agent, sales person and broker, and each and every private party who offers for sale or lease a parcel of real property and/or structure that contains SFHA, floodway, frontage on a waterway and associated Riparian Zone, shall provide the prospective purchaser or leaseholder with written notice that said real property and/or structure is located within the Floodplain, Floodway, and/or Waterways Review District and that structures and land are subject to the regulations of this ordinance.
 3. Special requirements for Subdivision Plats:
 - a. United States Geological Survey (USGS) datum shall be used and identified on the plat and a permanent benchmark shall be identified and shown on the plat.
 - b. All subdivision plats shall contain a plat note including a certification by a registered surveyor that the boundaries were established consistent with the FIRM for the City or Blaine County, whichever applies. The note shall include the FEMA FIRM panel number(s), FIRM effective date(s), and a note stating that "Flood Zones are subject to change by FEMA and all lands within the Special Flood Hazard Area are regulated by City of Ketchum Municipal Code.
 - c. All subdivision plats shall identify and designate the Special Flood Hazard Area, the 0.2% annual chance (500-year) floodplain boundary, the floodway boundary, the mean high-water mark, and the Riparian Zone. All flood zone(s), and base flood elevation(s) shall be shown on the plat.
 - d. 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.
 - e. All subdivision plats shall contain a note that refers to the required twenty-five foot (25') setback from all waterways, called the Riparian Zone, in which no development is permitted, and require that riparian vegetation

shall remain in its natural state for the protection and stabilization of the riverbank unless alterations are approved in accordance with Ketchum Municipal Code.

f. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten-foot (10') fish and nature study easement adjacent to the waterway, measured horizontally from the mean high-water mark. In addition, there shall be a plat note stating that the fish and nature study easement shifts in accordance with the location of the channel and its mean high-water mark.

g. The Council may require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access easement. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the Council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.

4. Special Requirements for Building Permits:

a. Prior to issuance of a Building Permit for a structure located on a parcel that contains SFHA, whether or not the structure is partially or wholly located in the SFHA, a Floodplain Development Permit is required if development will occur in the SFHA.

b. Non-conversion Agreement Required: 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 non-conversion 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.

b. Preconstruction Elevation Certificate Required: Prior to issuance of any building permit for a structure located partially or wholly within the one percent (1%) annual chance floodplain, a preconstruction elevation certificate shall be completed by a registered professional engineer, architect or surveyor and submitted to the City of Ketchum building inspector.

c. Building Under Construction Elevation Certificate in accordance with section 17.88.050.H.1.a.

d. Finished Construction Elevation Certificate Required in accordance with section 17.88.050.H.1.b.

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 or greater 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 for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

17.88.050: ADMINISTRATION:

A. Establishment of Floodplain Development Permit: For lands in the Floodplain and Floodway subdistricts of the Floodplain Management Overlay Zoning District a floodplain development permit shall be obtained through an application provided by the City prior to any and all development, as defined in section 17.08.020 of this whether or not the development requires issuance of a building, excavation/grading permit, or other land use permit.

1. Exemptions: Activities exempt from floodplain development permit requirements and irrigation activity permitting is subject to the standards of Section 17.88.110 of this title.

a. Minor Riparian Alterations: When development proposed within the Riparian Zone, that also contains SFHA or floodway, consists only of removing four (4) or fewer hazard trees and/or minor alteration of riparian vegetation a full Floodplain Development permit is not required; a Riparian Alteration Permit is required.

2. Floodplain Development and Riparian Alteration Permits Combined: When development is proposed in a Riparian Zone that is located or overlaps with the Floodplain Management Overlay Zoning District a Floodplain Development permit shall be issued and all Riparian Zone regulations shall be evaluated and are applicable.

B. Establishment of Riparian Alteration Permit for Waterways Review District: When development is proposed in a Riparian Zone that is not within the Floodplain or Floodway subdistricts of the Floodplain Management Overlay Zoning District, a Riparian Alteration Permit shall be obtained through an application provided by the City prior to any and all development, as defined in section 17.08.020 of this title.

C. Applications, Submittals and Concurrent Applications: Applications shall be made on forms furnished by the City and may be made simultaneous with Land Use applications (such as Conditional Use Permits, Lot Line Shifts, and Preliminary Plats) where applicable, and prior to application for a building permit. In order for an application to be determined to be complete, the application shall contain all information required by the application form furnished by the city and any additional information which may be reasonably required by the Administrator or commission during the course of application review.

D. Duties and Responsibilities: The Planning and Building Director, or his or her designee, is the Administrator of Ketchum Municipal Code Title 17, Zoning Regulations, and is responsible for administering and implementing this section in accordance with its provisions.

1. Administrative Review: The Administrator shall have the authority to consider and approve, approve with conditions, or deny applications for floodplain development permits and riparian alteration permits as required herein.

a. Noticing: The Administrator shall provide written notice of said application to owners of property within three hundred feet (300') of the external boundaries of the land being considered. 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.

- a. (1) When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be used in lieu of mailed notice. Said alternate forms of notice shall be per Idaho Code 67-6512 in effect at the time of notice.
2. Commission Review: If the Administrator, in his or her sole discretion, determines that a project cannot be approved administratively, the Ketchum Planning and Zoning Commission shall consider and approve, approve with conditions, or deny applications for floodplain development permits.
 - a. Criteria for sending applications to the Planning and Zoning Commission includes, but is not limited to:
 - (1) Encroachments proposed within the floodway;
 - (2) Stream alteration projects containing riprap;
 - (3) Stream alteration projects including gravel extraction; and
 - (4) Stream alteration projects involving multiple separate parcels of land.
 - b. For applications reviewed by the Planning and Zoning Commission the application shall be noticed for a public hearing in accordance with Idaho Code 67-6509.
3. Specific duties and responsibilities of the Administrator shall include, but are not limited to:
 - a. Permit Review:
 - (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 Review District.
 - (2) 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 including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334; Idaho Fish and Game, Idaho Department of Water Resources, Soil Conservation Service, Environmental Protection Agency, and U.S. Army Corps of Engineers. Such documentation shall be maintained on file with the floodplain development permit.
 - (3) Review all floodplain development permit applications to determine that the proposed development meets the requirements of this ordinance, and is reasonably safe from flooding.
 - (4) For projects within the floodway, review applications to ensure the proposal does not cause adverse impacts, or that any adverse impacts are mitigated, as demonstrated by a No Adverse Impact statement provided by the applicant.
 - (5) Prevent encroachments into floodways unless the no rise certification, no adverse impact, and flood hazard reduction provisions contained in this title are met.
 - (6) Review plans to verify public utilities are constructed in accordance with the provisions of this title.
 - (7) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area (SFHA) is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

b. Inspections:

- (1) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (2) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

c. Stop-Work for Violations in Progress and Permit Revocation:

- (1) Work with the Building Official to issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Building Official may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (2) Issue stop-work orders for unpermitted development in the floodplain that does not require a building permit. Examples include grading, filling, Riparian Zone alterations and stream bank stabilization and alteration.
- (3) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

d. Coordination and Communication with Federal Agencies:

- (1) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
- (2) Notify, in riverine situations, adjacent communities and state and federal agencies in accordance with Section 17.88.050.D.3.g.
- (3) A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator (FIA) of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.
- (4) Upon occurrence, notify the Federal Insurance Administrator (FIA) in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all

FIRMs accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority.

- (5) The City of Ketchum will notify the State NFIP Coordinator of the Idaho Department of Water Resources of hearings scheduled to consider a variance within the SFHA fifteen (15) calendar days prior to the date of the hearing

e. Use of Other Base Flood Data:

(1) When base flood elevation data has not been provided in accordance with subsection 17.88.040.A.3, "Basis For Establishing The Areas Of Special Flood Hazard", of this chapter, 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 17.88.060.B.2, "Residential Construction", 17.88.060.B.3, "Nonresidential Construction", and 17.88.090, "Standards for Floodways", of this chapter.

(2) When Base Flood Elevation (BFE) data is provided but no floodway data has been provided in accordance with the provisions of this title, require that no new construction, substantial improvements, or other development (including fill) shall be permitted 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.

f. Records and Information to Be Obtained and Maintained:

(1) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(2) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps, and studies adopted in accordance with the provisions of Article III, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify the NFIP State Coordinator and FEMA of Ketchum's mapping needs.

(3) Obtain and maintain actual elevation (in relation to mean sea level) of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures.

(4) Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection 17.88.050.D.3.e 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.

(5) For all new or substantially improved floodproofed structures:

(A) Verify and record the actual elevation (in relation to mean sea level); and

(B) Maintain the floodproofing certifications as required by this ordinance.

(6) Maintain in perpetuity records on all permits and appeals and report all variances to Federal Insurance Administration.

g. Stream Alterations:

- (1) Notify adjacent communities and all State agencies with jurisdiction over the special flood hazard areas identified in subsection 17.88.040A of this chapter 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.
- (2) Notify adjacent communities and the Idaho Department of Water Resources State Coordinator for the National Flood Insurance Program (NFIP) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administrator (FIA).
- (3) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

h. Interpretation 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.

E. Criteria for Evaluation of Applications: The criteria of floodplain development permit applications and riparian alteration permits shall be as follows:

1. The proposal preserves or restores the inherent natural characteristics of the river, floodplain, and Riparian Zone, including riparian vegetation and wildlife habitat. Development does not alter river channel unless all stream alteration criteria for evaluation are also met.
2. No temporary construction activities, encroachment or other disturbance into the twenty-five foot (25') Riparian Zone, including encroachment of below grade structures, shall be permitted, with the exception of approved stream stabilization work and restoration work associated with a riparian zone that is degraded.
3. No permanent development shall occur within the twenty-five foot (25') Riparian Zone, with the exception of approved stream stabilization work and restoration work associated with permit issued under this title, or exceptions as described below:
 - a. Access to a property where no other primary access is available;
 - b. Emergency access required by the Fire Department;
 - c. A single defined pathways or staircases for the purpose of providing access to the river channel and in order to mitigate multiple undefined social paths;
 - d. Development by the City of Ketchum
4. New or replacement planting and vegetation in the Riparian Zone 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 most commonly 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. However, in rare instances the distance from the top-of-bank to the mean high water mark is significant and the native vegetation appropriate for the Riparian Zone are low growing, drought resistant grasses and shrubs. Replacement planting and vegetation shall be appropriate for the specific site conditions. Proposal does not include vegetation within the twenty-five foot (25') Riparian Zone that is degraded, not natural, or which does not promote bank stability.

5. Landscaping and driveway plans to accommodate the function of the floodplain allow for sheet flooding. 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.
6. Floodwater carrying capacity is not diminished by the proposal.
7. Impacts of the development on aquatic life, recreation, or water quality upstream, downstream or across the stream are not negative.
8. Building setback in excess of the minimum required along waterways is encouraged. An additional ten foot (10') building setback beyond the required twenty-five foot (25') Riparian Zone is encouraged to provide for yards, decks and patios outside the twenty five foot (25') Riparian Zone.
9. The top of the lowest floor of a building located in, or partially within, the SFHA shall be at or above the Flood Protection Elevation (FPE). A building is considered to be partially within the SFHA if any portion of the building or appendage of the building, such as footings, attached decks, posts for upper story decks, are located within the SFHA. See section 17.88.060, figures 1 and 2 of this chapter to reference construction details. See Chapter 17.08 of this title for definition of "lowest floor."
 - a. In the SFHA where Base Flood Elevations (BFEs) have been determined, the FPE shall be twenty-four inches (24") above the BFE for the subject property; twenty-four inches (24") or two (2) feet is the required freeboard in Ketchum city limits.
 - b. In the SFHA where no BFE has been established, the FPE shall be at least two (2) feet above the highest adjacent grade.
10. The backfill used around the foundation in the SFHA floodplain shall provide a reasonable transition to existing grade but shall not be used to fill the parcel to any greater extent.
 - a. Compensatory storage shall be required for any fill placed within the floodplain.
 - b. A CLOMR-F shall be obtained prior to placement of any additional fill in the floodplain.
11. All new buildings located partially or wholly within the SFHA shall be constructed on foundations that are designed by a licensed professional engineer.
12. Driveways shall comply with City of Ketchum street standards; access for emergency vehicles has been adequately provided for by limiting flood depths in all roadways to one foot (1-ft) or less during the 1% annual chance event.
13. Landscaping or revegetation shall conceal cuts and fills required for driveways and other elements of the development.
14. (Stream alteration.) The proposal is shown to be a permanent solution and creates a stable situation.
15. (Stream alteration.) No increase to the one percent (1%) annual chance flood elevation at any location in the community, based on hydrologic and hydraulic analysis performed in accordance with standard engineering practice and has been certified and submitted with supporting calculations and a No Rise Certificate, by a registered Idaho engineer.
16. (Stream alteration.) The project has demonstrated No Adverse Impact or has demonstrated all impacts will be mitigated.

17. (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.
18. (Stream alteration.) Fish habitat shall be maintained or improved as a result of the work proposed.
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.
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.
21. (Wetlands) Where development is proposed that impacts any wetland the 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 an equal amount and quality of new wetland area or riparian habitat improvement.

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. An As Built Certification, with supporting documentation such as an as built survey of the project area and channel cross sections produced by a surveyor or engineer licensed in Idaho demonstrating that the project was constructed in accordance with the approved plans, shall be required to be submitted prior to occupancy of structure or upon completion of the proposed work.
3. 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.
4. Maintenance and monitoring plan for projects including stream alteration and Riparian Zone alterations.
5. Bond or surety guarantee for work occurring on city-owned parcels.

G. Terms Of Approval: The term of a Floodplain Development Permit shall be twelve (12) months from the date that findings of fact, conclusions of law and decision are signed by the Administrator or Commission, or upon appeal, the date the findings of fact, conclusions of law, and decision are signed by the appellate body. 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.

1. Permit Extension: 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 Administrator. 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:
 - a. Whether there have been significant amendments to the City's Comprehensive Plan, special studies, draft or interim floodplain maps, or ordinances which will apply to the subject approval;

- b. Whether significant land use changes have occurred in the project vicinity which would adversely impact the project or be adversely impacted by the project; a revised No Adverse Impact statement may be required prior to granting a permit extension;
- c. Whether hazardous situations have developed or have been discovered in the project area; or
- d. Whether community facilities and services required for the project are now inadequate.

2. Basis for Denial of Permit Extension:

- a. 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.
- b. Said decision shall be issued in writing.
- c. No extensions shall be granted for an expired floodplain development permit.

H. Inspection Procedures:

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

- a. A Building Under Construction Elevation Certificate (FEMA Form 86-0-33) is required after the lowest floor is established.

(1) Within seven (7) calendar days of establishment of the lowest floor elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted.

(2) Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- b. A final as-built Finished Construction Elevation Certificate (FEMA Form 86-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance.

(1) It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the lowest floor and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(2) The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the building. In addition, when applicable, provide a

photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

2. For waterways review projects:

- a. Development associated with a Building Permit: 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 plans and that all conditions of approval have been satisfied.
- b. Development not associated with a Building Permit: Planning staff shall conduct a site inspection to verify that the project was constructed in general conformance with the approved plans and that all conditions of approval have been satisfied. The site visit shall be documented with a written memo to the application file.

I. Floodplain Development Variance Procedure:

1. General:

- a. The Planning and Zoning Commission as established by the City of Ketchum, hereinafter referred to as the "Commission", shall hear and decide requests for variances from the requirements of this ordinance using the public hearing procedures established in Chapter 17.148, Variances.
 - b. The special considerations and conditions for variances contained in this section shall apply in addition to the criteria contained in Chapter 17.148, Variances.
 - c. Generally, variances may be issued for:
 - (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (2) Functionally dependent facilities, if determined to meet the definition as stated in Section 17.08.020 of this title, provided provisions of 17.88.050.I.1.b, c, and d, have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (3) Any other type of development, provided it meets the requirements of this Section.
 - d. Upon consideration of the factors of subsection 17.88.050.I.2 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 chapter.
2. Considerations: In passing upon such applications, the Commission shall consider 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. 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 as a functionally dependent facility, 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;
- l. Variances shall only be issued in accordance with the guidelines found at section 60.6, code of federal regulations (title 44 CFR), as set forth therein on the effective date hereof; and
- m. Variances as interpreted in the 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.

3. Conditions for Variance:

- a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- b. Variances shall only be issued prior to development permit approval.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. In addition to the requirements of Chapter 17.12, Variances, a variance for floodplain development regulations contained in this chapter 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 17.88.050.1.2 of this section, or conflict with existing local laws or ordinances.

- f. 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.

4. The City of Ketchum will notify the State NFIP Coordinator of the Idaho Department of Water Resources of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

5. Appeals: Any person aggrieved by the decision of the Commission may appeal such decision as described in Chapter 17.144, Appeals.

17.88.060: PROVISIONS FOR FLOOD HAZARD REDUCTION:

A. General Standards: In all Special Flood Hazard Areas 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 Methods:

- a. All new construction, substantial improvements, and development shall be constructed with materials and utility equipment resistant to flood damage in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. All new and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

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 proposed lots in the subdivision shall have a building site that is located above the base flood elevation. It is preferred that building sites are located on natural high ground and special flood hazards areas are reserved for open space, trails, parks, and other low-impact, non-residential uses. If fill is proposed to elevate building sites, compensatory storage must be provided in accordance with section chapter.
 - c. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - d. All subdivision proposals shall include streets that are at or above the base flood elevation to allow dryland access for emergency vehicles during a flood event.
 - e. All subdivision proposals shall have adequate drainage facilities provided to ensure that the post-development stormwater (of a 25-year storm) discharge volume and flow rate will not exceed the pre-development conditions. Low impact development and green infrastructure techniques for stormwater management are encouraged. Drainage plans and pre- and post-development hydrology calculations shall be prepared by a civil engineer licensed in the State of Idaho;
 - f. All subdivision proposals and other development proposals greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data. 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 benchmark shall be identified and shown on the plat. Per subsection 17.88.050.D.3.d.(3) of this chapter, base flood elevation data and boundaries of the base flood shall be submitted to FEMA through the Conditional Letter of Map Revision (CLOMR) if fill is proposed or Letter of Map Revision (LOMR) process;
 - g. All requirements of the Code of Federal Regulations, 44 CFR 60.3 shall be met.
 - h. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
5. Review Of Building Permits: Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (subsection 17.88.050.D.3.e. of this chapter), 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.
6. Solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards and chemical storage facilities: New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in this title, in the Special Flood Hazard Area. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Flood Protection Elevation and certified in accordance with the provisions of this title.

B. Specific Standards: In all areas of special flood hazard where base flood elevation data has been provided as set forth in subsection 17.88.040.A.3, "Basis For Establishing The Areas Of Special Flood Hazard", or 17.88.050.D.3.e, "Use Of Other Base Flood Data", of this chapter, the following provisions are required:

1. AO Zones: 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 top of the lowest floor, including basement, elevated no lower than the Flood Protection 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 constructed entirely of flood resistant materials at least to the Flood Protection Elevation and 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 figures 1, "Preferred Crawl Space Construction", and 2, "Below Grade Crawl Space Construction", of this section and FEMA Technical Bulletin 11 for further information:

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

(2) The bottom of each flood vent opening shall be no higher than either one foot (1') above the interior grade or shall be no higher than one foot (1') above the exterior adjacent grade.

(3) Engineered flood vents are required.

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

(5) The interior grade of a below grade crawl space (see figure 2, "Below Grade Crawl Space Construction", of this section) shall not be more than two feet (2') below the exterior lowest adjacent grade (LAG).

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

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

(8) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

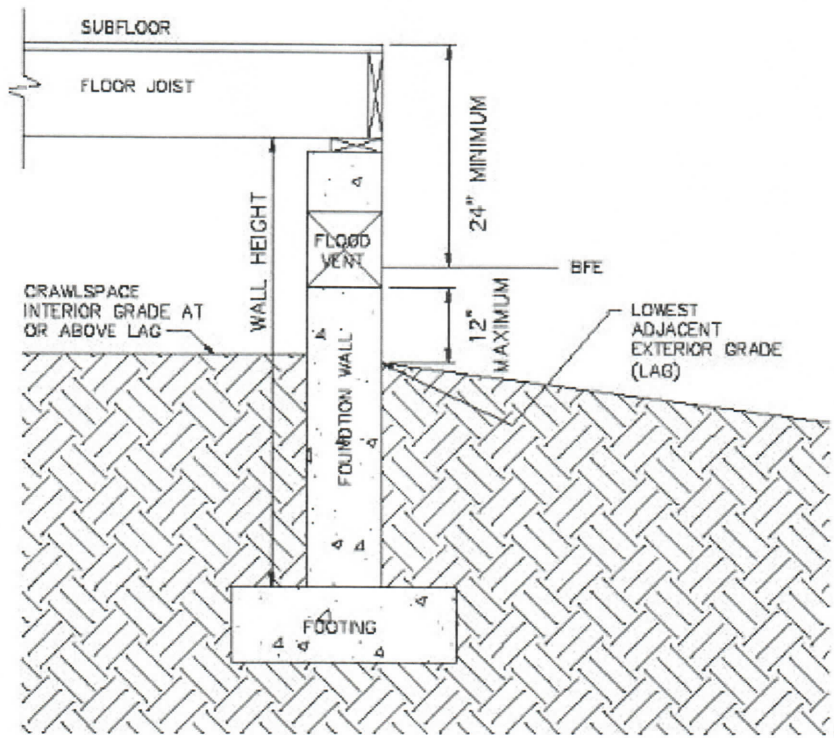


FIGURE 1
PREFERRED CRAWL SPACE CONSTRUCTION

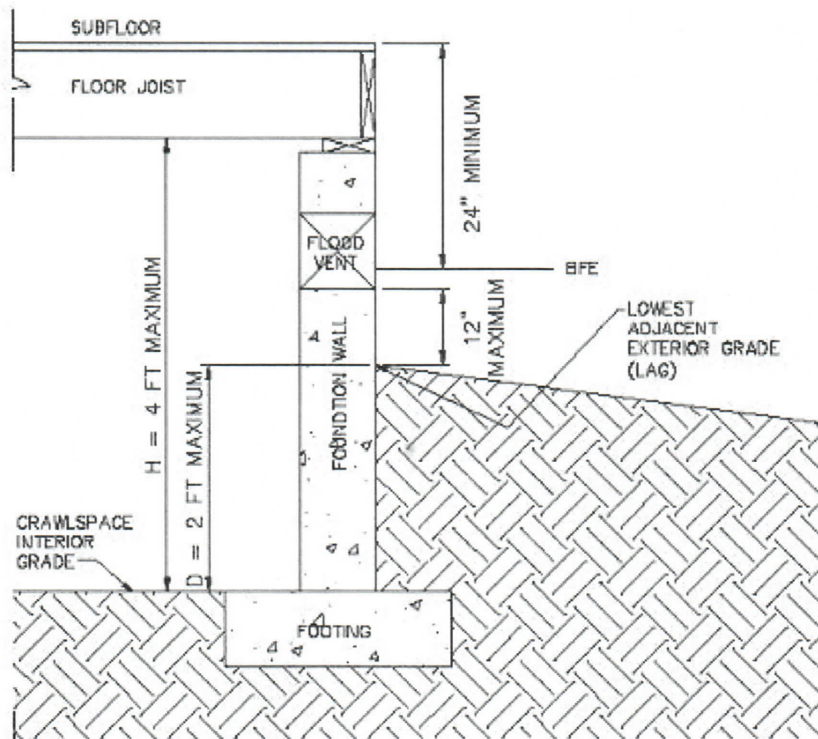


FIGURE 2
BELOW GRADE CRAWL SPACE CONSTRUCTION

Note: A below grade crawl space shall be subject to higher flood insurance rates through the NFIP.

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 top of the floor structure of the lowest floor, including basement, elevated no lower than the Flood Protection Elevation or floodproofed to the Flood Protection Elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, are :
 - (1) 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 article based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth in subsection 17.88.050.D.3.f.(5) of this chapter, along with the operational plan and inspection and maintenance plan;
 - (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection B2c of this section; and
 - (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 foot 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 subsection 17.88.060.B.3.a of this section.
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 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 17.88.060.A.1.b of this section.
5. **Recreational Vehicles:** All recreational vehicles to be placed on a site within zones A1-30, AH, and AE shall meet the requirements of subsection 17.88.060.B.4 of this section, or be placed on the site for less than one hundred eighty (180) consecutive days and be fully licensed and highway ready. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.
6. **Critical Facilities:**
 - a. 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).
 - b. Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available.

- c. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet (3') above BFE or to the height of the 500-year flood, whichever is higher.
 - d. 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.
 - e. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.
7. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- a. a specified time period for which the temporary use will be permitted. Time specified may not exceed six (6) months, renewable up to one (1) year;
 - b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c. the time frame prior to the event at which a structure will be removed (i.e., immediately upon flood warning notification);
 - d. a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e. designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
 - f. Temporary structures in the floodway must provide a Hydraulic and Hydrology Analysis along with a No-Rise Certification.
8. Accessory and Agricultural Structures (Appurtenant structures). When accessory structures (sheds, detached garages, etc.) used solely for parking, and storage are to be placed within a Special Flood Hazard Area, elevation or floodproofing certifications are required for all accessory structures in accordance with this title, and the following criteria shall be met:
- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
 - b. Accessory structures shall not be temperature-controlled;
 - c. Accessory structures shall be designed to have low flood damage potential;
 - d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. Accessory structures shall be firmly anchored in accordance with the provisions of Section 17.88.060.A.1;
 - f. All utility equipment and machinery, such as electrical, shall be installed in accordance with the provisions of Section 17.88.060.A.3; and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of this title.

h. Accessory structures not used solely for parking, access, and storage must be elevated per this title.

i. An accessory structure with a footprint less than 200 square feet and is a minimal investment of \$7,500 and satisfies the criteria outlined in a - g above is not required to provide the elevation certificate per this title.

9. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

a. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the base flood, including the effects of buoyancy (assuming the tank is empty);

b. Elevated above-ground tanks, in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the base flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

c. Not elevated above-ground tanks may be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

d. Tank inlets, fill openings, outlets and vents shall be:

i. At or above the flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and

ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

10. Compensatory Storage: New development shall not reduce the effective flood storage volume of the Regulatory Floodway and SFHA. A development proposal shall provide compensatory storage if grading or other activity eliminates any effective flood storage volume. Compensatory storage shall:

a. Provide equivalent volume at equivalent elevations to that being displaced. For this purpose, "equivalent elevation" means having similar relationship to ordinary high water and the best available one hundred (100) year water surface profiles;

b. Be hydraulically connected to the source of flooding; and

c. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins.

d. The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.

17.88.070: Standards for Floodplains without Established Base Flood Elevations – Zone A

Within the Special Flood Hazard Areas designated as Zone A (also known as Unnumbered A Zones) where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 17.88.060.A shall apply:

A. The BFE used in determining the Flood Protection Elevation (FPE) shall be determined based on the following criteria:

1. When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 17.88.060.A and B.
2. When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Sections 17.88.060.B. and 17.88.090.
3. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 17.88.040.A.3 and utilized in implementing this ordinance. The applicant/developer shall submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat approval and have obtained a Letter of Map Revision (LOMR) prior to any building permits for structures being issued.
4. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the lowest floor shall be elevated or floodproofed (non-residential) to two feet (2.0 ft.) above the Highest Adjacent Grade (HAG) at the building site or to the Flood Protection Elevation (FPE) whichever is higher. All other applicable provisions of Section 17.88.060.B shall also apply.

17.88.080: Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways.

A. Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but floodways are not identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

1. Standards of Sections 17.88.060.A and B; and
2. Until a regulatory floodway is designated, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating 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.

17.88.090: Standards for Floodways.

Areas designated as floodways located within the Special Flood Hazard Areas established in Section 17.88.040.A.3. The floodways are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 17.88.060.A and B, shall apply to all development within such areas:

A. New residential structures and residential substantial improvements are prohibited in the floodway.

B. All encroachment, including fill, new construction, substantial improvements, residential structures, and other developments shall be prohibited, except for the following:

1. Roads and bridges necessary to connect areas outside of the special flood hazard area;
2. Utilities;
3. Recreational pathways and open space;
4. Flood control and stormwater management facilities;
5. Boat ramps or river access;
6. Wildlife habitat improvements;
7. Stream restoration and bank stabilization constructed in accordance with a Floodplain Development Permit;
8. Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways shall meet the limitations of 17.88.090 of this ordinance.
9. Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 17.88.090 of this ordinance.
10. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, which encroach into regulated floodways, shall meet the limitations of Section 17.88.090 of this ordinance. The applicant/developer shall submit an application for a Letter of Map Revision (LOMR) upon completion of construction for the purpose of providing FEMA better available data.
11. Drilling water, oil, and/or gas wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways shall meet the limitations of Section 17.88.090 of this ordinance.
12. Docks, piers, boat ramps, marinas, moorings, decks, docking facilities, port facilities, shipbuilding, and ship repair facilities that encroach into regulated floodways shall meet the limitations of Section 17.88.090 of this ordinance

C. Encroachments in the floodway are only allowed if:

1. All development shall comply with all applicable flood hazard reduction provisions of this ordinance and meet the approval of the Federal Emergency Management (FEMA) and National Flood Insurance Program (NFIP) and does not jeopardize the city's participation in the NFIP; and
2. Requirements of a No Adverse Impact statement and a No-Rise Certification, with accompanying analysis, are met; or
3. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

17.88.100: Standards for Areas of Shallow Flooding (Zone AO, AH, AR/AO, or AR/AH)

A. Areas designated as shallow flooding areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to all other applicable sections of this title, all new construction and substantial improvements shall meet the following requirements:

1. The lowest floor shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in chapter so that the structure, together with attendant utility and sanitary facilities, below that level shall be 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. Floodproofing Certification is required in accordance with this chapter.
3. Accessory structure (appurtenant structure) (sheds, detached garages, etc.)
 - a. Used solely for parking, and storage:

- (1) Shall have the lowest floor elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified; or
- (2) Shall have flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of 17.88.060.B.2.c.

b. Not used solely for parking, and storage

- (1) Shall be elevated per 17.88.060.B.2 and 17.88.060.B.3.

4. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

5. Hazardous Velocities: Where hazardous velocities are noted on the FIRM, proper construction techniques and methods shall be used to mitigate the effects of the velocities.

17.88.110: Floodplain Development Permit Exemptions and Irrigation Activities and Development:

A. Activities that do not require a floodplain development permit:

Consistent with Idaho Code §46-1021 and §46-1022, operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works, as defined within this guidance document, do not constitute development under Idaho law and therefore do not require either a GIFD permit or an individual permit. The below list of activities delineates some activities that do not require a permit. The list is not exhaustive. The Floodplain Administrator must exercise their professional judgement when reviewing activities to determine if an activity requires a permit. When in doubt, the Floodplain Administrator should seek consultation from the IDWR Floodplain Coordinator to determine permit necessity.

1. General farming, pasture, horticultural activities, and forestry that do not involve earthwork that permanently alters the topography or any clearing/grubbing of an area.
2. Grading of existing roads or easements along or near channels and within the SFHA, provided that the grading does not add fill within the regulatory floodway or SFHA.
3. Maintenance of underground utilities (work must not permanently alter topography).
4. In-kind replacement of existing piers or posts supporting a conforming deck.
5. Activities associated with land-surface construction stormwater Best Management Practices ("BMP"), provided the measures are temporary in nature (i.e. not in place for longer than 180 days) or do not increase the BFE. Examples of stormwater BMP activities that do not require a permit include the following: dust control; materials and equipment covers; mulching; geotextile fabrics; matting; bio-filter bags; fiber rolls; silt fences; vegetative buffer strips; temporary swales; and temporary berms.
6. New installation or maintenance of non-solid fences constructed parallel to the flow of water during a flood event. Non-parallel or solid fences that block the flow will need to go through the individual permitting process.
7. Activities that fall under the scope of a Riparian Alteration Permit as described in 17.88.050.

B. General Irrigation Floodplain Development Permit:

1. Upon review of the proposed activities and projects, the Floodplain Administrator will assess whether or not they fall, in whole or in part, under the GIFD permit, and whether any components require an individual permit and notify the applicant in writing accordingly.

The Floodplain Administrator shall advise the applicant or project sponsor of their assessment via written notice (email is preferable). The Floodplain Administrator shall maintain a copy of all proposed project notifications and responses.

2. GIFD permit does NOT include the following types of development activities and projects:
- a. Fill, except as outlined in the examples below;
 - b. new construction, or replacements that do not meet the in-kind definition;
 - c. activities or projects that trigger any requirement found in the local floodplain management or NFIP regulations; and
 - d. activities or projects that increase flood damage and/or increase exposure to flood hazards.

3. GIFD permit activities and projects:

- a. Dredging and grading of irrigation and drainage channels, provided that fill from dredging or grading is not deposited on the banks of channels or anywhere within the regulatory floodway or SFHA for longer than 10 days.
 - b. Seasonal grading within natural stream channels to check or direct water into irrigation facilities (i.e. earthen "push-up dams" and "wing dams").
 - c. Deposition of fill within the SFHA for less than 10 days. After 10 days, deposited fill must be removed from the SFHA, or graded and compacted to existing grade within ± 0.2 feet. Deposition of fill includes deposition of material resulting from grading or excavating irrigation or drainage channels. Deposition of fill within the mapped floodway requires an individual permit.
 - d. Construction of new underground utilities that do not permanently alter the topography. Excess soil from new pipes larger than 2 feet in diameter must be disposed of outside the regulatory floodway and SFHA.
 - e. In-kind replacement of irrigation and drainage works or components including but not limited to control gates or head gates, measuring devices and their housing structures/stilling wells, culverts, pumps, pipes, flumes, siphons and similar works. GIFD permits cannot authorize the In-kind replacement of dams or bridge structures.
 - f. New driveways, trails, sidewalks, roads and streets constructed completely at-or-below existing grade.
 - g. New underground utilities that do not permanently alter the existing grade elevations by ± 0.5 feet.
 - h. Armoring, stabilizing, securing, or in-kind replacement of existing infrastructure within the channel banks (such as bridge piers, sewer/utility supports and storm water/sewer drainage outfalls/headwalls) provided the dimensions (bank slopes, channel location, channel elevation) of the channel are not altered. This should not involve replacement with larger or additional above ground infrastructure.
4. Floodplain Development Permits: An individual permit is required for all other permitted activities and projects within the regulatory floodway and SFHA that do not meet the requirements of a GIFD permit.

17.88.120: ENFORCEMENT AND PENALTIES FOR VIOLATION:

A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

B. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall 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 (6) months. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Ketchum from taking such other lawful actions as is necessary to prevent or remedy any violation.

C. The provisions of this article shall be enforced by one or more of the following methods:

1. Requirements of floodplain development permit;