

Reason for ordinance change:

The reason that this an ordinance change is proposed is three pronged:

1. Garden City must adopt the revised FEMA maps prior to June of 2020.
2. The proposed changes are consistent with the State of Idaho model ordinance and neighboring jurisdictions and will bring Garden City's floodplain code into conformance with FEMA's requirements.
3. Relocating the ordinance to Title 8-4H will remove the ordinance as an overlay and it will become a standard development regulation. Staff believes this to be a best practice. GCC 8-3A will need to be updated accordingly.

KEY

Strike through- changes to State model ordinance (make sure "All Markup" is on to review)

Blue- FEMA required phrasing

Comments to side for specific explanations or questions that need to be addressed through the hearing process

BY THE COUNCIL: BEAUMONT, HIGGINS, PAGE, SOUZA

AN ORDINANCE REPEALING GARDEN CITY CODE TITLE 8 (DEVELOPMENT CODE), CHAPTER 3 (OVERLAY ZONING DISTRICT REGULATIONS) ARTICLE B (FLOOD HAZARD) AND CREATING A NEW ORDINANCE GARDEN CITY CODE TITLE 8 (DEVELOPMENT CODE), CHAPTER 4 (DESIGN AND DEVELOPMENT REGULATIONS) ARTICLE H (FLOOD HAZARD) AND PROVIDING A NEW ORDINANCE CONCERNING ELIGIBILITY IN THE NATIONAL FLOOD INSURANCE PROGRAM; STATUTORY AUTHORITY, FINDINGS OF FACT, AND STATEMENT OF PURPOSE; DEFINITIONS; GENERAL PROVISIONS; ADMINISTRATION; PROVISIONS FOR FLOOD HAZARD REDUCTION; LEGAL STATUS PROVISIONS, PROVIDING FOR A SERVABILILTY CLAUSE, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDEN CITY, ADA COUNTY, IDAHO:

WHEREAS the City of Garden City, a municipal corporation within the State of Idaho, wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 1910.3(a) of the Federal Insurance Administration regulations.

WHEREAS the legislature of the State of Idaho, pursuant to Idaho Code §§ 46-1020 through 46-1024, authorizes local governments to adopt floodplain management ordinances that identify floodplains and minimum floodplain development standards to minimize flood hazards and protect human life, health, and property. Therefore, the City of Garden City, Idaho does hereby ordain as follows:

WHEREAS, local government units have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

NOW, THEREFORE, in order to determine which developments would increase the flood hazard, the following measures shall be required within the jurisdictional limits of this community.

SECTION 1: THAT 8-4H, OF THE CITY OF GARDEN CITY BE, AND THE SAME ARE HEREBY REPEALED, AND SUBSTITUTING THEREFORE AN ORDINANCE WHICH SHALL READ AS FOLLOWS:

8-4H-1: PURPOSE AND OBJECTIVES

A. PURPOSE

1. The flood hazard areas of the City of Garden City are subject to periodic inundation that results in:
 - a. loss of life and property;
 - b. health and safety hazards;
 - c. disruption of commerce and governmental services; extraordinary public expenditures for flood relief and protection; and
 - e. impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
3. The purpose of this Article is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - a. Protect human life, health, and property;
 - b. minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
 - c. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
 - d. Minimize expenditure of public money for costly flood control projects;
 - e. Minimize the need for rescue and emergency services associated with flooding, generally undertaken at the expense of the general public;
 - f. Minimize prolonged business interruptions;
 - g. Ensure potential buyers are notified the property is in an area of special flood hazard; and
 - h. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions.

B. OBJECTIVES

In order to accomplish its purpose, this article includes methods and provisions to:

1. Require that development which is vulnerable to floods, including structures and facilities necessary for the general health, safety, and welfare of citizens, be protected against flood damage at the time of initial construction;
2. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
3. Control filling, grading, dredging, and other development which may increase flood damage or erosion;
4. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
5. Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters.

8-4H-2 DEFINITIONS

As used in this Article, each of terms defined shall have the meaning given in this Section unless a different meaning is clearly required by context. Unless specifically defined below, words or phrases used in this Article shall be interpreted according to the meaning they have in common usage and to give this article its most reasonable application. Where there are conflicts with definitions found in other sections of Garden City Code, the definitions of this Article shall be applied to this Article only.

Accessory Structure (appurtenant structure): a structure on the same lot or parcel as a principal structure, the use of which is incidental and subordinate to the principal structure.

Addition (to an existing building): an extension or increase in the floor area or height of a building or structure

Appeal: a request for review of the Floodplain Administrator's interpretation of provisions of this article or request for a variance.

Area of Shallow Flooding: a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evidence. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: see Special Flood Hazard Area (SFHA).

Base Flood: the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Evaluation (BFE): 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 (1%) 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 Freeboard, establishes the Flood Protection Elevation.

Basement any area of the building having its floor sub grade (below ground level) on all sides.

Building: see Structure.

Critical Facilities: facilities that are vital to flood response activities or critical to the public before, during, and after a flood, such as hospital, emergency operations equipment storage facility, or shelter; and facilities that, if flooded, would make the flood problem and its impacts much worse, such as a hazardous materials facility, power generation facility, water utility, or wastewater treatment plant.

Commented [JT1]: CRS- 8-points for protecting critical facilities

Datum: the vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the National Geodetic Vertical Datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a base for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

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, or storage of equipment or materials.

Development Activity: any activity defined as Development which will necessitate a Floodplain Development Permit; such as: construction of buildings, structures, or accessory structures; additions or substantial improvements to existing structures; bulkheads, retaining walls, piers, and pools; the placement of mobile homes; or the deposition or extraction of materials; the construction or elevation of dikes, berms and levees.

Digital Flood Insurance Rate Map (DFIRM): the digital official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Elevated Building: for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Elevation Certificate: the Elevation Certificate is an important administrative tool of the NFIP. It is used to determine the proper flood insurance premium rate; it is used to document elevation information necessary to ensure compliance with community floodplain management regulations; and it may be used to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F)

Enclosure: an area enclosed by solid walls below the BFE/FPE or an area below the BFE/FPE is enclosed on all sides by walls or partitions. Insect screening or lattice used to surround space below the BFE/RFPE is not considered an enclosure.

Commented [JT2]: Up to 240 points for prohibiting first floor enclosures

Encroachment: the advance or infringement of uses, fill, excavation, buildings, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction: for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

Existing Manufactured Home Park or Manufactured Home Subdivision: a manufactured home park or subdivision where 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 final site grading or the pouring of concrete pads) is completed before the effective date of the original floodplain management regulations adopted by the community, March 14, 1978.

Existing Structures: see existing construction.

Expansion to an Existing Manufactured Home Park or Subdivision: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing 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:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. 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.
- b. 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 Elevation Determination: See Base Flood Elevation (BFE).

Flood Elevation Study: See Flood Insurance Study (FIS).

Flood Fringe: “Flood fringe: is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood. I.C. § 46-1021.

Flood Hazard Boundary Map (FHBM): an official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards been designated as Zones A, M, and E.

Flood Insurance Rate Map (FIRM): an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): 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.

Flood Zone: a geographical area shown on a Flood hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) that reflects the severity or type of flooding in the area.

Floodplain or Flood-Prone Area: any land area susceptible to being inundated by water from any source (see definition of “flooding”).

Floodplain Administrator: the ~~individual planning official or appointed individuals~~ authorized by the planning official or mayor of Garden City to administer and enforce the floodplain management regulations.

Floodplain Development Permit: any type of permit that is required in conformance with the provisions of this article, prior to the commencement of any development activity.

Floodplain Management: the operation of an overall program of corrective and preventive measure for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

Floodplain Management Regulations: 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.

Flood proofing: 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 (FPE): the Base Flood Elevation plus required freeboard.

- a. In “Special Flood Hazard Areas” where the Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one and one half feet above the highest adjacent grade; and
- b. In “Special Flood Hazard Areas” where no BFE has been established, the elevation shall be at least one and one half (1.5’) feet above the highest adjacent grade.

Commented [JT3]: 2’ is the State’s recommendation. Current code requires at or above. The Cities of Meridian and Eagle are at 2’. Boise’s ordinance is proposing 2’. Ada County is proposing 1.5’. The CRS manual gives 2’ credit to those that are 1.5’.

Flood Protection System: those physical structural works for which funds have been appropriated, and expended and which have been constructed specifically to modify the extent of the area within a community subject to a “special flood hazard” to reduce the depths of associated flooding. Such a system typically includes dams, levees, dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Commented [JT4]: 2’ is the State’s recommendation. Current code requires at or above. The Cities of Meridian and Eagle are at 2’. Boise’s ordinance is proposing 2’. Ada County is proposing 1.5’. The CRS manual gives 2’ credit to those that are 1.5’.

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.

Freeboard: a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for selected size flood and the floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the Flood Protection Elevation (FPE). Freeboard shall be at least one and one half feet above the BFE.

Commented [JT5]: 2’ is the State’s recommendation. Current code requires at or above. The Cities of Meridian and Eagle are at 2’. Boise’s ordinance is proposing 2’. Ada County is proposing 1.5’. The CRS manual gives 2’ credit to those that are 1.5’.

Functionally Dependent Use: a facility that cannot be sited for its intended purpose or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities that require long-term storage, manufacture, sales, or service facilities.

CRS: Up to 500 points for freeboard requirement

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

Historic Structure: a structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - 1. by an approved state program as determined by the Secretary of the Interior, or

2. directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC): a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F).

1. Letter of Map Amendment LOMA: an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.
2. Letter of Map Revision (LOMR): FEMA's modification to an effective Flood Insurance Rate Map (FIRM) or a Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
3. Letter of Map Revision Based on Fill (LOMR-F): FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.
4. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS). Upon submission and approval of certified as-built documentation, a Letter of Map Revision (LOMR) may be issued by FEMA to revise the effective FIRM. Building permits and/or Flood Development Permits cannot be issued based on CLOMR, because a CLOMR does not change the NFIP map.

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

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

Local Government: means any county or city having planning and zoning authority to regulate land use within its jurisdiction.

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

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 as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3 and this article.

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

Commented [JT6]: CRS: up to 15 points for removing elevation exemption for manufactured homes in existing parks

Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value: the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

Mean Sea Level: for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum (such as North America Vertical Datum of 1988 –NAVD88) to which Base Flood Elevations (BFEs) shown on a community's FIRM are referenced.

Mitigation: means any action taken which will reduce the impact, damage, or cost of the next flood that occurs.

Mudslide (i.e., mudflow): describes a condition where there is a river, flow, or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

Mudslide (i.e., mudflow) Area Management: the operation of an overall program of corrective and preventive measure for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

Mudslide (i.e., mudflow) Prone Area: an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

National Flood Insurance Program (NFIP): the NFIP is a Federal program created by Congress to mitigate future flood losses nationwide through sound; community enforced building and zoning

ordinances and to provide access to affordable, federally backed flood insurance protection for property owners.

New Construction: 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 March 14, 1978, 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: ~~a place where 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 final site grading or the pouring of concrete pads)~~ a manufactured home/ mobile home park as defined by Garden City Code 8-6A that is completed on or after June 19, 2020.

Person: means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency, or entity.

Post-FIRM: construction or other development for which the “start of construction” occurred on or after May 5, 1980, the effective date of the initial Flood Insurance Rate Map (FIRM).

Pre-Firm: construction or other development for which the “start of construction” occurred before May 5, 1980, the effective date of the initial Flood Insurance Rate Map (FIRM).

Recreational Vehicle: a vehicle that is:

- a. built on a single chassis, and
- b. 400 square feet or less when measured at the largest horizontal projection, and
- c. Designed to be self-propelled or permanently towed by a light duty truck, and
- d. 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 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 a one percent (1%) chance that a regulatory flood may occur or be exceeded.

Regulatory Floodway: see “Floodway.”

Remedy a Violation: to bring the structure or other development into compliance with state or local flood plain management regulations, or, if this is not possible to reduce the impact of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or

otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive Loss Structure: An NFIP-insured structure that has had at least two paid flood losses of more than \$ 1,000 each in any 10-year period since 1978.

Riverine: relating to, formed by, or resembling a river (including tributaries, stream, brook, etc).

Special Flood Hazard Area (SFHA): the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

Start of Construction: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition 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 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, as well as a manufactured home.

Substantial Damage: 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 percent (50%) of its market value before the damage occurred.

Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of average, equals or exceeds twenty-five percent (25%) of the market value of the damage occurred.

Commented [JT7]: Garden City Code 8-7A-2 indicates Substantial improvement as a cumulative of 5 years

Commented [JT8]: The last sentence is optional, but it is required though to be eligible for increased cost of compliance benefits for repetitive losses. UP to 90 CRS points for counting improvements cumulatively

Commented [JT9]: Additional 20 CRS points available for a lower threshold than 50%

Substantial Improvement: any reconstruction, rehabilitation, addition, or other structure, the cost of which equals or exceeds fifty percent (49%) of the market value before the “Start of construction” or the improvement. This term includes structural repairs incurred “substantial damage”, regardless of actual repair work performed. This 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 “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 article.

Temperature Controlled: having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance: a grant of relief by the governing body from a requirement of this Article.

Violation: 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.

Water Surface Elevation: the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 (or other specified datum), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Watercourse: a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

8-4H-3 GENERAL PROVISIONS

A. Lands to which this Article Applies

This Article shall apply to all Special Flood Hazard Areas within the Jurisdiction of Garden City. Nothing in this Article is intended to allow use or structures that are otherwise prohibited by the zoning article.

B. Basis for Special Flood Hazard Areas

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Ada County, Idaho and Incorporated Areas, dated June 19, 2020, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this article. The FIS and the FIRM are on file at Garden City Hall.

Properties that are in seclusion status in the June 19, 2020 FIRM that otherwise show that they are in the floodplain or floodway in the 2018 Flood Insurance Study utilized for the creation of June 19, 2020 FIRM shall be required to meet the permitting and construction

standards set forth by this Article for the designation identified in the 2018 Flood Insurance Study or provide and record an acknowledgement that they may be building to standards contradicted by best available data.

Commented [JT10]: Ada County and the City of Boise will require that development build to the recent FIS as best available data

C. Establishment of Floodplain Development Permit

Commented [JT11]: Under Garden City code this provision is located under the Administration section. If this remains here, that section of code will need to be amended.

A Floodplain Development Permit shall be required in conformance with the provision of this article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 8-4H-4(B).

B. Compliance

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this article and other applicable regulations.

E. Abrogation and Greater Restrictions

This title shall not in any way repeal, abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, etcetera. However, where this ordinance and another conflict or overlap whichever imposes more stringent or greater restrictions shall control.

F. Interpretation

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under the state statutes.

G. Warning and Disclaimer of Liability

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of Garden City or by any officer or employee thereof for flood damages that result from reliance on this article or an administrative decision lawfully made hereunder.

H. Penalties for Violation

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

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with rants or variance or special exceptions shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred dollars (\$100) or imprisoned for not more than one hundred and eighty (180) days, or both. Each day the violation continues shall be an offense. Nothing herein contained shall prevent the City of Garden City from taking any lawful actions as is necessary to prevent or remedy any violation.

Commented [JT12]: These recommendations are from the previous ordinance – the punishment in the model statute is recommended 100 dollars and 180 days.

8-4H-4 ADMINISTRATION

A. Designation of Floodplain Ordinance Administrator

~~The Planning Official, hereinafter referred to as the~~ Floodplain Administrator ~~or persons authorized by the “Floodplain Administrator,”~~ shall administer and implement the provisions of this article.

B. Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator or his or her designee shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this article have been satisfied.
2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State, and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
3. Notify adjacent communities and the Idaho Department of Water Resources State Coordinator for the National Flood Insurance Program (NFIP) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained
5. Prevent encroachments into floodways and flood fringe areas unless the certification and flood hazard reduction provisions of 8-4H-5(C) are met.
6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of 8-4H-4(C)(3).

7. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of 8-3B-4(C)(3).
8. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improve structures and utilities have been flood proofed, in accordance with provisions of 8-3B-4(C)(3).
9. When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of 8-3B-4(C)(3) and 8-4H-5(B)(2).
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, Floodways, or flood fringe areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
11. ~~When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions 8-3B-3(B), obtain, review and reasonably utilize any BFE data, along with floodway data or flood fringe area data available from Federal, State, or other source, including data developed pursuant to 8-3B-5C, in order to administer provisions of this article.~~
12. When the Base Flood Elevation (BFE) data is provided but no floodway data has been provided in accordance with the provisions of 8-4H-3 (B), obtain, review, and reasonably utilize any floodway data or flood fringe area data available from a Federal, State, or other source in order to administer provisions of this ordinance
13. When the lowest floor and the lowest adjacent grade of a structure elevation of a parcel in a Special Flood Hazard Area (SFHA) is above the Base Flood Elevation (BFE), the Floodplain Administrator may advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permanent file.
14. Permanently maintain all records that pertain to the administration of this title and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator may make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

Commented [JT13]: This section is "Standards for Floodplains without established BFEs" in the State model ordinance. It is not included in this draft as it does not pertain to Garden City.

Commented [JT14]: BFEs have been provided throughout Garden City

Commented [JT15]: This provision is optional

16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor. Commented [JT16]: Verify consistency with GCC
17. Revoke floodplain development permits as required. Floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reasons for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of Garden City. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purpose of inspection or other enforcement action.
19. Follow through with corrective procedures of 8-4H-4(D).
20. Review, provide input, and make recommendations for variance requests.
21. Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps, and studies adopted in accordance with the provisions of 8-4H-3.(B) of this Article, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify the NFIP State Coordinator and FEMA of Garden City's mapping needs.
22. Coordinate revisions to FIS reports and FIRMS, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs)

C. Floodplain Development Application, Permit, and Certification Requirements

1. Application requirements. Application for a Floodplain Development Permit shall be made to the city prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - a. A plot-site plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - i. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems,

- grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
- ii. the boundary of the Special Flood Hazard Area is delineated on the FIRM or other flood map as determined in 8-4H-3 (B) or a statement that the that the entire lot is within the Special Flood Hazard Area;
- iii. the flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in 8-4H-3 (B);
- iv. the boundary of the floodway(s) or flood fringe area(s) as determined in 8-4H-3 (B);
- v. the Base Flood Elevation (BFE) where provided as set forth in 8-4H-3 (B) and ~~(C) or 8-3B-3.C;~~
- vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
- vii. the certification of the plot plan by a registered land surveyor or professional engineer, or as otherwise governed by Idaho State Code
- b. Proposed elevation, and method thereof, of all development within the Special Flood Hazard Area including but not limited to:
 - i. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - ii. Elevation in relation to mean sea level to which any non-residential structure in Zone A, AE, AH, AO, or A1-30 will be flood proofed; and
 - iii. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood proofed.
- c. If flood proofing, a Flood proofing Certificate on the applicable FEMA form with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of flood proofing measures.
- d. A foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this title are met. These details include but are not limited to:
 - i. the proposed method of elevation, if applicable (i.e, fill, solid perimeter wall, solid backfilled foundation, open foundation, or on columns/posts/piers/piles/shear walls); and
 - ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with 8-4H-5(A)(8)(b) when solid foundation perimeter walls are used in Zones A, AE, AH, AO , and A1-30.
- e. Usage details of any enclosed areas below the lowest floor.
- f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- g. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
- h. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of 8-4H-5 (B) (6) and 8-4H-5 (B) (7) of this article are met.
- i. a description of proposed watercourse alteration or relocation, when applicable including an engineering report on the effects of the proposed project on the flood-

Commented [JT17]: In model ordinance but does not make sense.

Commented [JT18]: The state model ordinance's Section C is "Standards for Floodplains without Established Base Flood Elevations". This section is not included in this ordinance. This reference should be deleted.

Commented [JT19]: Model ordinance specifies form 086-0-33

Commented [JT20]: Up to 80 CRS points if engineered foundations are required

carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and

- i. A map (if not shown on plot-site plan) showing the location of the proposed watercourse alteration or relocation.

2. Permit requirements. The Floodplain Development Permit shall include, but not be limited to:

- a. A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etcetera).
- b. The Special Flood Hazard Area determination for the proposed development in accordance with the available data specified in 8-4H-3 (B).
- c. The Flood Protection Elevation required for the reference level and all attendant utilities.
- d. The Flood Protection Elevation required for the protection of all public utilities.
- e. All certification submittal requirements with timelines.
- f. A statement that no fill material or other development shall encroach into the floodway or flood fringe area of any watercourse, as applicable.
- g. The flood openings requirements, if in Zones A, AE, AH, AO, or A1-30.
- h. A-If non-residential, a statement of the limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only.)
- i. A-If non-residential, and applicable, a statement that all materials below BFE/FPE must be flood resistant materials.

Commented [JT21]: Optional requirements

3. Certification Requirements

a. Elevation Certificates

- i. An Elevation Certificate on approved FEMA form is required to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted the Elevation Certificate for review. Deficiencies detected by such review shall may be required to be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall may be cause to deny a floodplain development the permit.

Commented [JT22]: CRS 116 points for maintaining ECs

Commented [JT23]: Model ordinance specifies 86-0-33

- ii. An Elevation Certificate, on an approved FEMA form, is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

Commented [JT24]: State recommended, but optional

- iii. A final as-built Finished Construction Elevation Certificate on an approved FEMA form is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit ~~to the Floodplain administrator~~ a certification of final as-built construction of the elevation of the reference level and all attendant utilities. ~~The Floodplain Administrator shall review the certificate data submitted.~~ Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certification of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- b. Flood proofing Certificate. If non-residential flood proofing is used to meet the Flood Protection Elevation requirements, a Flood proofing Certificate on an approved FEM Commented [JT25]: Model ordinance specifies 086-0-34 supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit ~~to the floodplain administrator~~ a certification of the flood proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same. ~~The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan.~~ Deficiencies detected by ~~such~~ during review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to ~~deny a Floodplain Development Permit~~ the permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- c. If a manufactured home is placed within Zone A, AE, AH, AO, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of 8-4H-5 (B) (3) (b).
- d. If a watercourse is to be altered or relocated, the following shall all be submitted by the permit applicant prior to issuance of a floodplain development permit:
 - i. a description of the extent of watercourse alteration or relocation;
 - ii. a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and down-stream; and
 - iii. a map showing the location of the proposed watercourse alteration or relocation; and
 - iv. an Idaho Stream Channel Alteration Permit approval shall be provided by the applicant to the Floodplain Administrator.
- e. Certification Exemptions. The following structures, if located within Zone A, AE, AH, AO, or A1-30, are exempt from the elevation/ flood proofing certification requirements specified in items a and b of this subsection
 - i. Recreational vehicles meeting requirements of 8-4H-5 (B)(6)(a);
 - ii. Temporary Structures meeting requirement of 8-4H-5 (B)(7); and
 - iii. Accessory Structures less than 200 square feet meeting requirements of 8-4H-5 (B)(8).

4. Determinations for Existing Buildings and Structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
- a. Estimate the market value based on Ada County Assessor data, or require the applicant to obtain an appraisal of the ~~market~~-value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the ~~market~~-value before the damage occurred and before any repairs are made;
 - b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable to the market value of the building or structure;
 - c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the adopted ~~Idaho Building Code~~building code and this title is required.

5. A General Irrigation Floodplain Development Permit (GIF). A GIF applies to qualifying activities within the regulatory floodway or special flood hazard area. These permits may be issued to an irrigation entity for a period not to exceed five years. Examples of activities eligible under this provision include:

- a. Dredging and grading of irrigation and drainage channels, when the fill from dredging or grading is not deposited on the banks of channels or anywhere within the regulatory floodway or SFHA for longer than 10
- b. days.
- c. Seasonal grading within natural stream channels to check or direct water into irrigation facilities (i.e. earthen “push-up dams” and “wing dams”).
- d. Deposition of fill within the SFHA for less than 10 days. After 10 days,
- e. deposited fill must be removed from the SFHA, or graded and compacted to existing grade within ± 0.2 feet. Deposition of fill includes deposition of material resulting from grading or excavating irrigation or drainage channels. Deposition of fill within the mapped floodway requires an individual permit.

Commented [JT26]: This has been added consistent with the City of Boise’s draft proposal. Ada County also intends on adding a permit for irrigation development.

- f. Construction of new underground utilities that do not permanently alter the existing grade elevations by ± 0.5 feet. Excess soil from new pipes larger than 2 feet in diameter must be disposed of outside the regulatory floodway and SFHA.
- g. In-kind replacement of irrigation and drainage works or components including but not limited to control gates or head gates, measuring devices and their housing structures/stilling wells, culverts, pumps, pipes, flumes, siphons and similar works. GIFD permits cannot authorize the In-kind replacement of dams or bridge structures.
- h. New driveways, trails, sidewalks, roads and streets constructed completely at-or-below existing grade.
- i. Armoring, stabilizing, securing, or in-kind replacement of existing infrastructure within the channel banks (such as bridge piers, sewer/utility supports and storm water/sewer drainage outfalls/headwalls) when the dimensions (bank slopes, channel location, channel elevation) of the channel are not altered. This should not involve replacement with larger or additional above ground infrastructure.

D. Corrective procedures

Commented [JT27]: Make sure consistent with 8-6

1. Violations to be corrected. When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
2. Actions in Even of Failure to Take Corrective Action If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a. That the building or property is in violation of the floodplain management regulations;
 - b. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - c. That following the hearing, the Floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill ass applicable.

3. Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where a City official finds that there is imminent danger to life or other property, a corrective action may be taken in such lesser period as may be feasible.
4. Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator ~~and the clerk~~ within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
5. Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

E. Variance Procedures

1. The Planning and Zoning Commission as established by Garden City, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this title.
2. Variances may be issued for:
 - a. 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;
 - b. **Functionally Dependent Use facilities if determined to meet the definition as stated in 8-4H-2 of this title, provided provisions of 8-4H-4.(E)(8)(b),(c), and (e), have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safe**
 - c. Any other type of development, provided it meets the requirements section.
3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
 - a. the danger that materials may be swept onto other lands to the injury of others;
 - b. the danger to life and property due to flooding or erosion damage;
 - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. the importance of the services provided by the proposed facility to the community
 - e. the necessity to the facility of a waterfront location as defied under 8-3B-2 of this title as a functionally dependent use facility, where applicable;

Commented [JT28]: Model ordinance states 8-4H-4 E.9.b, c, and e. Staff believes that this is an error

- f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. the compatibility of the proposed use with existing and anticipated development;
 - h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site; and
 - k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as a sewer, gas, electrical and water systems, and streets and bridges.
4. The applicant shall include a written report addressing each of the above factors in 8-4H-4.(E) (3) a-k, with their application for a variance.
 5. Upon consideration of the factors listed above and purposes of this title, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this title.
 6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$200 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
 7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.
 8. Conditions for Variances
 - a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - b. Variance shall not be issued within any designated floodway or flood fringe area if the variance would result in any increase in flood levels during the base flood discharge.
 - 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 prior to development permit approval.
 - e. Variances shall only be issued upon
 - i. a showing of good and sufficient cause; and
 - ii. a determination that failure to grant the variance would result in exceptional hardship; and
 - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public

expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances

9. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - a. The use serves a critical need in the community.
 - b. No feasible location exists for the use outside the Special Flood Hazard Area.
 - c. The reference level of any structure is elevated or flood proofed to at least the Flood Protection Elevation.
 - d. The use complies with all other applicable Federal, State and Local laws.
10. The City of Garden City will notify the State NFIP Coordinator of the Idaho Department of Water Resources of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.
11. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Idaho Code 67-6535.

8-4H-5 PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards

In all special Flood Hazard Areas the Following provisions are required:

1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with ~~Technical Bulletin 2-~~ technical bulletins available from FEMA related to Flood Damage-Resistant Materials Requirements, and available from FEMA.
3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. All new and replacement electrical, heating, ventilation, plumbing, air condition, equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/ cable boxes, hot water heaters, and electric outlets/switches.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

Commented [JT29]: 80 CRS points for requiring an engineered foundation

6. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. A fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor shall:
 - a. Be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and
 - b. Include, in Zones A, AE, AH, AO, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria
 - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - iv. The bottom of all required flood openings shall be no higher than one (1) foot above the interior or exterior adjacent grade;
 - v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provide they permit the automatic flow of floodwaters in both directions; and
 - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purpose, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this title, shall meet the requirements of "new construction" as contained in this article.
10. Nothing this title shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this article and located totally or partially within the floodway, flood fringe area, or stream setback, provided there is no additional encroachment below the Flood Protection Elevation in the floodway, flood fringe area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.
11. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in 8-4H-4(E)(9). A structure or tank for chemical or fuel storage incidental to the operation of a water treatment plant or wastewater treatment facility located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood proofed to at

Commented [JT30]: Up to 240 points for prohibiting 1st floor enclosures

Commented [JT31]: Model ordinance says 10. Staff believes this is in error.

least the Flood Protection Elevation and certified in accordance with the provision of 8-3B-4.C.3.

12. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage and determined to be reasonably safe from flooding.
13. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
14. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
15. All subdivision proposals and other development proposals shall be received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
16. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
17. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided as set for in §-4H-3(B), ~~or 8-4H-5.D~~, the following provisions, in addition to provision

Commented [JT32]: This section has been deleted from this draft

1. Residential Construction. New construction and substantial improvement of any residential structure (including manufacture homes) shall have the reference level, including basement, elevated no lower than the ~~Flood Protection Elevation, as defined in 8-3B-2 of this article.~~ **1.5 feet minimum above the BFE.**
2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall have the reference level, including basement, elevated no lower than the Flood Protection Elevation, as defined in 8-4H-2 of this Article. Structures located in Zones A, AE, AH, AO, and A1-30 may be flood proofed to the Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. ~~For AH and AO Zones, the flood proofing elevation shall be in~~

~~accordance with 8-4H-5(F) (2).~~ A registered professional engineer or **Commented [JT33]:** Does not pertain to Garden City that the flood proofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in 8-4H-4(C)(3), along with the operation plan and inspection and maintenance plan.

3. Manufactured Homes.

- a. New and replacement manufactures homes shall be elevated so that the reference level of the manufactured home is no lower than ~~the Flood Protection Elevation, as defined in 8-3B-2 of this Article~~ **1.5 feet minimum above the BFE.**
- b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the Idaho Division of Building Safety's "Idaho Manufactured Home installation Standard" in accordance with Idaho Code § 44-2201(2), ~~or as amended.~~ Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- c. All enclosures skirting below the lowest floor shall meet the requirements of 8-4H-5 (B) (5).
- d. An evacuation plan must be developed for evacuation of all residents of all new substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local emergency Management Coordinator.

4. 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-year 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 three feet (3') **above BFE** 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. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Commented [JT34]: In current code but not model ordinance. 80CRS points available for protecting critical facilities

5. Additions/Improvements

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements n combination with any interior modification to the existing structure are
 - i. not substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming that the existing structure; or
 - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

- b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are
 - i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; or
 - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d. Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a **five (5)** year period, the cumulative cost of which equals or exceeds 50 percent (50%) of the market value of the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the **five (5)** year period of the first improvement or repair of that building or structure subsequent to the date of this article. If the structure has sustained substantial damage, such damage is considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - i. any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions; or
 - ii. any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Commented [j35]: CRS - Up to 90 points for counting improvements cumulatively; up to 20 points for a substantial improvement threshold lower than 50%

Commented [JT36]: The time frame is to be determined by the community. Five years is consistent with GCC 8-7A-2 Substantial Improvement.

- 6. Recreational Vehicles. Recreational vehicles shall be either:
 - a. Temporary Placement
 - i. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - b. Permanent Placement.
 - i. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction, as set forth in 8-3B-5(A).

7. Temporary Non-Residential Structures

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- a. a specified time period for which the temporary use will be permitted. Time specified may not exceed six (6) months, renewable up to one (1) year;
- b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;
- c. the time frame prior to the event at which a structure will be removed (i.e., immediately upon flood warning notification);

- d. a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- e. designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

8. Accessory Structures

When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, elevation or floodproofing certifications are required for all accessory structures in accordance with 8-4H-4(C)(3), and the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
- b. Accessory structures shall not be temperature-controlled;
- c. Accessory structures shall be designed to have low flood damage potential;
- d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. Accessory structures shall be firmly anchored in accordance with the provisions of 8-4H-5(A)(1);
- f. All service facilities, such as electrical, shall be installed in accordance with the provisions of 8-4H-5(A)(4); and
- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of 8-4H-5(B)(2). An accessory structure with a footprint less than 200 square feet and is of \$2,500 (or less and satisfies the criteria outlined in a - g above is not required to meet elevation or flood proofing standards of this Article.

Commented [JT37]: Model ordinance indicates 8-4H-5.B.5.d, staff believes this is in error

Commented [j38]: This is the State's recommendation

Commented [JT39]: Model ordinance references 8-4H-5 (B) (2). This is non-residential construction standards and staff believes this is in error.

9. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the base flood, including the effects of buoyancy (assuming the tank is empty);
- b. Elevated above-ground tanks, in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the base flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- c. Not elevated above-ground tanks, that do not meet the elevation requirements of 8-4H-5(B)(2) of this article shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- d. Tank inlets, fill openings, outlets and vents shall be:
 - i. At or above the flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and
 - ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

10. Construction of Below-Grade Crawlspace.

- a. ~~The crawlspace is considered the lowest floor, and shall be required to meet the minimum protection elevation.~~
- b. The interior grade of a crawlspace must not be below the BFE and must not be less than (2) feet below the exterior lowest adjacent grade (LAG).
- d. 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.
- e. 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.
- f. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

Commented [JT40]: Buildings that have below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation of the crawlspace soil at or above the Base Flood Elevation (BFE).

11. Other Development in regulated floodways and flood fringe.

- a. Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways and flood fringe shall meet the limitations of 8-4H-5(C) of this Article.
- b. Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways and flood fringe shall meet the limitations of 8-4H-5(C) of this Article.
- c. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, which encroach into regulated floodways and flood fringe, shall meet the limitations of 8-4H-5(C) of this Article.
- d. Drilling water, oil, and/or gas wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways and flood fringe shall meet the limitations of 8-4H-5(C) of this Article.
- e. Docks, piers, boat ramps, marinas, moorings, decks, docking facilities, port facilities, shipbuilding, and ship repair facilities that encroach into regulated floodways and flood fringe shall meet the limitations of 8-4H-5(C) of this Article.

C. Standards for Floodways and Flood Fringe Areas

Commented [JT41]: This is onerous, and it is understood that the purpose of the FEMA flood study to allow reasonable encroachments into the 1% floodplain.

Areas designated as floodways ~~or flood fringe areas are located~~ within the Special Flood Hazard Areas established in 8-4H-3(B). The floodways ~~and flood fringe~~ areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in 8-4H-5(A) and (B), shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:
 - a. it is demonstrated that the proposed encroachment would not result in any increase in the flood levels ~~during the occurrence of the base flood~~, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice ~~and presented to the Floodplain Administrator~~ prior to issuance of floodplain development permit; ~~or~~

Commented [JT42]: Is "or" appropriate?

- b. a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

2. If 8-4H-5 (C)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.

Commented [JT43]: Is this necessary?

- 3. ~~Manufactured homes may be permitted provided the following provisions:~~
 - a. ~~the anchoring and the elevation standards of 8-4H-5(B)(3); and~~
 - b. ~~the encroachment standards of 8-3B-5(C)(1)~~

Commented [j44]: (CRS – Up to 15 points for removing the elevation exemption for manufactured homes placed in existing manufactured home parks)

Commented [JT45]: This seems redundant

~~**Section C. Standards for Floodplains without Established Base Flood Elevations**~~

Commented [JT46]: Sections in model ordinance not pertinent to Garden City

~~Within the Special Flood Hazard Areas designated as Zone A (also known as Unnumbered A Zones) and established in Article III, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Article V, Section A, shall apply:~~

- 1. ~~No encroachments, including fill, new construction, substantial improvements, or new development shall be permitted, unless a determination of the Base Flood Elevation (BFE) is provided.~~
- 2. ~~The BFE used in determining the Flood Protection Elevation (FPE) shall be determined based on the following criteria:~~
 - a. ~~When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article V, Sections A and B.~~
 - b. ~~When floodway or flood fringe data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and flood fringe areas shall also comply with the requirements of Article V, Sections B and E.~~
 - c. ~~All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if~~

~~development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Article III, Section B and utilized in implementing this ordinance. The applicant/developer shall submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat approval and have obtained a Letter of Map Revision (LOMR) prior to any building permits for structures being issued. (Optional)~~

~~See FEMA 480 and/or FEMA 265 for further information~~

- ~~d. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the Flood Protection Elevation, as defined in Article II. All other applicable provisions of Article V, Section B shall also apply.~~

~~**Section D. Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Flood Fringe Areas.**~~

~~Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor flood fringe areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:~~

- ~~1. Standards of Article V, Sections A and B; and~~
- ~~2. Until a regulatory floodway or flood fringe area is designated, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating 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 at any point within the community.~~

**Section F.—Standards for Areas of Shallow Flooding
(Zone AO, AH, AR/AO, or AR/AH)**

~~Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article V, Sections A and B, all new construction and substantial improvements shall meet the following requirements:~~

- ~~1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of (insert number) feet, above the highest adjacent grade; or at least (insert number) feet above the highest adjacent grade if no depth number is specified. *A minimum of two (2) feet is required and four (4) feet is recommended where a depth is not provided.*~~
- ~~2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article V, Section F.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article IV, Section C.3, and Article V, Section B.2.~~
- ~~3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.~~

8-4H-5-6: RIPARIAN ZONE

The riparian zone is to be left natural. Uses within the riparian zone shall be restricted to those which are required by public necessity (for example, bridges or water pumps), for public recreation (for example, the greenbelt), and wildlife habitat improvements (for example, vegetation, nesting structures); provided that the use/encroachment meets the approval of the federal emergency management agency and national flood insurance program and does not jeopardize the city's participation in the national flood insurance program.

- A. Improved access to the Boise River shall be prohibited in all areas that are not approved through a conditional use permit with approval of city council or otherwise designated by the city council; and
- B. Approved accesses to the Boise River must be designed in such a way so as to not destabilize the banks of the river.
 - 1. No use of restricted use chemicals or soil sterilants will be allowed within the riparian area.
 - 2. No use of pesticides, herbicides, fertilizers will be allowed unless approved by regulatory agencies that have jurisdiction over the Boise River.
 - 3. All applications of pesticides, herbicides and fertilizers shall be done by a licensed applicator and applied at minimum application rates and shall be limited to two (2) times a calendar year unless otherwise approved.
 - 4. The application of dormant oil sprays and insecticidal soap within the riparian zone may be used throughout the growing season as needed.
- C. No person shall damage, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the riparian zone without an approved permit. Minor pruning above the ordinary high water mark that does not remove, damage or otherwise harm any plant, habitat or cause bank destabilization is allowed without a permit.
- D. A permit may be granted for:
 - 1. Removal of downed trees or trees identified by the city arborist to pose a danger to life, limb or property may be removed.
 - 2. Replacement of nonnative plants with native plants to provide habitat or bank stabilization.

Commented [JT47]: This is in Garden City's current floodplain ordinance and is not a part of the State's model ordinance. This section may be relocated into the Boise River Natural Resource draft ordinance as "River Zone"

SECTION 3 LEGAL STATUS PROVISIONS

A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance

This article, in part, comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 21, 1978 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit, or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of City of Garden City enacted on April 21, 1978, as amended, which are not reenacted herein are repealed.

B. Effect upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this article. Provided, however, that when construction is not begun under such outstanding permit within a period of 180 days subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article.

SECTION 4: The ordinance is hereby declared to be severable. Should any portion of this article be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the article before the declaration of partial invalidity.

SECTION 5: This article shall be in full force and effect from and after its passage, approval, and publication hereof.

ADOPTED by the City Council and **APPROVED** by the Mayor of the City of Garden City, Idaho, this 8th day of June, 2020.

ATTEST:

APPROVED:

Lisa Leiby

CITY CLERK

John G. Evans

MAYOR