

TITLE 4 CHAPTER 7

FLOOD HAZARD AREAS

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4-7-1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

4-7-1-1: STATUTORY AUTHORIZATION: The Constitution of the State of Idaho has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare if its citizenry. In furtherance of which, the City Council of Albion, State of Idaho, does adopt these regulations.

4-7-1-2:FINDINGS OF FACT:

(A) The flood hazard areas of the City of Albion are subject to periodic inundation which results 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 and general welfare.

(B) 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.

4-7-1-3: 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 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;
and:

(H) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

4-7-1-4: METHODS OF REDUCING FLOOD LOSSES: In order to accomplish its purposes, this Chapter includes methods and provisions for:

(A) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

(B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(C) Controlling the alteration of natural 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 which will unnaturally divert flood waters or may increase flood hazards in other areas.

4-7-2: DEFINITIONS: Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

(A) APPEAL:

A request for a review of the City Council's interpretation of any provision of this ordinance or a request for a variance.

(B) AREA OF SHALLOW FLOODING:

A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

(C) AREA OF SPECIAL FLOOD HAZARD:

The land in the flood plain within the City 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.

(D) BASE FLOOD:

The flood having a one percent (1%) change of being equaled or exceeded in any given year. Also referred to as the 100 year flood. Designation on maps always includes the letters A or V.

(E) DEVELOPMENT:

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 operations located within the area of special flood hazard.

(F) FLOOD OR FLOODING:

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

(G) FLOOD INSURANCE RATE MAP (FIRM):

The official map on which the Federal Insurance Administration has delineated both the Areas of special flood hazards and the risk premium zones applicable to the community.

(H) FLOOD INSURANCE STUDY:

The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

(I) FLOODWAY:

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(J) LOWEST FLOOR:

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 Chapter.

(K) MANUFACTURED HOME:

A structure, transportable in one or more section, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

(L) MANUFACTURED HOME PARK OR SUBDIVISION:

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots

for rent or sale.

(M) NEW CONSTRUCTION:

Structures for which the "start of construction" commenced on or after the effective date of this Chapter.

(N) START OF CONSTRUCTION:

Includes substantial improvement, and means the date the building permit was issued, provided that 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 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 installation of streets and/or walkways; not does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(O) STRUCTURE:

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

(P) SUBSTANTIAL IMPROVEMENT:

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

(A) before the improvement or repair is started, or

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

The term does not, however, include either:

(A) any project for improvement of a structure to comply with the existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or

(B) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Q) VARIANCE:

A grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

4-7-3-1: LANDS TO WHICH THIS CHAPTER APPLIES: This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Albion.

4-7-3-2: BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:
The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Albion," dated August 15, 1983, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study is one file in the City Clerk's Office at the Albion City Hall.

4-7-3-3: 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. Violation 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 \$300.00 or imprisoned for not more than thirty (30) 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 Council from taking such other lawful action as is necessary to prevent or remedy any violation.

4-7-3-4: ABROGATION AND GREATER RESTRICTIONS: This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another Chapter, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

4-7-3-5: INTERPRETATION: In the interpretation and application of this Chapter, all provisions shall be:

(A) Considered as minimum requirements.

(B) Liberally construed in favor of the governing body.

(C) Deemed neither to limit nor repeal any other powers granted under State Statutes.

4-7-4-6: 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 Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Albion, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

4-7-4: ADMINISTRATION.

4-7-4-1: ESTABLISHMENT OF DEVELOPMENT PERMIT.

4-7-4-1.1: 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".

4-7-4-1.2: APPLICATION FOR DEVELOPMENT PERMIT: Application for a development permit shall be made on forms furnished by the City Building Inspector, and may include but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations 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 in relation to mean sea level, of the lowest floor (including basement) of all structures.

(B) Elevation in relation to mean sea level to which any structure has been floodproofed.

(C) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 5-4-2.

(D) Description of the extent to which a watercourse will be latered or relocated as a result of proposed development.

4-7-4-2: DESIGNATION OF THE CITY BUILDING INSPECTOR: The City Building Inspector is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4-7-4-3: DUTIES AND RESPONSIBILITIES OF THE CITY BUILDING INSPECTOR: Duties of the City Building Inspector shall include, but not be limited to:

4-7-4-3.1: PERMIT REVIEW:

(A) Review all development permits to determine that the permit requirements of this Chapter have been satisfied.

(B) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(C) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5-3 (A) are met.

4-7-4-3.2: USE OF OTHER BASE FLOOD DATA: When base flood elevation data has not been provided in accordance with Section 3-2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the City Building Inspector may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source in order to administer Sections 5-2 SPECIFIC STANDARDS, and 5-3 FLOODWAYS.

4-7-4-3.3: INFORMATION TO BE OBTAINED AND MAINTAINED:

(A) Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 4-3-2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, whether or not the structure contains a basement.

(B) For all new or substantially improved floodproofed structure:

1. verify and record the actual elevation (in relation to mean sea level).
2. maintain the flood proofing certifications required in Section 4-1(C).

(C) Maintain for public inspection all records pertaining to the provisions of this Chapter.

4-7-4-3.4: ALTERATION OF WATERCOURSES:

(A) Notify adjacent communities and the Idaho State Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(B) Required that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4-7-4-3.5: INTERPRETATION OF FIRM BOUNDARIES: Make interpretations where needed as to exact location of the boundaries of the areas of special flood hazards (for example, where there appear to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4-4.

4-7-4-4: VARIANCE PROCEDURE.

4-7-4-4.1: APPEALS BOARD:

(A) The City Council shall sit as an Appeal Board and shall hear and decide appeals and requests for variances from the requirements of this Chapter.

(B) The Appeals Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the City Building Inspector in the enforcement or administration of this Chapter.

(C) Those aggrieved by the decision of the Appeals Board, or any taxpayer, may appeal such

decision to the District Court of the Fifth Judicial District as provided in the Idaho Administrative Procedures Act.

(D) In passing upon such applications, the Appeals Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

1. the danger that materials may be swept onto other lands to the injury of others;
2. the danger to life and property due to flooding or erosion damage;
3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the necessity to the facility of a waterfront location, 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 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;
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.

(E) Upon consideration of the factors of Section 4-4.1(D) and the purposes of this Chapter, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

(F) The City Building Inspector shall maintain the records of all appeal actions and report any variance to the Federal Insurance Administration upon request.

4-7-4-4.2: CONDITIONS FOR VARIANCES:

(A) 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 lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1-11 in Section 4-4(D) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

(B) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places of the State Inventory of Historic Places, without regard to the procedures set forth in this Section.

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

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

(E) 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 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 as identified in Section 4-1.4(D), or conflict with existing local laws or ordinances.

(F) 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 the flood elevations should be quite rare.

(G) 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 Section 5-1.1 and 5-1.2 of the GENERAL STANDARDS.

(H) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

4-7-5: PROVISIONS FOR FLOOD HAZARD REDUCTION.

4-7-5-1: GENERAL STANDARDS: In all areas of special flood hazards, the following standards are required:

4-7-5-1.1: ANCHORING:

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(B) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

4-7-5-1.2: CONSTRUCTION MATERIALS AND METHODS:

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

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

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

4-7-5-1.3: UTILITIES:

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(B) New and replacement sanitary sewage system shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

(C) On-site waste disposal systems shall be located to avoid impairment of them or contamination from them during flooding.

4-7-5-1.4: 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 flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

(D) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).

4-7-5-1.5: REVIEW OF BUILDING PERMITS: Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 4-3.2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high water marks, photographs of past floodings, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

4-7-5-2: SPECIFIC STANDARDS: In all areas of special flood hazards where base flood elevation data has been provided 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, the following provisions are required:

4-7-5-2.1: RESIDENTIAL CONSTRUCTION:

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(B) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. 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 having a total net area of not less than one (1) square inch for every one (1) 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 entry and exit of floodwater.

4-7-5-2.2: 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 the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(A) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(B) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(C) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with the accepted standards of practice for meeting the structural design, specification and plans. Such certifications shall be provided to the official as set forth in Section 4-3.3(B).

(D) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5-4.1(B).

(E) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rated that are one foot below the floodproofing level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

4-7-5-2.3: MANUFACTURED HOMES: All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 5-1.1(B).

4-7-5-3: FLOODWAYS: Located within areas of special flood hazard established in Section 3-2 area areas designed as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood water which carry debris, potential projectiles, and erosions potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If Section 5-3(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5, PROVISIONS FOR FLOOD HAZARD REDUCTION.

4-7-6: SEPARABILITY: If any section, subsection, sentence, clause, phrase or portion of this Chapter is, for any reason, held invalid or held unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of any remaining portions.

