

CHAPTER 7

FLOODPLAIN OVERLAY DISTRICT (FP) REGULATIONS

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9-7-1: **AUTHORITY:** These regulations are authorized by Idaho Code section 67-6518. (Ord. 133, 8-9-2007)

9-7-2: **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 and health;
- B. To minimize expenditure of public money and 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 blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- I. To meet federal requirements so Shoshone County may participate in the national flood insurance program; and
- J. To protect and preserve natural resources and environmental qualities. (Ord. 133, 8-9-2007)

9-7-3: **METHODS OF REDUCING FLOOD LOSSES:** In order to accomplish its purposes, this chapter includes methods and provisions for:

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

- F. Requiring adherence to the site disturbance ordinance for erosion and sediment control and storm water management. (Ord. 133, 8-9-2007)

9-7-4: **DEFINITIONS:** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application. Where in conflict with section 9-2-2 of this title, the following definitions will control for the enforcement of standards in this chapter:

**ACCESSORY
STRUCTURES:**

Low cost buildings that do not exceed one thousand (1,000) square feet, such as detached garages, boathouses, small pole barns, carports, gazebos, and storage sheds, not to be used for human habitation, shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; shall be anchored to prevent flotation which may result in damage to other structures; service utilities such as electrical and heating equipment shall be elevated or floodproofed.

APPEAL:

A request for a review of the county administrator's interpretation of any provision of this chapter to the county planning and zoning commission.

**AREA OF SHALLOW
FLOODING:**

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

**AREA OF SPECIAL
FLOOD HAZARD:**

The land in the floodplain within a community 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.

BASE FLOOD:	The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.
BASE FLOOD ELEVATION (BFE):	The computed elevation by statistical analysis of stream flow records for the watershed and rainfall and runoffs in the general region of the watershed to which floodwater is anticipated to rise during the base flood as designated or approved by FEMA.
BASEMENT:	Any area of the building, including a crawl space, having its floor subgrade (below ground level) on all sides.
CRAWL SPACE:	An enclosed area below the base flood elevation. Crawl space height in areas of special flood hazard shall not exceed four feet (4') and the crawl space cannot be below grade on all four (4) sides.
CRITICAL FACILITY:	A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, daycares, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
DEVELOPMENT:	Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, and removal or replanting of vegetation operations located within the area of special flood hazard.
DEVELOPMENT PERMIT:	Permit required from the county before any development shall occur within an area of special flood hazard.
ELEVATED BUILDING:	A nonbasement building which has its lowest floor raised above ground level by foundation

walls, shear walls, posts, piers, pilings, or columns.

**EXISTING
MANUFACTURED
HOME PARK OR
SUBDIVISION:**

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

**FLOOD INSURANCE
RATE MAP (FIRM):**

The official map on which the federal insurance administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE
STUDY:**

The official report provided by the federal insurance administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

**FLOOD OR
FLOODING:**

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOODPLAIN:

A plain bordering a stream or river that is subject to flooding as designated or approved by FEMA.

FLOODWAY:

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1'). Floodways are delineated on FEMA maps.

**LETTER OF MAP
AMENDMENT (LOMA):**

An official amendment, by letter, to an effective NFIP map. A LOMA establishes a property's location in relation to the special flood hazard area (SFHA). LOMAs are usually issued

because a property has been inadvertently mapped as being in the area of special flood hazard, but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

**LETTER OF MAP
REVISION (LOMR):**

FEMA's modification to an effective flood insurance rate map (FIRM), or 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. All requests for changes to effective maps, other than those initiated by FEMA, must be made in writing by the chief executive officer (CEO) of the community or an official designated by the CEO. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LOWEST FLOOR:

The floor of the lowest enclosed area (including a basement). For the purpose of elevation, the top of the lowest floor is the top of the subfloor or the top of a concrete slab. A crawl space is not considered a building's lowest floor, provided, that such enclosure is less than four

feet (4') in height, and is at or above grade (ground level) on at least one side.

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 site for greater than one hundred eighty (180) consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION:

A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots, spaces or sites for rent or sale.

NEW CONSTRUCTION:

For the purposes of this chapter, any improvement to any property for which the start of construction commenced on or after the effective date hereof, including, but not limited to, new structures and improvements to existing structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION:

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date hereof.

ORDINARY HIGH WATER MARK:

The boundary of water basins, watercourses, public waters, and public waters wetlands, and:

A. The ordinary high water level is an elevation delineating the highest water level that has been maintained for sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;

- B. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- C. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- PARKING LOT:** Area designed and designated for the temporary parking of vehicles. Surface to be at ground level and constructed of concrete or asphalt.
- PERSONAL PROPERTY:** Items that will be moved by floodwaters including, but not limited to, porta-potties, rafts, boats, tires, barrels, buckets, temporary storage buildings, firewood, picnic tables, etc.
- RECREATIONAL VEHICLE:** A vehicle, which is:
- A. Built on a single chassis;
 - B. Designed to be self-propelled or permanently towable by a light duty truck, and licensed and ready for highway use;
 - C. Attached to the site only with quick disconnect utilities and security devices;
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use with no attached additions. For the purposes of this definition, "temporary" is no more than one hundred eighty (180) days.
- RECREATIONAL VEHICLE PARKING PAD:** Area designed and designated for the temporary parking of a recreational vehicle. Surface to be at ground level and constructed of concrete or asphalt.
- REPETITIVE LOSS:** Flood related damages sustained by a structure, including, but not limited to, damage to skirting, foundation, or interior or exterior construction of the structure, on two (2) separate occasions

during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty five percent (25%) of the market value of the structure before damage occurred.

RIPARIAN BUFFER ZONE:

The interface of land and a flowing water body. Consisting of grasses, brush, shrubs, and trees. To be a width of a minimum of twenty five feet (25').

START OF CONSTRUCTION:

The first placement of permanent construction (includes substantial improvement) of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, and 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.

STRUCTURE:

Anything constructed or erected, above the ground, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, gazebos, carports, mobile homes, gas or liquid storage tanks, walls, fences (being 30 percent solid or more) and billboards, of any size.

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 as determined by a certified appraiser.

SUBSTANTIAL IMPROVEMENT:

A. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure (accumulative within a 5 year period) as determined by a certified appraiser:

1. Before the improvement or repair is started; or

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

B. This term does not, however, include:

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

2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

TECHNICAL REVIEW COMMITTEE:

A technical review and advisory committee selected by and serving at the pleasure of the administrator consisting of agencies and experts in fields relevant to a given application. The committee members may include, but may not be limited to, engineers, technicians, fire departments, law enforcement, school districts, hospitals, Panhandle health district, and any state or federal agencies, and any other specialists deemed appropriate by the administrator.

VARIANCE:

For the purposes of this chapter, a grant of relief from the requirements of this chapter

which permits construction in a manner that would otherwise be prohibited by this chapter.

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

WATERCOURSE: Any seasonal or perennial body of water that includes, but is not limited to, rivers, ana-branches, streams, brooks, lakes, and ponds. (Ord. 133, 8-9-2007)

9-7-5: GENERAL PROVISIONS:

- A. **Lands To Which This Chapter Applies:** This chapter shall apply to all areas of special flood hazard within the jurisdiction of the county. (Ord. 133, 8-9-2007)
- B. **Basis For Establishing Areas Of Special Flood Hazard:** The areas of special flood hazard identified by the federal insurance administration is a scientific and engineering report entitled "The Flood Insurance Study For The County Of Shoshone", dated September 28, 2008, with accompanying flood insurance maps and is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the Shoshone County Courthouse, Wallace, Idaho. (Ord. 137, 8-19-2008)
- C. **Compliance:** 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.
- D. **Abrogation And Greater Restrictions:** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlay, whichever imposes the more stringent restrictions shall prevail.
- E. **Warning And Disclaimer Of Liability:** The degree of flood protection required by this chapter 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 chapter shall not create liability on the part of the county, an officer or employee

thereof, or the federal insurance administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

- F. Interpretation And Application: In the interpretation and application of this chapter, all provisions shall be:
1. Considered as minimum requirements;
 2. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 133, 8-9-2007)

9-7-6: **ADMINISTRATION OF PROVISIONS:**

- A. Administrative Authority: The board of county commissioners shall appoint an administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.
- B. Duties And Responsibilities Of County Administrator: Duties of the county administrator shall include, but not be limited to:
1. Permit Review:
 - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
 - b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection 9-7-8D of this chapter are met.
 2. Review And Use Of Other Base Flood Data: When base flood elevation data has not been provided in accordance with subsection 9-7-5B, "Basis For Establishing Areas Of Special Flood Hazard", of this chapter, the county administrator may 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 9-7-8B, "Specific Standards", and D, "Floodways", of this chapter.

3. Obtain And Maintain Information:

a. Where base flood elevation data is provided through the flood insurance study or required as in subsection B2 of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures:

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

(2) Maintain the floodproofing certifications required in subsection 9-7-7B3 of this chapter.

c. Maintain for public inspection all records pertaining to the provisions of this chapter.

4. Alteration Of Watercourses: Any alteration of watercourses will be carried out in accordance with all applicable federal, state, and local regulations and all necessary permits shall be obtained with copies provided to Shoshone County.

The following are required before an alteration of any watercourse:

a. Notify adjacent property owners within one-half ($1/2$) mile upstream and downstream from the project boundaries, any affected communities, the state of Idaho department of water resources, and the U.S. army corps of engineers prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal insurance administration and Shoshone County.

b. Require compliance with state and federal regulations for maintenance within the altered or relocated portion of such watercourse so that the flood carrying capacity is not diminished.

The provisions of this section do not apply to the routine removal of debris or navigational hazards.

5. Interpretation Of FIRM Boundaries: Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 9-7-9 of this chapter. (Ord. 133, 8-9-2007)

9-7-7: DEVELOPMENT PERMIT:

- A. Permit Required: A development permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for all structures, including, but not limited to, manufactured homes, and for all development.
- B. Application For Permit: Application for a development permit shall be made on forms furnished by the county administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimension, and elevation of the area in question; location and dimensions of existing and proposed structures, fill, storage of materials and drainage facilities. Elevations shall be established by an elevation certificate certified by a professional land surveyor. All applicable sections of the application form shall be completed in order for the application to be deemed complete. Specifically, the following information, among other items, is required:
1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
 2. Elevation in relation to mean sea level to which any structure has been floodproofed.
 3. Certification by a licensed professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 9-7-8B of this chapter.
 4. Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development.
- C. Fee Required: Permit fee shall be submitted to the administrator as adopted from time to time by resolution of the board of county commissioners. (Ord. 133, 8-9-2007)

9-7-8: PROVISIONS FOR FLOOD HAZARD REDUCTION:

- A. General Standards: In all areas of special flood hazards 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.

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 FEMA's "Manufactured Home Installation In Flood Hazard Areas" guidebook for additional techniques.)

2. Construction Materials And Methods:

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

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

c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. Floodway road material to be six inch minus (6"-), compacted to a minimum twelve inch (12") depth or asphalt complying with "Highway And Street Guidelines For Design And Construction". Floodplain road material to be four inch minus (4"-), compacted to a minimum six inch (6") depth or asphalt complying with "Highway And Street Guidelines For Design And Construction". Roads to be constructed at the natural existing grade.

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 and approved by Panhandle health district to minimize or

eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

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

d. All new and replacement water supply systems, new and replacement sanitary sewage systems, and on site waste disposal systems must be approved by Panhandle health district or Idaho department of environmental quality as appropriate, prior to issuance of a development permit.

e. All new and replacement propane tanks, oil tanks, or containers used for the storage of any other substances shall be designed to minimize or eliminate infiltration of floodwaters and secured to prevent movement due to floodwaters.

4. Residential Subdivision Proposals: These provisions do not apply to parcels existing prior to the effective date hereof.

a. All subdivision proposals shall be consistent with the need to minimize flood damage, and compliant with all FEMA standards.

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

c. All subdivision proposals shall have adequate drainage provided to reduce flood damage.

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for all subdivision proposals and other proposed developments. Base flood elevation shall be determined by a qualified professional engineer. All costs incurred are the responsibility of the applicant.

e. All lots along rivers must have one or more sides a minimum of two hundred feet (200') of water frontage along the ordinary high water mark, excluding the south fork of the Coeur d'Alene River between the cities of Pinehurst and Mullan.

f. A vegetative riparian buffer zone of a minimum of twenty five feet (25') shall be preserved along with any high water channels and wetland areas. All riparian buffers are determined on current site

conditions by the technical review committee. In the event of any removal or loss of vegetation it shall be reestablished.

g. All plats shall identify the floodway/floodplain delineation and the ordinary high water mark and be labeled as "public trust land", riparian areas, and high water channels.

5. Recreational Subdivision Proposals: These provisions do not apply to parcels existing prior to the effective date hereof.

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

b. All subdivision proposals shall have adequate drainage provided to reduce flood damage.

c. Recreational vehicles shall be limited to one per acre. A special use permit issued by the board of county commissioners is required for additional recreational vehicles for periods over seven (7) days.

d. Structures or items of personal property, excluding permitted structures, shall be removed from November 1 through March 31 of each calendar year or when floodwaters threaten to encroach the property.

e. Structures of any size in the floodplain require proper permitting from the proper authorities.

f. Any recreational subdivision intended for recreational vehicles is required to provide either a septic and drain field or dump station. Systems must be compliant with the state of Idaho requirements.

g. A vegetative riparian buffer of a minimum of twenty five feet (25') shall be preserved along with any high water channels and wetland areas. All riparian buffers are determined on current site conditions by the technical review committee. In the event of any removal or loss of vegetation it shall be reestablished.

h. All lots along rivers must have one or more sides a minimum of three hundred feet (300') of water frontage along the ordinary high water mark, excluding the south fork of the Coeur d'Alene River between the cities of Pinehurst and Mullan.

i. All plats shall identify the ordinary high water mark and be labeled as "Public Trust Land", riparian areas, and high water channels.

6. Review Of Building Permits: Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') above grade in these zones may result in higher insurance rates.

B. Specific Standards: In all areas of special flood hazard where base flood elevation data has been provided as set forth in subsection 9-7-5B or 9-7-6B2 of this chapter, the following provisions are required:

1. Residential Construction:

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to two feet (2') above base flood elevation or higher.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or must meet or exceed the following minimum criteria:

(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.

(2) The bottom of all openings shall be no higher than one foot (1') above grade.

(3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters (FEMA technical bulletin 11-01).

(4) For crawl space construction refer to FEMA technical bulletin 11-01.

c. Residential construction shall not be allowed in the floodway without FEMA compliance.

2. Nonresidential Construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the county administrator.

Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection B1 of this section.

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).

Nonresidential structures shall not be allowed in the floodway without FEMA compliance.

3. 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 and/or any electrical or mechanical equipment of the manufactured home is two feet (2') above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection A of this section. (Ord. 133, 8-9-2007)

4. Recreational Vehicles¹: Recreational vehicles placed on sites are required to either:

a. Be on site for fewer than one hundred eighty (180) consecutive days; and

b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

c. Meet the requirements of subsection B3 of this section and the elevation and anchoring requirements for manufactured homes. (Ord. 138, 9-22-2008)

5. Riparian Buffer: The natural vegetative riparian buffer shall be preserved. In the event of any removal or loss it shall be reestablished.

6. Erosion Prevention: All property within the floodplain shall be vegetated or otherwise covered so as to prevent erosion and preserve water quality from November 1 to March 31 of each calendar year or when floodwaters threaten to encroach the property. (Ord. 133, 8-9-2007; amd. Ord. 138, 9-22-2008)

C. AE And A1-30 Zones With Base Flood Elevations But No Floodways²: In areas with base flood elevations (but regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. (Ord. 138, 9-22-2008)

D. Floodways: Located within areas of special flood hazard established in subsection 9-7-5B of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. 44 CFR 60.3 (c)(14).

2. 44 CFR 60.3 (c)(10).

1. Prohibit encroachments, including fill, new construction, substantial improvements, structure replacement, and other development. This section shall not apply to the construction of parking lots or RV pads as defined in section 9-7-4 of this chapter and with FEMA as appropriate.

2. Items of personal property, excluding permitted structures, shall be removed from November 1 through March 31 of each calendar year. Additionally, items of personal property, excluding permitted structures, shall be removed when floodwaters threaten to encroach the property regardless of the time of year.

E. Standards For Shallow Flooding Areas (AO Zones): Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one foot (1') to three feet (3') where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

1. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated three feet (3') above the highest adjacent grade of the building site, or two feet (2') above the depth number specified on the FIRM.

2. New construction and substantial improvements of nonresidential structures and accessory structures within AO zones shall either:

a. Have the lowest floor (including basement) elevated one foot (1') above the highest adjacent grade of the building site, to or one foot (1') above the depth number specified on the FIRM.

b. Be completely floodproofed, including attendant utility and sanitary facilities, to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (If this method is used, compliance shall be certified by a registered professional engineer or architect as provided in subsection B of this section.)

3. Require adequate drainage paths on slopes to guide floodwaters around and away from proposed structures. (Ord. 133, 8-9-2007; amd. Ord. 138, 9-22-2008)

9-7-9: VARIANCE AND APPEAL PROCEDURE:

- A. **Appeal:** When it is alleged there is an error in any requirements, decision, or determination made by the county administrator in the enforcement or administration of this chapter, an appeal may be submitted to the county planning and zoning commission within fifteen (15) days of the decision or determination. Those aggrieved by the decision of the planning commission may appeal such decision in accordance with the requirements of section 9-15-3 of this title.
- B. **Variance:** Procedures for variance shall be in conformity with chapter 15 of this title.
- C. **Criteria For Consideration:** In passing upon applications for appeal and variance, the planning and zoning commission and board of commissioners shall consider all technical evaluations, all relevant factors and standards specified in other sections of this chapter and:
1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger to life and property due to flooding or erosion damage.
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 4. The importance of the services provided by the proposed facility to the community.
 5. The necessity to the facility of a waterfront location.
 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 7. The compatibility of the proposed use with existing and anticipated development.
 8. The proposed use is consistent with the applicable comprehensive plan and ordinances of Shoshone County.
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

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

D. Conditions For Variance:

1. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the national register of historic places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.

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

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

4. Variances shall only be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship to the applicant; and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public as identified in this chapter, or conflict with existing local laws or ordinances.

5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation, that such construction below the base flood level increases risks to life and property, and that the county is not liable for any flood damages that result. Such notification shall be maintained with the record of the variance action. (Ord. 133, 8-9-2007)

9-7-10: **PENALTIES:**

- A. **Power Of Prosecuting Attorney:** The prosecuting attorney may, in addition to taking whatever criminal action is deemed necessary, take steps to civilly enjoin any violation of this title.
- B. **Penalty:** Penalty for failure to comply with, or which violate, the provisions of this title shall be as follows:
1. **Misdemeanor:** Violation of any of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor punishable by a fine of not more than three hundred dollars (\$300.00), imprisonment not to exceed thirty (30) days, or both.
 2. **Continuing Violation:** Each day such violation continues shall be considered a separate offense.
 3. **Separate Offense:** The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense.
 4. **Additional Remedies:** Nothing herein contained shall prevent the board or any other public official or private citizen from taking such other lawful action as is necessary to restrain or prevent any violation of this title or the Idaho Code. (Ord. 133, 8-9-2007)