

Gooding County Floodplain Ordinance No. 108

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Gooding County Floodplain Ordinance

ORDINANCE NO. 108

AN ORDINANCE ESTABLISHING FLOOD DAMAGE PREVENTION REGULATIONS FOR UNINCORPORATED GOODING COUNTY AND REPEALING GOODING COUNTY ORDINANCE NO. 33; ESTABLISHING PURPOSE AND AUTHORITY; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; PROVIDING FOR ADMINISTRATION AND THE AUTHORITY OF THE ADMINISTRATOR; ADOPTING SUBDIVISION, CONSTRUCTION, MANUFACTURED HOME, AND FLOODWAY STANDARDS; PROVIDING VARIANCE AND APPEAL PROCESSES AND CRITERIA; PROVIDING THAT A VIOLATION IS A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000), OR IMPRISONMENT FOR A TERM NOT EXCEEDING SIX (6) MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENTS; PROVIDING SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

IT IS ORDAINED by the Board of County Commissioners, Gooding Idaho as follows:

I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

A. Statutory Authority

The Legislature of the State of Idaho in I.C. 46-1020 through I.C. 46-1024, authorized local government units to adopt a floodplain map and floodplain management ordinance that identifies floodplains and that sets forth minimum development requirements in floodplains that are designed to promote the public health, safety, and general welfare of its citizenry.

B. Findings of Fact

The flood hazard areas of Gooding County are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- (1) These flood losses are caused by structures 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.
- (2) Local government units have the primary responsibility for planning, adoption and enforcement of 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) Require that development that 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 uses 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.

D. Objectives

The objectives of this ordinance are 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 and generally undertaken at the expense of the general public;
- (6) Minimize prolonged business interruptions.

II. DEFINITIONS [terms in bold are mandatory for inclusion]

Unless specifically defined in Article II, words or phrases used in this ordinance shall be interpreted according to the meaning they have in common usage.

“Accessory structure” means a structure on the same lot or parcel as a principal structure, the use of which is incidental and subordinate to the principal structure. An insurable building should not be classified as an accessory or appurtenant structure.

“Area of shallow flooding” means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of special flood hazard” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zone designations on FIRMs include the letters A, AE, V. Also known as the Special Flood Hazard Area (SFHA).

“**Base Flood**” means the flood having a one percent chance of being equaled or exceeded each year. Also known as the “Regulatory Flood.”

“**Base Flood Elevation (BFE)**” means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest .1 foot.

“**Basement**” means the portion of a structure including crawlspace with its floor sub grade (below ground level) on all sides.

“**Building**” see “Structure.”

“**Development**” means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

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

“**Federal Emergency Management Agency (FEMA)**” is the agency with the overall responsibility for administering the National Flood Insurance Program.

“**Flood**” or “**flooding**” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) the overflow of inland or tidal waters; or
- (b) the unusual and rapid accumulation or runoff of surface waters from any source.

“**Flood Fringe**” means the portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

“**Flood Insurance Rate Map (FIRM)**” means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

“**Flood Insurance Study (FIS)**” means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.

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

“**Flood Proofing**” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Flood Protection Elevation (FPE)” means an elevation that corresponds to the elevation of the one percent (1%) chance annual flood (base flood), plus any increase in flood elevation due to floodway encroachment, plus any required freeboard which in Gooding County is two (2) additional feet.

“Floodway” - see “Regulatory Floodway”

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

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

“Historic Structure” means a structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior, or
- (d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

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

Letter of Map Amendment (LOMA)

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

Letter of Map Revision (LOMR)

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

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR

does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

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

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

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

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement) used for living purposes, which includes working, storage, cooking and eating, or recreation, or any combination thereof. This includes any floor that could be converted to such a use including a basement or crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor. The lowest floor is a determinate for the flood insurance premium for a building, home or business.

“Manufactured Home” means a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Home” does not include a “Recreational Vehicle.”

“Regulatory Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

“Substantial improvement” means reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage”, regardless of the actual amount of repair work performed. The term does not include either:

- (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

- (b) Alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

“Variance” is a grant of relief by the governing body from a requirement of this ordinance.

III. GENERAL PROVISIONS

A. Lands to Which This Ordinance Applies

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Gooding County. 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 Emergency Management Agency in its Flood Insurance Study (FIS) for Gooding County, with accompanying Flood Insurance Rate Maps (FIRM), effective date June 19, 1985, or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the office of the Gooding County Clerk, Gooding County Courthouse, Gooding, Idaho.

C. 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.

D. 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 Gooding County or by any officer or employee thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder.

IV. ADMINISTRATION

A. Designation of Floodplain Ordinance Administrator

The Planning & Zoning Administrator is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this ordinance.

B. Permit Requirements

For development within Gooding County proposed within an area of special flood hazard, an elevation certificate may be required. This will include both the pre-construction form and the post-construction “as-built” form.

See also “Construction Standards,” Article V(B) for structural requirements.

At the discretion of the Floodplain Administrator, additional information including, but not limited to, the following may be required:

- (a) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities.
- (b) Elevation in relation to the Flood Protection Elevation, or highest adjacent grade, of the lowest floor level, including crawlspaces or basement, of all proposed structures;
- (c) Elevation to which any non-residential structure will be flood-proofed; as-built certification of the floor elevation or flood-proofing level, using appropriate FEMA elevation or flood-proofing certificate, immediately after the lowest floor or flood-proofing is completed. When flood-proofing is utilized for non-residential structures, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- (d) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria in Article V(F)(2);
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.

Failure to submit requirements or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

C. Duties and Responsibilities of the Administrator

Duties of the Floodplain Administrator shall include, but shall not be limited to:

- (1) Require elevation certificates for development within an area of special flood hazard.
- (2) Work with the building official to ensure construction standards for structures built within an area of special flood hazard are met.
- (3) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this ordinance.
- (4) When Base Flood Elevations or other current engineering data are not available, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site will be reasonably safe from flooding.
- (5) Obtain, and record the actual elevation in relation to the vertical datum on the effective FIRM, or highest adjacent grade, of the lowest floor level, including basement, of all new construction or substantially improved structures within the area of special flood hazard.
- (6) Obtain, and record the actual elevation, in relation to the vertical datum on the effective FIRM to which any new or substantially improved structures within an area of special flood hazard have been flood-proofed.
- (7) When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect.
- (8) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

- (9) All records pertaining to the provisions of this ordinance shall be maintained in the office of the county clerk or his/her designee and shall be open for public inspection.

V. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. Subdivision Standards

The following standards apply to development within Gooding County proposed within an area of special flood hazard.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision preliminary plats/development plans shall include the mapped flood hazard zones from the effective FIRM.
- (3) Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less.
- (4) All subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
- (5) All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

B. Construction Standards

The design and construction of buildings and structures located in an area of special flood hazard shall be in accordance with International Building Code and/or International Residential Code, whichever is applicable.

C. Manufactured Home Standards

The installation of manufactured homes within an area of special flood hazard shall be in accordance with the Idaho Manufactured Home Installation Standards, as provided by the Idaho State Division of Building Safety and/or the Manufactured Home Installation Standards provided by FEMA P-85, Second Edition, November 2009 or subsequent editions.

D. Accessory Structures

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 200 square feet. Such a structure must meet the following standards:

- (1) It shall not be used for human habitation;
- (2) It shall be constructed of flood resistant materials;
- (3) It shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- (4) It shall be firmly anchored to prevent flotation;
- (5) Services such as electrical and heating equipment shall be elevated or flood-proofed to or above the Flood Protection Elevation;
- (6) It shall meet the opening requirements of Article V(B)(4).

E. Floodway Standards

A project proposed within the regulatory floodway will need approval from the relevant state and federal regulatory agencies, including but not limited to the Idaho Department of Water Resources, the Idaho Department of Lands, the United States Army Corps of Engineers and the Federal Emergency Management Association.

F. Standards for Zones with Base Flood Elevations

In Special Flood Hazard Areas designated A1-30, AE, AH, A (with estimated BFE), the following provisions are required.

- (1) New residential construction and substantial improvements
Where base flood elevation data are available, new construction or substantial improvement of any residential structure or manufactured home shall have the lowest floor, including basement, constructed at or above the community's Flood Protection Elevation. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Article V(B)(4).
- (2) Non-Residential Construction
New construction or the substantial improvement of any non-residential structure located in zones A1-30, AE, or AH must be flood-proofed if the new construction or improvement is not elevated. The structure and attendant utility and sanitary facilities, must be designed to be water tight to the Flood Protection Elevation or to one (1) foot above the base flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A licensed professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these provisions, and shall provide certification to the Administrator.
- (3) Where the floodway has not been determined, no new construction, substantial improvements, or other development (including fill) shall be permitted in Zones A1-30 and AE on the effective FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. Applicants of proposed projects that increase the base flood elevation more than one foot are required to obtain and submit to the Floodplain Administrator, a Conditional Letter of Map Revision (CLOMR) preconstruction.
- (4) Post construction, the applicant must apply to FEMA for a Letter of Map Revision for changes to the flood hazard map proposed in the CLOMR.
- (5) In AH Zones, drainage paths shall be provided to guide flood water around and away from proposed and existing structures.

G. Standards for Zones Without Base Flood Elevations and/or Floodway (A Zones)

These standards apply in Special Flood Hazard Areas where streams exist but no base flood elevation data have been provided (A Zones), or where base flood data have been provided but a floodway has not been delineated.

- (1) When base flood elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, then the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer this ordinance. If data are not available from any source, **only** then provisions 2 and 3 shall apply.
 - (a) Where the floodplain administrator has obtained base flood elevation data, applicants of proposed projects that increase the base flood elevation more than one foot shall

obtain a Conditional Letter of Map Revision preconstruction and a Letter of Map Revision post construction.

- (2) No encroachments, including structures or fill, shall be located within thirty-five (35) feet of a natural waterway, measured from the ordinary high water mark, unless certification by a licensed professional engineer documents that the encroachment will not result in any increase in flood levels during the base flood.
- (3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement or crawlspace) elevated **no less than two feet above the highest adjacent grade** at the building site. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Articles V (B) and (C).

H. Standards for Areas of Shallow Flooding (AO Zones)

Shallow flooding areas designated AO Zones, are Areas of Special Flood Hazard that have base flood depths of one to three feet, with no clearly defined channel. The following provisions apply.

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the adjacent grade at least as high as the flood depth number specified in feet on the Flood Insurance Rate Map (FIRM). If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet (2) above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Article V(B)(4).
- (2) New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure and attendant utility and sanitary facilities must be designed to be water tight to the specified base flood level or at least two (2) feet above highest adjacent grade, with walls substantially impermeable to the passage of water, and 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 design and methods of construction are in accordance with accepted standards of practice for meeting these provisions, and shall provide certification to the Floodplain Administrator.
- (3) Drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

VI. VARIANCE AND APPEAL PROCEDURES

A. Variance

- (1) An application for a variance must be submitted to the Floodplain Administrator on the form provided by Gooding County and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.
- (2) Upon receipt of a completed application for a variance, the variance request will be set for public hearing at the next Planning & Zoning Commission meeting in which time is available for the matter to be heard.
- (3) Prior to the public hearing, Notice of the hearing will be published in the official newspaper of Gooding County at least 15 days prior to the hearing. In addition to the newspaper publication, written notice shall be provided to all adjoining property owners.

- (4) The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

B. Criteria for Variances

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
- (2) Variances shall not be issued within a 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 may be issued upon;
 - (a) A showing by the applicant of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances.
- (5) Variances pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods.

C. Variance Decision

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the Flood Protection Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

D. Appeals

The Planning & Zoning Commission shall hear and decide appeals from the interpretations of the Administrator.

- (1) An appeal must be filed with the office of the Planning & Zoning Commission within fourteen (14) days of the date of any permit denial or interpretation of the Administrator. Failure to timely file an appeal shall be considered a failure to exhaust the administrative remedies. The appeal must set out the interpretation of the Administrator and a narrative setting forth the facts relied upon by the appellant and the appellant's claim regarding the error in the interpretation.
- (2) Upon receipt of a completed appeal, the appeal will be scheduled for the next available Planning & Zoning Commission meeting to be heard. The Planning & Zoning Commission shall consider the following in ruling on an appeal:
 - (a) All technical evaluations, all relevant factors, standards specified in other sections of this ordinance, including:
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual landowner;
 - iv. The importance of the services provided by the proposed facility to the community;

- v. The necessity of the facility to a waterfront location, where applicable;
- vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- xi. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- xi. The cost of providing government 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.

E. Decision

The Planning & Zoning Commission's decision on appeal shall be in writing and set out the facts, technical information and the legal basis for the decision.

VII. PENALTIES FOR VIOLATION

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

The Prosecuting Attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this ordinance. Penalties for failure to comply with, or violations of, the provisions of this ordinance shall be as follows:

A. The Administrator or his designee is authorized to enforce the provisions of this ordinance. It shall be deemed a violation of this ordinance to construct any building, structure or improvement for the purpose of establishing any land use contrary to the requirements of this ordinance, to violate any express prohibition or exceed any express limitation contained in the text or exhibits of this ordinance or to use any land, building, or premises, contrary to the provisions of this ordinance, contrary to the terms or conditions of a permit, variance or in a manner contrary to the terms and conditions established by the Board. Violations of this ordinance are hereby declared to be unlawful and subject to the penalties established by this section and by other provisions of law.

B. Penalties: Failure to comply with any provision or requirement of this ordinance or terms or conditions of permits shall be deemed a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonments. In the discretion of the Administrator, any violation of this ordinance may be charged as an infraction, subject to a fine alone in an amount not to exceed the limits established by state law. The Administrator may elect to pursue enforcement by filing criminal charges, pursuing enforcement by charging as infraction and/or by proceeding in any form of civil legal action related to any violation of this ordinance deemed likely to achieve compliance. Each day a violation continues may be considered a separate offense. Any landowner, tenant, subdivider, or builder who commits, participates in, assists in or maintains such violation shall be guilty of a violation. Nothing contained in this ordinance shall prevent any other public official or affected person from taking such lawful action as is necessary to restrain or prevent any violation of this ordinance.

NOTICE IS HEREBY GIVEN pursuant to Title 67, Chapter 65 of Idaho Code, of the adoption of a Floodplain Ordinance by Gooding County, Idaho. The Ordinance will be formally identified and cited as Gooding County Floodplain Ordinance No. 108. Summary follows:

GOODING COUNTY FLOODPLAIN ORDINANCE NO. 108

AN ORDINANCE ESTABLISHING FLOOD DAMAGE PREVENTION REGULATIONS FOR UNINCORPORATED GOODING COUNTY AND REPEALING GOODING COUNTY ORDINANCE NO. 33; ESTABLISHING PURPOSE AND AUTHORITY; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; PROVIDING FOR ADMINISTRATION AND THE AUTHORITY OF THE ADMINISTRATOR; ADOPTING SUBDIVISION, CONSTRUCTION, MANUFACTURED HOME, AND FLOODWAY STANDARDS; PROVIDING VARIANCE AND APPEAL PROCESSES AND CRITERIA; PROVIDING THAT A VIOLATION IS A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000), OR IMPRISONMENT FOR A TERM NOT EXCEEDING SIX (6) MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENTS; PROVIDING SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

EFFECTIVE DATE

Gooding County Board of Commissioners approved the Ordinance September 21, 2015, and it will be in full force and effect upon publication of this Notice.

STATEMENT OF ADEQUACY

The Summary of Ordinance No. 108 for the County of Gooding, Idaho, is a true and complete summary and provides adequate notice to the public pursuant to Title 67, Chapter 65 of Idaho Code.

A full and complete text is available at the Gooding County Clerk's Office, 624 Main Street, Gooding, Idaho, in the Gooding County Courthouse. Office Hours are 7:30 A.M. to 5:30 P.M., Monday through Thursday.

PUBLICATION

A summary of the Ordinance is published in the *Times-News* within one (1) month after adoption and implementation on September 21, 2015.

BOARD OF COUNTY COMMISSIONERS OF GOODING COUNTY

/s/, Helen Edwards, Chairman

/s/, Wayne Chandler, Commissioner

/s/, Marc Bolduc, Commissioner

ATTEST:

/s/ Denise Gill, Clerk

Pub.: October 1, 2015

ORDINANCE 108
FLOODPLAIN ORDINANCE

The summary published, October 1, 2015, is true and complete and provides adequate notice to the public.

/s/ Denise M. Gill

Denise M. Gill
Gooding County Clerk

C. Abatement Proceedings: Agency legal counsel or his designee may commence action or proceedings for the abatement of any violation of this ordinance as a nuisance in the manner provided by law, and may apply to such court or courts as may have jurisdiction to grant relief as to abate, terminate and remove unlawful uses, buildings or structures, and restrain and enjoin any person, firm, or corporation from setting up, erecting, building, maintaining, or using any building, structure, vehicle, or property contrary to the provisions of this ordinance or to any permits or authorizations issued pursuant to this ordinance.

VIII. 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.

IX. REPEAL OF CONFLICTING PROVISIONS

This ordinance shall not in any way impair or remove the necessity of compliance with any other laws, ordinances, regulations, etc. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall control.

X. EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as provided by law.

Approved by the Board of County Commissioners as an ordinance of Gooding County on the 21st day of September 2015.

Chairman, Helen Edwards



Commissioner Marc Bolduc



Commissioner Wayne Chandler



ATTEST to by: 
County Clerk Denise Gill