

**FLOOD DAMAGE PREVENTION  
ORDINANCE NO. 288**

**AN ORDINANCE OF THE CITY OF CLARK FORK, IDAHO REPLACING ORDINANCE NO. 255 KNOWN AS THE FLOOD DAMAGE PREVENTION ORDINANCE; PROVIDING STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES; PROVIDING DEFINITIONS; PROVIDING GENERAL PROVISIONS; PROVIDING ADMINISTRATION; PROVIDING PROVISIONS FOR FLOOD HAZARD REDUCTION; PROVIDING REPEALING OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING EFFECTIVE DATE AND APPLICATION.**

**WHEREAS** it has become necessary to rewrite the Flood Damage Prevention Ordinance to bring it into full compliance with the changed Federal Emergency Management Agency (FEMA) regulations and for participation in the National Flood Insurance Program (NFIP).

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CLARK FORK, IDAHO AS FOLLOWS:**

**SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSES AND OBJECTIVES**

**1.1 STATUTORY AUTHORIZATION**

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

**1.2 FINDINGS OF FACT**

- 1) The flood hazard areas of the City of Clark Fork are subject to periodic inundation which could 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.
- 2) 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 floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

**1.3 STATEMENT OF PURPOSE**

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

- 1) To protect human life and health;
- 2) To minimize expenditure of public money and costly flood control projects;
- 3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) To minimize prolonged business interruptions;
- 5) 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;
- 6) 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;
- 7) To ensure that potential buyers are notified that property is in an area of special flood hazard;
- 8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- 9) To establish floodplain zoning ordinances which require structures to be built at a flood protection elevation and/or with flood-proofing.

#### **1.4 METHODS OF REDUCING FLOOD LOSSES**

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

- 1) 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;
- 2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- 4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- 5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

### **SECTION 2.0 DEFINITIONS**

Unless specifically defined below, words 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 STRUCTURE” means low cost buildings that do not exceed five-hundred (500) square feet, such as detached 2-car garages, boathouses, storage sheds, and small pole barns, 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; service utilities such as electrical and heating equipment shall be elevated or flood-proofed.

“APPEAL” means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

“AREA OF SPECIAL FLOOD HAZARD” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

“BASE FLOOD” means the flood having a one percent chance of being equaled or exceeded in any given year.

“BASE FLOOD ELEVATION (BFE)” means a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Flood Protection Elevation.

“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides.

“CRITICAL FACILITY” means a 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 facilities 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, 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; and deposition or extraction of materials; specifically including the construction of dikes, berms and levees.

“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 the 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 (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“FLOOD” OR “FLOODING” means:

- 1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - i) The overflow of inland or tidal waters.
  - ii) The unusual and rapid accumulation or runoff of surface waters from any source.
  - iii) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph a.2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- 2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

“FLOOD FRINGE” is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

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

“FLOOD INSURANCE STUDY (FIS)” means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

“FLOODPLAIN” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“FLOODPLAIN MANAGEMENT” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

“FLOODPLAIN MANAGEMENT REGULATIONS” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“FLOODPROOFING” means any combination of structural and non-structural 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” in Clark Fork is the Base Flood Elevation-plus one-foot of freeboard.

“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.

“FREEBOARD” represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard shall compensate for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

“HISTORIC STRUCTURE” is a structure that is:

- 1) 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;
- 2) 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;
- 3) 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
- 4) 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.

“LOCAL GOVERNMENT” in the context of this ordinance, means any county or city having planning and zoning authority to regulate land use within its jurisdiction.

“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).

“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 HOME PARK 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 for floodplain management purposes, a structure for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Any construction started after January 12, 1982 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

“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 minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“PERSON” means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency or entity.

“RECREATIONAL VEHICLE” means a vehicle which is:

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“REGULATORY FLOOD” is a flood determined to be representative of large floods known to have occurred in 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 rain fall 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 a 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 stage 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 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. 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” means 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 fifty (50) percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent (50%) 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:

- 1) Any 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
- 2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure” and the alteration is approved by variance issued pursuant to this ordinance.

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

“VIOLATION” means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

## **SECTION 3.0 GENERAL PROVISIONS**

### **3.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Clark Fork, Idaho.

### **3.2 BASIS FOR ESTABLISHING THE AREA OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Insurance Administrator in the most current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Bonner County, Idaho and Incorporated Areas, dated July 7, 2014, with accompanying Flood Insurance Rate Map, (FIRM) dated November 18, 2009, are hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study and the FIRM are on file in the City Clerk's Office at 110 East Third Avenue, Clark Fork, Idaho. The Flood Protection Elevation is the Base Flood Elevation identified in the FIS, plus one foot of freeboard.

### **3.3 PENALTIES AND REMEDIES 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 one thousand (\$1,000.00) dollars or imprisoned for not more than six (6) months, 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 Clark Fork from taking such other lawful action as is necessary to prevent or remedy any violation. In the event the City prevails, the violator shall be responsible for all costs including a reasonable sum for attorney's fees.

### **3.4 ABROGATION AND GREATER RESTRICTIONS**

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:

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the governing body; and,
- 3) Deemed neither to limit or repeal any 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 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 ordinance shall not create liability on the part of the City of Clark Fork, any officer or employee thereof, or the Federal Insurance Administrator, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

## **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 as set forth in the "Definitions."



#### **4.1-2 APPLICATION FOR DEVELOPMENT PERMIT**

Application for a development permit in any special flood hazard area shall be made on forms furnished by the City of Clark Fork 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:

- 1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- 2) Elevation in relation to mean sea level to which any structure has been flood-proofed;
- 3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-3; and
- 4) 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 Mayor or designee is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### **4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR**

Duties of the Mayor or designee shall include, but not be limited to:

##### **4.3-1 PERMIT REVIEW**

- 1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- 2) 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.
- 3) 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(1) are met.

##### **4.3-2 USE OF OTHER BASE FLOOD DATA**

When Flood Protection Elevation (FPE) data has not been developed in accordance with Section 3.2, Basis for Establishing the Area of Special Flood Hazard, the Mayor shall obtain, review, and reasonably utilize any base flood and floodway data available from a Federal, State or other source, in order to administer Sections 5.2, Specific Standards, and 5.3 Floodways.

##### **4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED**

- 1) Where a Flood Protection Elevation is provided, (Section 4.3-2), obtain and record the actual (as built) elevation (in relation to mean sea level) of the lowest floor (including

basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

- 2) For all new or substantially improved nonresidential floodproofed structures where a Flood Protection Elevation, is provided, (Section 4.3-2):
  - i) Obtain, verify and record the actual elevation (in relation to mean sea level), to which the structure was floodproofed, and
  - ii) When flood-proofing is utilized, certification of design criteria from a registered professional engineer or architect is required.
  - iii) Require engineering certification (as-built information) as to the constructed Flood Protection Elevation.
- 3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### **4.3-4 ALTERATION OF WATERCOURSES**

- 1) Notify adjacent communities, the Idaho Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator.
- 2) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

**4.3-5** A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator (FIA) of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

**4.3-6** Upon occurrence, notify the Federal Insurance Administrator (FIA) in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all FHBM's and FIRM's accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority.

### **4.4 VARIANCE PROCEDURE**

#### **4.4-1 APPEAL BOARD**

- 1) The City Council as established by ordinance of the City of Clark Fork shall hear and decide appeals and requests for variances from the requirements of this ordinance.



- 2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- 3) Those aggrieved by the decision of the City Council or any taxpayer, may appeal such decision to a Court of Competent Jurisdiction as provided in Idaho Code 50-3.
- 4) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - 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 effect of such damage on the individual owner;
  - iv) The importance of the services provided by the proposed facility to the community;
  - v) The necessity to the facility of 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;
  - ix) The safety of access to the property in times of flood 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 costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems and streets and bridges.
- 5) Upon consideration of the factors of Section 4.4-1(4) and the purposes of this Ordinance, the Local Administrator may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
- 6) The City Clerk shall maintain the records of all appeal actions and shall report any variances to the Federal Insurance Administration upon request of the local administrator.

#### **4.4-2 CONDITIONS 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 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 (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

- 2) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- 3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- 4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 5) Variances shall only be issued upon:
  - i) A showing of good and sufficient cause;
  - ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - iii) A determination that the granting of a variance would 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 4.4-1(4), or conflict with existing local laws or ordinances.
- 6) 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.
- 7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.4-2(1), and otherwise complies with Sections 5.1-1 and 5.1-2 of the General Standards.
- 8) Any applicant to whom a variance is granted to construct a structure with a lowest floor below the base protection elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation and that such construction increases risks to life and property

## **SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **5.1 GENERAL STANDARDS.**

In all areas of special flood hazards, the following standards are required.



### **5.1-1 ANCHORING**

- 1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 2) 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.

### **5.1-2 CONSTRUCTION MATERIALS AND METHODS**

- 1) All new construction and substantial improvements shall be designed (or modified) and constructed with materials and utility equipment resistant to flood damage.
- 2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- 3) Electrical, heating, ventilation, plumbing, 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.

### **5.1-3 UTILITIES**

- 1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- 3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### **5.1-4 SUBDIVISION PROPOSALS AND OTHER PROPOSED NEW DEVELOPMENT**

- 1) All subdivision proposals and other proposed new development, including manufactured home parks or subdivision shall be consistent with the need to minimize flood damage;
- 2) All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- 3) All subdivision proposals and other proposed development shall have adequate drainage provided to reduce exposure to flood damage; and,
- 4) 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).

### **5.1-5 REVIEW OF BUILDING PERMITS**

Where elevation data is not available either through the Flood Insurance Study, FIRM, 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 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 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 has been established 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.

#### **5.2-1 RESIDENTIAL CONSTRUCTION**

- 1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least to the Flood Protection Elevation.
- 2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be used solely for parking, access or storage and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the 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:
  - i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - ii) The bottom of all openings shall be no higher than one foot above grade.
  - iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - iv) Below grade, crawlspaces are prohibited at sites where the velocity of floodwaters exceeds five (5) feet per second.
  - v) 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 elevation at or above the lowest adjacent grade.
  - vi) Below grade unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment, or building access.

#### **5.2-2 CONSTRUCTION OF BELOW GRADE CRAWLSPACES:**

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



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

*See Technical Bulletin 11 for further information:*

[https://www.fema.gov/sites/default/files/2020-07/tb\\_11\\_crawspace\\_construction\\_for\\_buildings\\_located\\_special\\_flood\\_hazard\\_areas.pdf](https://www.fema.gov/sites/default/files/2020-07/tb_11_crawspace_construction_for_buildings_located_special_flood_hazard_areas.pdf)

### **5.2-3 NONRESIDENTIAL CONSTRUCTION**

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

- 1) Be flood-proofed so that below one foot above the Flood Protection Elevation the structure is watertight with walls substantially impermeable to the passage of water;
- 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- 3) Be certified by a registered professional engineer that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.3-3(2)(ii);
- 4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2);

### **5.2-4 MANUFACTURED HOMES**

- 1) All manufactured homes to be placed or substantially improved within Zones AH and AE on the community's FIRM on sites:
  - i) Outside of a manufactured home park or subdivision;
  - ii) In a new manufactured home park or subdivision;
  - iii) In an expansion to an existing manufactured home park or subdivision; and
  - iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the Flood Protection Elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- 2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones AH and AE on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:
  - i) The lowest floor of the manufactured home is at or above the Flood Protection Elevation, or
  - ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

#### **5.2-5 RECREATIONAL VEHICLES**

Recreational vehicles placed on sites within Zones A and AE in the community's FIRM either must:

- 1) Be on site for fewer than 180 consecutive days, or
- 2) Be fully licensed and ready for highway use, be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- 3) Meet the requirements of 5.2-4 above and the elevation and anchoring requirements for manufactured homes.

#### **5.2-6 ACCESSORY STRUCTURES**

Construction or substantial improvement of accessory structures, as defined in Section 2.0, shall be elevated to the Flood Protection Elevation or must meet the following criteria:

- 1) A minimum of two (2) openings having 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 (1') above grade.
- 3) Openings may be equipped with screens, louvers, or other coverings provided they may permit the automatic entry and exit of floodwaters.
- 4) Structures should not be designed for human habitation.
- 5) Structures should be firmly anchored to prevent flotation which may result in damage to other structures.
- 6) Service facilities such as mechanical and electrical equipment shall be elevated above the Flood Protection Elevation.

### **5.3 FLOODWAYS**

Located within areas of special flood hazard established in Section 3.2 are areas designed as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:



- 1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment would not result in any increases in flood levels during the occurrence of the base flood discharge.
- 2) If Section 5.3(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.

#### **5.4 ENCROACHMENTS IN AREAS WITH BFEs WITHOUT FLOODWAYS**

The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

#### **5.5 CRITICAL FACILITIES**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-yr floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one (1) foot or more above the level of the Flood Protection Elevation 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. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Ingress and egress routes, elevated to or above the Flood Protection Elevation, shall be provided to all critical facilities to the extent possible.

### **SECTION 6.0 REPEAL OF CONFLICTING ORDINANCES**

Ordinance No. 255 entitled Flood Damage Prevention, enacted November 9, 2009, is repealed.

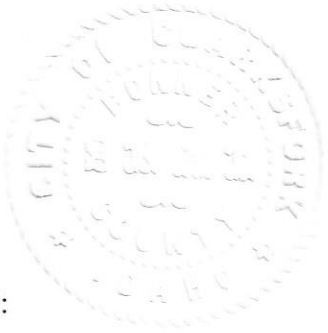
### **SECTION 7.0 SEVERABILITY**

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

### **SECTION 8.0 EFFECTIVE DATE AND PUBLICATION**


This Ordinance shall be in full force and effect following its approval, passage, and publication in one (1) issue of the Bonner County Daily Bee.

**PASSED AND APPROVED** as an Ordinance of the City of Clark Fork, Idaho at a Regular Meeting this 9th day of May, 2022.



  
Russell Schenck  
Mayor

ATTEST:

  
Amber Burgess  
City Clerk

CITY COUNCIL MEMBERS:

	YES	NO	ABSENT
Shari Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sharon Banning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jay White	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stanley Spanski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



SUMMARY OF ORDINANCE NO. 288  
ORDINANCE NO. 288, FLOOD DAMAGE PREVENTION

**SUMMARY:** The City of Clark Fork adopted Ordinance #288 on May 9, 2022, amending Clark Fork City Ordinance No. 255 by repealing the previously enacted Ordinance No. 255, *Flood Damage Prevention* hereby adopting a new Ordinance No. 255, *Flood Damage Prevention*. This ordinance provides statutory authorization, findings of fact, purposes, and objectives; provides definitions; outlines general provisions including applicable land areas and the basis for establishing the area of special flood hazard; provides violations as well as misdemeanor penalties; outlines abrogation and greater restrictions of other applicable legal functions; provides ordinance interpretation as well as warnings and disclaimer of liability; establishes administration authority including permit procedure; designates a local administrator and outlines their duties; provides procedure for variances including appeal boards and conditions for variances; provides provisions for flood hazard reduction including; sets specific standards for residential construction, construction of below grade crawl spaces, nonresidential construction, manufactured homes, recreational vehicles, and accessory structures; designates floodways; prohibits encroachments in areas with BFEs without floodways; outlines requirements for critical facilities; repeals conflicting ordinances; provides a severability clause; and sets an effective date upon publication of this summary.

The full text of Ordinance No. 288 is available for review at Clark Fork City Hall, 110 3<sup>rd</sup> Ave., Clark Fork, Idaho, during regular business hours and on the City of Clark Fork website. This summary shall be filed with the adopted ordinance.

  
Amber Burgess, City Clerk

Publish once in the Bonner County Daily Bee on May 20, 2022.

SUMMARY OF ORDINANCE NO. 288  
ORDINANCE NO. 288, FLOOD DAMAGE PREVENTION

**SUMMARY:** The City of Clark Fork adopted Ordinance #288 on May 9, 2022, amending Clark Fork City Ordinance No. 255 by repealing the previously enacted Ordinance No. 255, *Flood Damage Prevention* hereby adopting a new Ordinance No. 255, *Flood Damage Prevention*. This ordinance provides statutory authorization, findings of fact, purposes, and objectives; provides definitions; outlines general provisions including applicable land areas and the basis for establishing the area of special flood hazard; provides violations as well as misdemeanor penalties; outlines abrogation and greater restrictions of other applicable legal functions; provides ordinance interpretation as well as warnings and disclaimer of liability; establishes administration authority including permit procedure; designates a local administrator and outlines their duties; provides procedure for variances including appeal boards and conditions for variances; provides provisions for flood hazard reduction including; sets specific standards for residential construction, construction of below grade crawl spaces, nonresidential construction, manufactured homes, recreational vehicles, and accessory structures; designates floodways; prohibits encroachments in areas with BFEs without floodways; outlines requirements for critical facilities; repeals conflicting ordinances; provides a severability clause; and sets an effective date upon publication of this summary.

**CITY ATTORNEY REVIEW:**

The undersigned, City of Clark Fork legal counsel, having reviewed Ordinance No. 288 and the summary for the same, believes the summary is true and complete and that it provides adequate notice to the public of the identity, principal provisions, and effective date of the ordinance.

The full text of Ordinance No. 288 is available for review at Clark Fork City Hall, 110 3<sup>rd</sup> Ave., Clark Fork, Idaho, during regular business hours and on the City of Clark Fork website. This summary shall be filed with the adopted ordinance.



Britney Jacobs, Silver Valley Law  
Attorney for the City of Clark Fork

5/11/22

Date