

ORDINANCE NO. 103

AN ORDINANCE OF THE CITY OF PONDERAY, BONNER COUNTY, IDAHO, ESTABLISHING A FLOOD DAMAGE PREVENTION ORDINANCE AND FINDINGS OF FACT TO ESTABLISH PURPOSES AND OBJECTIVES AND METHODS OF REDUCING FLOOD LOSSES; ADOPTION OF THE FLOODPLAIN MAPS, PROVIDING PENALTIES, REPEALING ORDINANCE NO 7-5 AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

Section 1.0-Statutory Authorization, Findings of Fact, Purpose and Objectives

STATUTORY AUTHORIZATION

The Legislature of the State of Idaho has in statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry (IC46-1020 through IC 46-2024). Therefore, the City Council of the City of Ponderay, Bonner County, Idaho does ordain to adopt a floodplain map and floodplain ordinance that any development in a floodplain must be constructed at a flood protection elevation and/or have adequate flood proofing as follows:

FINDINGS OF FACT

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

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

STATEMENT OF PURPOSE

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

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;

- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provision for:

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

SECTION 2.0-DEFINITIONS

Unless specifically defined below, terms or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ACCESSORY STRUCTURES: means low cost buildings that do not exceed 500 square feet, such as detached 2-car garages, boathouses, small pole barns and storage sheds, not to be used for human habitation, shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; shall be anchored to prevent floatation which may result in damage to other structures; services utilities such as electrical and heating equipment shall be elevated or flood-proofed.

APPEAL: a request for a review of the Local Administrator's interpretation of any provision of this ordinance or request for a variance.

AREA OF SHALLOW FLOODING: designated as AO, or AH Zone on the Flood Insurance Rate Map (FIRM). AO zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard Flood Protection Elevations.

AREA OF SPECIAL FLOOD HAZARD: is the land the flood plain within a community subject to a one percent(1%) or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD: the flood having 1% chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”), designated on Flood Insurance Rate Maps by the letters A or V.

BASEMENT: means any area of the building having its floor sub-grade (below ground level) on all sides.

CRITICAL FACILITY: means any facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

DEVELOPMENT: means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operation or storage of equipment or materials.

ELEVATION CERTIFICATE: means the official from (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by Community Officials.

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (installation of utilities, the construction of streets and either final site grading or pouring of concrete pads).

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 and/or
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM): means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS): means the official report provided by the Federal Insurance Administration that includes profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOOD PROTECTIVE ELEVATION (FPE): means an elevation that shall correspond to the elevation of the one percent (1%) chance (one hundred [100] flood) plus any increased flood elevation due to floodway encroachment, plus required freeboard. For the regulatory purposes of this ordinance the flood protection elevation is Base Flood Elevation plus 3 feet (BFE+3') along Sand Creek north of the highway 2 bridge, and Base Flood Elevation plus 1-foot (BFE+1') in all other flood hazard areas.

FLOODWAY: the channel of the river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

INCREASED COST OF COMPLIANCE: A flood insurance claim payment up to \$30,000 directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of "substantial damage" or as a result of a "cumulative substantial damage."

LOWEST FLOOR: means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2), (i.e. provided there are adequate flood ventilation openings).

MANUFACTURED HOME: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOMEPARK OR SUBDIVISION: means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION: means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

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

RECREATIONAL VEHICLE: means a vehicle which is built on a single chassis 400 square feet or less when measured at the largest horizontal projection; Designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REPETITIVE LOSS: means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.

REGULATORY FLOOD: is a flood determined to be representative of large floods known to have occurred Idaho and which may be expected to occur on a particular stream because of like physical characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any given year there is one percent (1%) chance that a regulatory flood may occur or be exceeded.

START OF CONSTRUCTION: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

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 the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: means any 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 term does not, however, include either:

- A. Any project for improvement of a structure of 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. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE: means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

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

SECTION 3.0-GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORNDINACE APPLIES

This ordinance shall apply to all areas of special flood hazards and riparian areas adjacent to areas of special flood hazard within the jurisdiction of the City of Ponderay, Idaho.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard indentified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for Bonner County, Idaho and Incorporated Areas" dated November 18, 2009, with an accompanying Flood Insurance Rate Map (FIRM), are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and the FIRM are on file at the Ponderay City Hall, Ponderay, Idaho. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 4.3-2.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), 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 three hundred (\$300.00) or imprisoned for not more than 180 days, or both, for each violation, and in addition shall pay all costs and expenses

involved in the case. Nothing herein contained shall prevent the City of Ponderay from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

3.6 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 on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance shall not create liability on the part of the City of Ponderay, Idaho, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

3.7 SERVERABILITY

If any section, clause, sentence, or phase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION 4.0-ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.1-1 DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "*Definitions*," and for all development including fill and other activities, also set forth in the "*Definitions*."

4.1-2 APPLICATION FOR DEVELOPMENT PERMIT

Application for development permit shall be made on forms furnished by the City of Ponderay and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed

structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Elevation is relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 81-31) with Section B completed by local official.
- B. Elevation is in relation to mean sea level to which any structure has been flood proofed;
- C. Certification by a registered professional engineer or architect that the flood proofing methods for any non residential structure meet flood proofing criteria in Section 5.2-2.
- D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The City of Ponderay, Idaho will appoint the City Planning Director to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES & RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Planning Director shall include, but not be limited to:

4.3-1 PERMIT REVIEW

- A. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- B. Review proposed development to assure that necessary permits have been obtained from governmental agencies.
- C. Review all development permits to determine if the proposed development will increase Base Flood Elevations more than one (1) foot. If Base Flood Elevations increase more than one (1) foot, require a FEMA Conditional Letter of Map Revision (CLOMR) before construction begins and Letter of Map Revision (LOMR) for as-built conditions.
- D. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.4 (1) are met. If a floodway encroachment is permitted that increases Base Flood Elevations, require a Conditional Letter of Map Revision (CLOMR) before construction begins and Letter of Map Revision (LOMR) for as built conditions.

4.3-2 USE OF OTHER BASE FLOOD DATE (IN A ZONES)

When Flood Protection Elevation data has not been provided (in A Zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review, and reasonably utilize any Flood Protection Elevation and floodway data available from a Federal, State, or other source, in order to administer Sections 5.2, SPECIFIC STANDARDS, and 5.4 Floodways.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- A. Where Flood Protection Elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, verify and record the actual (as-built) elevation (in relation to mean sea level regulatory floor level) of the lowest floor (including basement) of all new construction or substantially improved structures, and whether or not the structure contains a basement. Record on a current elevation certificate (FF 81-31) with Section B completed by the local official.
- B. For all new or substantially improved flood proofed nonresidential structures where Flood Protection Elevation data is provided through the FIS, FIRM, or as required in Section 4.3-2:
 - 1) Verify and record the elevation (in relation to mean sea level) to which and new or substantially improved structures have been flood proofed
 - 2) Maintain the flood proofing certifications required in Section 4.1-2(C). When flood proofing is utilized, certification of design criteria from a registered professional engineer or architect is required.
 - 3) Require engineering certification (as-built information) as to the constructed Flood Protection Elevation.
- C. All records pertaining to the provisions of this ordinance shall be maintained at Ponderay City Planning office.

4.3-4 ALTERATION OF WATERCOURSES

- A. Notify adjacent communities and the Idaho Department of Water Resources Stream Channel Alteration coordinator prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- B. Assure flood carrying capacity of any altered or relocated waterway is maintained.

4.3-5 INTERPETATION OF FIRM BOUNDARIES

Where interpretation is needed as to exact location of the boundaries of the areas of special flood hazards (e.g. where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

4.4 VARIANCE PROCEDURE

4.4-1 Appeal Board

- A. The City Council of Ponderay, Idaho as established by ordinance shall hear and decide appeals and request for variance from the requirements of this ordinance.
- B. The City Council of Ponderay, Idaho shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this ordinance.

- C. Those aggrieved by the decision of the City Council of Ponderay, Idaho, or any taxpayer, may appeal such decision to the State District Court, as provided in the statues of the State of Idaho.
- D. In passing upon such applications, the City Council of Ponderay, Idaho, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - 1) The danger that materials may be swept into 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, where applicable;
 - 6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - 7) The compatibility of the proposed use with the existing and anticipated development;
 - 8) The relationship of the proposed use to the comprehensive plan and flood plain 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 flood waters 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 a sewer, gas, electrical, and water systems, and streets and bridges.

4.4-2 CONDITIONS FOR VARIANCES

- A. Generally, the only condition under which a variance from the elevation standards 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.
- B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 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 upon:
 - 1) A showing of good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - 3) A determination that the granting of a variance will not 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 or ordinances.

- E. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.
- F. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.4-2 (A), and otherwise complies with Sections 5.1-1, 5.1-3, and 5.1-4 of the GENERAL STANDARDS.

Any applicant to who a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the Flood Protection Elevation and that the cost of flood insurance will be commensurate with the increased risk.

SECTION 5.0-PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of Special Flood Hazard, the following provisions are required:

5.1-1 ANCHORING

- A. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movements of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top frame ties to ground anchors. For more detailed information, refer to guidebook FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

5.1-3 CONSTRUCTION MATERIALS AND METHODS

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. All electrical, heating, ventilation, plumbing, and 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 flooding. Locating such

equipment below the **Flood Protection Elevation** may cause annual flood insurance premiums to be increased.

5.1-4 UTILITIES

- A. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- B. Water wells shall be located in high ground that is not in the floodway;
- C. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- D. Onsite waste disposal systems shall be located and constructed to avoid impairment of function, or contamination from them, during flooding.

5.1-5 SUBDIVISION PROPOSALS

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities, such as sewer gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
- D. Where **Flood Protection Elevation** data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

5.1-6 REVIEW OF BUILDING PERMITS

Where flood protection elevations or other current engineering data are not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), the Floodplain Administrator shall obtain, review, and reasonably utilize scientific methods to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where **Flood Protection Elevation** data as set forth in Section 3.2, *BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD*, or Section 4.3-2, *USE OF OTHER BASE FLOOD DATA*, following provisions are required. For the regulatory purposes of this ordinance the flood protection elevation is Base Flood Elevation plus 3 feet (BFE+3') along Sand Creek north of the highway 2 bridge, and Base Flood Elevation plus 1-foot (BFE+1') in all other flood hazard areas.

5.2-1 RESIDENTIAL CONSTRUCTION

- A. Where flood protection data is available, any structure or manufactured home shall have the lowest floor, including basement, elevated to or above the **Flood Protection Elevation (FPE) elevation.**
- B. Elevated buildings with enclosed areas below the lowest floor that are subject flooding are prohibited, or shall be designed to equalize hydrostatic flood forces on exterior wall by allowing for the automatic entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - 1) A minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - 2) The bottom of all openings shall be no higher than one foot above grade.
 - 3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic flow of floodwater in both directions. Standard foundation vents as required by the ICB do not meet this standard.
 - 4) Below grade, crawlspaces are prohibited at sites where the velocity of floodwaters exceeds five (5) feet per second
 - 5) All building utility systems within the crawlspace shall be elevated above BFE or be designed so that floodwaters cannot enter or accumulate within the system component during flood
 - 6) The interior of a crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG) and the height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation must not exceed 4 feet at any point.
 - 7) Below grade, crawlspaces constructed in accordance with the requirements listed in this subsection shall not be considered basements. However, applicants who construct buildings that have below grade crawlspaces are hereby advised that such buildings will have higher flood insurance premiums than buildings that have crawlspaces with interior elevations at or above the lowest adjacent grade.
 - 8) Below grade unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment, or building access.
 - 9) Otherwise follow the guidelines of the latest version of FEMA TB 11-01 Crawlspace Construction for Buildings Located in Special Flood Hazard Areas: National Flood Insurance Program Interim Guidance for crawlspace construction.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the Flood Protection Elevation; or together with attendant utility and sanitary facilities shall:

- A. Be flood proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- C. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provision of this subsection based on their development and/or review of the structural design, specification and plans. Such certifications shall be provided to the official as set forth in Section 4.2;
- D. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2);
- E. Applicants who are flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one foot below) Flood proofing the building an additional 1-foot will reduce insurance premiums significantly.
- F. Otherwise follow guidelines of the latest version of FEMA TB 11-01 Crawlspace Construction for Buildings Located in Special Flood Hazard Areas: National Flood Insurance Program Interim Guidance for crawlspace construction.

5.2-3 MANUFACTURED HOMES

All or varied placement of manufactured homes in the floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the Flood Protection Elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.

5.2-4 RECREATIONAL VEHICLES

Recreational vehicles placed on sites are required to either:

- A. Be on the site for fewer than 180 consecutive days, (or)
- B. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- C. Meet the requirements of 5.2-3 above and the elevation and anchoring requirements for manufactured homes.

5.3 AE ZONES WITH FLOOD PROTECTION ELEVATIONS BUT NO FLOODWAYS

In areas with Flood Protection Elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5.4 FLOODWAYS

Located within the areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of

floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

5.4-1 PROHIBIT ENCROACHMENTS

Prohibit encroachments including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

5.4-2 STANDARDS APPLY

If Section 5.4-1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, *PROVISIONS FOR FLOOD HAZARD REDUCTION*

5.5 BUILDING STANDARDS FOR AREAS OF SHALLOW FLOODING (AO-ZONES)

Areas of Special Flood Hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. Such flooding is usually characterized as sheet flow. In these areas the following provisions apply:

- A. All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as depth number specified in feet on the community's Flood Insurance Rate Map (FIRM) or at least two feet if no depth number is specified. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 5.2-1.
- B. New construction or the substantial improvement of a non-residential structure may be flood proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood protection elevation, with wall 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; and,
- C. Drainage paths shall be provided to guide floodwater around and away from a proposed structure.
- D. AH Zone drainage - Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

5.6 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within SFHA shall have the lowest floor elevated three feet above **FPE** or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxins substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the **Flood Protection Elevation** shall be provided to all critical facilities to the extent possible.

SECTION 6.0-REPEAL

6.1 REPEAL OF PRIOR ORDINANCE

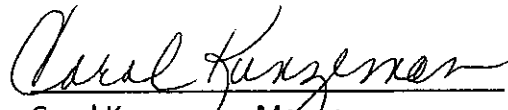
Ordinance No 7-5 of the City of Ponderay, Idaho enacted 1989 is hereby repealed.

SECTION 7.0-EFFECTIVE DATE


7.1 EFFECTIVE DATE

This ordinance shall take effect and be in full force on November 18nd, 2009; after passage, approval and publication prior to that date.

PASSED BY THE CITY COUNCIL FO THE CITY OF PONDERY, IDAHO AND APPROVED BY THE MAYOR this 17th of NOV 2009.


Carol Kunzeman, Mayor

ATTEST:


Su Warren, City Clerk