

CHAPTER 11 CLARK COUNTY AND THE CITY OF DUBOIS, CITY OF SPENCER FLOODPLAIN ORDINANCE

1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

A. Statutory Authority

The Legislature of the State of Idaho in I.C. 46-1020, 46-1023, and 46-1024, authorizes local government to adopt floodplain management ordinance that identifies floodplains and that sets forth minimum development standards to minimize flood hazards and protect human life, health and property. Therefore, Clark County Board of County Commissioners and Dubois and Spencer City Councils of the County of Clark, Idaho does hereby ordain as follows:

B. Findings of Fact

1. The flood hazard areas of Clark County and the Cities of Dubois and Spencer are subject to periodic inundation that results in
 - a. loss of life and property;
 - b. health and safety hazards;
 - c. disruption of commerce and governmental services;
 - d. extraordinary public expenditures for flood relief and protection; and
 - e. impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses may be caused by development in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
3. Local government units have the primary responsibility for planning, adopting and enforcing land use regulations to accomplish proper floodplain management.

C. Statement of Purpose

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

1. Protect human life, health and property;
2. Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
4. Minimize expenditure of public money for costly flood control projects;
5. Minimize the need for rescue and emergency services associated with flooding, generally undertaken at the expense of the general public;

6. Minimize prolonged business interruptions;
7. Ensure potential buyers are notified the property is in an area of special flood hazard;
8. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Objectives and Methods of Reducing Flood Losses

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

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

2.0 GENERAL PROVISIONS:

A. Lands to Which This Ordinance Applies

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Clark County and the Cities of Dubois and Spencer. Nothing in this Ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance.

B. Basis for Area of Special Flood Hazard

The Special Flood Hazard Areas identified by the Federal Insurance Administrator in a scientific and engineering report titled "Flood Insurance Study (FIS) for National Flood Insurance Program (NFIP) with accompanying Flood Insurance Rate Maps (FIRM) dated September 24, 1984, and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM is on file at the offices of the City of Dubois, 332 W. Main Street and Clark County Clerk, 224 West Main Street.

C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article IV Section B.

D. Compliance

No Structure of land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions

The ordinance shall not in any way repeal abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, etcetera. However, where this ordinance and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

F. Interpretation

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body, and;
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Clark County, the City of Dubois, and the City of Spencer or by any officer or thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder.

H. Penalties for Violation

No structure of land shall hereafter be located, extended, converted, or altered unless in full compliance with the terms of this ordinance and other applicable regulations.

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 \$100.00 or imprisoned for not more than 180 days, or both. Each day the violation continues shall be considered a separate offense. **Nothing herein contained shall prevent Clark County and the cities of Dubois and Spencer from taking such other lawful actions as is necessary to prevent or remedy any violation.**

3.0 ADMINISTRATION:

A. Designation of Floodplain Ordinance Administrator

The Clark **County Emergency Management Coordinator** is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this ordinance.

B. Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied and all proposed development is reasonably safe from flooding.
2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State, and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
3. 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). (*This is the LOMC procedure*)
4. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained; (*This is a Hydraulic & Hydrology Analysis*)
5. 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, in accordance with the provisions of Article IV, Section C.3.
6. Obtain and maintain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article IV, Section C.3.
7. Review plans to verify public utilities are constructed in accordance with the provisions of Article V, Section A.5-7.
8. When floodproofing is utilized for a particular structure, obtain and maintain certifications from a registered professional engineer or architect in accordance with the provisions of Article IV, Section C.3. and Article V, Section B.2.
9. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Area make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
10. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Article III, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data available from a Federal, State, or other source, including data developed pursuant to Article V, Section C.2., in order to administer the provisions of this ordinance.

11. 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.
12. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
13. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped.
14. 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.
15. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community.
16. Follow through with corrective procedures of Article IV, Section D.
17. Review, provide input, and make recommendations for variance requests.
18. 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 your community's mapping needs.
19. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
20. A community's floodplain 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.
21. 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 FHBM's and FIRM's 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.

C. Floodplain Development Application, Permit and Certification Requirements

Application for a Floodplain Development Permit shall be made to the Planning and Zoning Administrator on forms furnished by the administrator or the administrator's designee prior to starting development activities. Specifically, the following information is required:

1. Application Requirements.

- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development including: the nature, location, dimensions, and elevations of the area of development; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
- b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area
- c. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-33) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures will be required prior to Certificate of Occupancy/Completion.
- d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation, or on columns/posts/piers/piles/shear walls); and
 - ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article V, Section A.8.b when solid foundation perimeter walls are used in Zones A.
- e. Usage details of any enclosed areas below the lowest floor.
- f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- g. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
- h. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Article V, Section B.5 and 6 of this ordinance are met.
- i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and

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

- b. Floodproofing Certificate. If non-residential floodproofing is used to meet the Flood Protection Elevation requirements, design plans, with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the lowest floor and all attendant utilities, in relation to mean sea level. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan.
 - c. If a manufactured home is placed within Zone A and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required.
 - d. If a watercourse is to be altered or relocated, the following shall all be submitted by the permit applicant prior to issuance of a floodplain development permit:
 - i. a description of the extent of watercourse alteration or relocation; and
 - ii. a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and
 - iii. a map showing the location of the proposed watercourse alteration or relocation; and
 - iv. an Idaho Stream Channel Alteration Permit approval shall be provided by the applicant to the Floodplain Administrator.
 - e. Certification Exemptions. The following structures, are exempt from the elevation/floodproofing certification requirements specified in items a. and b. of this subsection:
 - i. Recreational Vehicles meeting requirements of Article V, Section B.5.a;
 - ii. Temporary Structures meeting requirements of Article V, Section B.6; and
 - iii. Accessory Structures less than 200 square feet meeting requirements of Article V, Section B.7.
4. Determinations for Existing Buildings and Structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, improvements, repairs of damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
- a. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

- b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the adopted Idaho Building Code and this ordinance is required.

D Corrective Procedures

1. **Violations to be Corrected.** When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
2. **Actions in Event of Failure to Take Corrective Action.** If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a. that the building or property is in violation of the floodplain management regulations;
 - b. that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - c. that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
3. **Order to Take Corrective Action.** If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more **than one hundred eighty (180)** calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
4. **Appeal.** Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

4. Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

E Variance Procedures

1. **The Planning and Zoning Commission as established by Clark County**, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
2. Variances may be issued for:
 - a. the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - b. functionally dependent facilities, if determined to meet the definition as stated in Article II of this ordinance, provided provisions of Article IV, Section E.8.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
 - c. any other type of development, provided it meets the requirements of this Section.
3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - a. the danger that materials may be swept onto other lands to the injury of others;
 - b. the danger to life and property due to flooding or erosion damage;
 - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. the importance of the services provided by the proposed facility to the community;
 - e. the necessity to the facility of a waterfront location as defined under Article II of this ordinance as a functionally dependent facility, where applicable;
 - f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 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; and
 - k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- 4. The applicant shall include a written report addressing each of the above factors in Article IV, Section E.3.a-k with their application for a variance.
- 5. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- 6. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- 7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administrator and the State of Idaho upon request.
- 8. Conditions for Variances:
 - 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 not be issued within any designated floodway if the variance would result in any increase in flood levels during the base flood discharge.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued prior to development permit approval.
 - e. Variances shall only be issued upon:
 - i. a showing of good and sufficient cause;
 - ii. a determination that failure to grant the variance would result in exceptional hardship; and
 - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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

- a. The use serves a critical need in the community.
- b. No feasible location exists for the use outside the Special Flood Hazard Area.
- c. The lowest floor of any structure is elevated or floodproofed to at least the Flood Protection Elevation.
- d. The use complies with all other applicable Federal, State and local laws.

10. Clark County 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.

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

4.0 PROVISIONS FOR FLOOD HAZARD REDUCTION:

A. General Standards

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

1. All new construction, substantial improvements, and development shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. 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.
3. All new construction, substantial improvements, and development shall be constructed by methods and practices that minimize flood damages.
4. 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.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
6. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. A fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor used solely for parking, access, and storage shall:
 - a. be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and
 - b. include, in Zones A, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - iv. The bottom of all required flood openings shall be no higher than one (1) foot above the interior or exterior adjacent grade;
 - v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or flood resistant wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.
10. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, or stream setback, provided there is no additional encroachment below the Flood Protection Elevation in the floodway, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

11. 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 Article IV, Section E.9. 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 Article IV, Section C.3.
12. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage and determined to be reasonably safe from flooding.
13. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
14. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
15. 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.
16. 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.
17. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
18. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

Section B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article III, Section B, or Article V, Section D, the following provisions, in addition to the provisions of Article V, Section A, are required:

1. **Residential Construction.** New construction, substantial improvements, and development of any residential structure (including manufactured homes) shall have the lowest floor,

including basement, elevated no lower than the Flood Protection Elevation, as defined in Article II of this ordinance.

2. Non-Residential Construction. New construction, substantial improvements, and development of any commercial, industrial, or other non-residential structure shall have the lowest floor, including basement, elevated no lower than the Flood Protection Elevation, as defined in Article II of this ordinance. Structures located in Zones A may be floodproofed to the Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article IV, Section C.3, along with the operational plan and the inspection and maintenance plan.
3. Manufactured Homes.
 - a. New and replacement manufactured homes shall be elevated so that the lowest floor of the manufactured home is no lower than the Flood Protection Elevation, as defined in Article II of this ordinance.
 - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the Idaho Division of Building Safety's "Idaho Manufactured Home Installation Standard" in accordance with Idaho Code § 44-2201(2). Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - c. All enclosures or skirting below the lowest floor shall meet the requirements of Article V, Section A.8.(a)(b).
 - d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
4. Additions/Improvements.
 - a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are
 - i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure; or

- ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - b. Additions to non-compliant post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
 - c. Additions and/or improvements to non-compliant post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are
 - i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; or
 - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- 5. Recreational Vehicles. Recreational vehicles shall be either:
 - a. Temporary Placement.
 - i. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (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); or
 - b. Permanent Placement.
 - i. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction, as set forth in Article V, Section A.
- 6. 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.

7. 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 Article IV, Section C.3, 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 Article V, Section A.1;
- f. All utility equipment and machinery, such as electrical, shall be installed in accordance with the provisions of Article V, Section A.4; 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 Article V, Section A.8.
- h. Accessory structures not used solely for parking, access, and storage must be elevated per Article V. Section B.1. and 2.

An accessory structure with a footprint less than 200 square feet and is a minimal investment of \$10,000 and satisfies the criteria outlined in a - g above is not required to provide the elevation certificate per Article V, Section B.2.

8. 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, elevated above-ground tanks, and not elevated above-ground tanks, in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement; and
- b. 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.

9. Construction of Below-Grade Crawlspace.

- a. The interior grade of a crawlspace must not be below the BFE and must not be more than two (2) feet below the exterior lowest adjacent grade (LAG).

- b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four (4) feet at any point.
- c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.
- d. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

See Technical Bulletin 11 for further information.

Caution:

Buildings that have below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation of the crawlspace soil at or above the Base Flood Elevation (BFE).

Section C. Standards for Floodplains without Established Base Flood Elevations

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

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 Article V, Sections 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 Article V, Sections B and E.
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 Article III, Section B 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. (Optional)*
See FEMA 480 and/or FEMA 265 for further information
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, as defined in Article II. All other applicable provisions of Article V, Section B shall also apply.

5. LEGAL STATUS PROVISIONS

A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance

This ordinance, in part, comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted November 24, 1984 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit, or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Clark enacted on {adoption date of the community's initial Flood Damage Prevention Ordinance}, as amended, which are not reenacted herein are repealed.

B. Effect upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance. Provided, however, that when construction is not begun under such outstanding permit within a period of 180 days subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

C. Severability

The ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

D. Effective Date

This ordinance shall become effective {insert date; based upon adoption, or a specific date; or passage and publication as provided by law}.

Enacted by the Board of County Commissioners and the cities of Dubois and Spencer as an ordinance of Clark County on the ____ day of _____, 201__.

Approved by Board of County Commissioners on the ____ day of _____, 201__.

BOARD OF COMMISSIONERS OF CLARK COUNTY, IDAHO

Greg Shenton, Chairman

Nick Hillman, Member

Macoy Ward, Member

ATTEST:

Judith Martinez, Clark County Clerk