

Chapter 4

ADMINISTRATION

SECTION:

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12-4-1: **Designation of Floodplain Ordinance Administrator**

The Cassia County Zoning and Building Mapper hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

12-4-2: **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.
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 Chapter 4, Section 12-4-3(C).

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 Chapter 4, Section 12-4-3(C).
7. Review plans to verify public utilities are constructed in accordance with the provisions of Chapter 5, Section 12-5-1 (E-G).
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 Chapter 4, Section 12-4-3(C) and Chapter 5, Section 12-5-2(B).
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 chapter.
10. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Chapter 3, Section 12-3-2, 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 Chapter 5, Section 12-5-3(B), in order to administer the provisions of this ordinance.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.

16. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community.
17. Follow through with corrective procedures of Chapter 4, Section 12-4-4.
18. Review, provide input, and make recommendations for variance requests.
19. 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 Chapter 3, Section 12-3-2 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.
20. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
21. 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.
22. 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.

12-4-3:

Floodplain Development Application, Permit, and Certification Requirements

- A. Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 1. 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;

2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area
 3. 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.
 4. 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 Chapter 5, 12-5-1(H)(2) when solid foundation perimeter walls are used in Zones A.
 5. Usage details of any enclosed areas below the lowest floor.
 6. 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.
 7. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
 8. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Chapter 5, Section 12-5-2 (E) and (F) of this ordinance are met.
 9. 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
 - i. A map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation. (*This is a Hydraulic & Hydrology Analysis, & may involve the LOMC procedure*)
- B. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
1. A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, rip-rap, docks, grading, paving, excavation or drilling operations, or storage of equipment or materials, etcetera).

2. The Special Flood Hazard Area determination for the proposed development.
3. The Flood Protection Elevation required for the lowest floor and all attendant utilities.
4. The Flood Protection Elevation required for the protection of all utility equipment and machinery.
5. All certification submittal requirements with timelines.
6. The flood openings requirements.
7. All floodplain development permits shall be conditional upon the start of construction of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has commenced as per the Start of Construction definition. Such permit may be extended, at the discretion of the floodplain administrator, in the event of circumstances beyond the control of the permittee.
8. Fully enclosed areas below the lowest floor are usable solely for parking of vehicles, building access, or storage.
9. All materials below BFE/FPE must be flood resistant materials.

C. Certification Requirements.

1. Elevation Certificates

- i. A Construction Drawings Elevation Certificate (FEMA Form 86-0-33) is 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 elevation of the lowest floor, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- ii. A Building Under Construction Elevation Certificate (FEMA Form 86-0-33) is required after the lowest floor is established. 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 as determined by the datum as used by the FIRM Panel. 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. 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.

- iii. 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. 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.

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 12-4-3. 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" × 3". Digital photographs are acceptable.

2. 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.
3. 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.

4. 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.
 5. 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 Chapter 5, Section 12-5-2(E)(1);
 - ii. Temporary Structures meeting requirements of Chapter 5, Section 12-5-2(F); and
 - iii. Accessory Structures less than 200 square feet meeting requirements of Chapter 5, Section 12-5-2(G).
- D. 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:
1. 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;
 2. 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;
 3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

4. 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.

12-4-4:

Corrective Procedures

- A. **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.
- B. **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:
 1. that the building or property is in violation of the floodplain management regulations;
 2. 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
 3. that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- C. **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.
- D. **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.

- E. 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.

12-4-5: **Variance Procedures**

- A. The Board of County Commissioners for Cassia County, Idaho, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- B. 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 Chapter 2 of this ordinance, provided provisions of Chapter 4, Section 12-4-5(H)(2),(3), and (4), 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.
- C. 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:
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 as defined under Chapter 2 of this ordinance as a functionally dependent facility, where applicable;
 6. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. the compatibility of the proposed use with existing and anticipated development;
 8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 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 and the effects of wave action, if applicable, expected at the site; and
 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. The applicant shall include a written report addressing each of the above factors in Chapter 4, Section 12-4-5(C)(1-11) with their application for a variance.
- E. 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.
- F. Any applicant to whom a variance is granted shall be given written notice 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.
- G. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.
- H. Conditions for Variances:
1. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 2. 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.
 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 prior to development permit approval.
 5. 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.
- I. 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.
- J. Cassia 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.
- K. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Idaho Code 67-6535.