

## BLACKFOOT CITY COUNCIL MEETING

March 3, 2015

7:00 P.M.

### **Pledge of Allegiance**

Mayor Paul Loomis welcomed those in attendance and invited everyone to join him in the Pledge of Allegiance.

### **Roll Call**

Roll call was taken and those in attendance were: Councilman Brown, Councilman Gardner, Councilman Jensen, and Councilwoman Simpson.

### **Amend the Agenda**

Mayor Loomis asked to amend the agenda for the evenings Council Meeting, which included adding to the list: Ratify Awarding Contract to JUB Engineering as the Engineers for the WWTP Clarifier Project and Review Park and Rec Fees for Concession Stands in Parks. He asked for a motion. Councilwoman Simpson moved to approve the amended agenda. Councilman Jensen seconded. All were in favor. Motion carries.

### **Consent Agenda**

Mayor Loomis presented the consent agenda which includes the following: payables. Councilman Gardner moved to approve the consent agenda as presented. Councilman Brown seconded. All were in favor. Motion passes.

### **Updates**

Mayor Loomis gave updates to the Council. He stated at the budget workshop the city auditor gave a briefing from the 2014 audit. The audit has been published on the website and a hard copy can be obtained at City Hall. It is available for access for those who would so choose.

He also informed the Council there is now a live video feed available at the airport. A few local news agencies are using the feed to show during weather reports.

Mayor Loomis stated the Circuit Breaker, the Idaho property tax reduction program for those on fixed incomes, is now accepting applications. He reminded those at the Council Meeting that those applications must be submitted every year. He said this is a great way for individuals who are living on fixed incomes to address their tax burdens in a favorable way. He encouraged those in need to apply. There is a flyer posted on the City webpage.

### **Proclamation - Fair Housing Month**

Mayor Loomis stated April is Fair Housing Month. Being so, he wrote a proclamation to declare April, Fair Housing Month in the City. He read the proclamation into public record.

PROCLAMATION, CITY OF BLACKFOOT

WHEREAS, April marks the anniversary of the passage of Title VIII of the Fair Housing Act of 1968; and

WHEREAS, the Idaho Human Rights Commission Act has prohibited discrimination in housing since 1969; and

WHEREAS, a fundamental goal of our nation, state and city is equal opportunity for all regardless of race, color religion, sexual orientation, disability, familial status, education or origin, and

WHEREAS, continues local efforts to combat discrimination are more effective than Federal mandates; and

WHEREAS, illegal barriers to equal opportunity in housing, no matter how subtle, diminish the rights of our citizens.

NOW, THEREFORE, I, Paul M. Loomis, Mayor of the City of Blackfoot do hereby proclaim, APRIL 2015 as "Fair Housing Month." I call on all citizens, agencies, institutions, public and private, in City of Blackfoot, Idaho to abide by the letter and the spirit of the Fair Housing law. In the spirit of this shared goal and responsibility we must provide equal housing opportunities for all in the City of Blackfoot. Dated this 3rd day of March, 2015.

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Mayor Paul M. Loomis

City of Blackfoot

Mayor Loomis then stated there was a second proclamation to be read into public record that evening. This proclamation declares this March 4<sup>th</sup> to be Idaho Day in the City of Blackfoot.

PROCLAMATION, CITY OF BLACKFOOT

WHEREAS, in 2014 the Idaho State Legislature established March 4th of each year as "Idaho Day;" and

WHEREAS, Idaho Day is a time to celebrate our State's rich heritage, culture, beauty, diversity and history; and

WHEREAS, this March 4th, 2015 is our first Idaho Day set aside to acknowledge the greatness of our State; and

WHEREAS, this is a special day to educate our children and general population on the great contributions of the wonderful State of Idaho; and

WHEREAS, President Abraham Lincoln signed the congressional act creating the Idaho Territory on March 4th, 1863.

NOW, THEREFORE, I, Paul M. Loomis, Mayor of the City of Blackfoot do hereby proclaim, March 4th, 2015 as "Idaho Day." I call on all citizens, schools, businesses, and institutions, in City of Blackfoot to renew our pride and love for this great State by holding appropriate activities. Let this first Idaho Day be a standard for all to emulate in the future. Dated this 3rd day of March, 2015.

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Mayor Paul M. Loomis

City of Blackfoot

**Snake River High School Class Presentation – Mr. Tracy**

Mayor Loomis stated Mr. Tracy would present information on a service project. Mr. Tracy did not attend the meeting to present the information.

**Public Hearing: Requiring Utilities be kept in the Landlord's or Property Owner's Name**

Mayor Loomis called Elisa Oats to come forward to give a presentation on what has been heard and presented to the Council over the last month. Ms. Oats stated over the past month City Hall has received a lot of feedback, comments, and e-mails with suggestions. She said she has been checking with other cities in Idaho as to what they do with billing. There are currently other cities that do required utilities to be under the property owner's name, such as Kimberly, Jerome, and Groveland Water and Sewer District. Other cities that are considering this option or something close to this option are Twin Falls and Rexburg. In Pocatello and Ammon they allow renters to have services in their name but they require a landlord agreement on the account; if they have a lot of delinquencies at a certain address they will require the owner/landlord to put it in their name. Shelley allows utilities to be in the tenants' names but they keep the owners ultimately responsible; they will not put the utilities under a different name until the utilities are paid. Ms. Oats said she does not know how that could be enforced in Blackfoot and it would most likely not work here. She stated with all of the input they have received, the option to keep utilities in the landlords' names would save the city time and money, but at this time is not a realistic option. This being the case, the City has come up with multiple options for discussion.

Ms. Oats said the first option that was discussed was raising the deposit from \$75 to 2 month's worth of payments to cover the cost of a delinquent charge. They discussed raising the deposit from \$75 to \$150 for home owners and \$200 for renters. One drawback of this is the renters would not only be paying deposits for rent but they would also be paying another large deposit for utilities. She said currently the City refunds the \$75 deposit after 12 months of on time consecutive payments. It was discussed that home owners would receive the same 12 month deposit procedure but renters' deposits would be kept until the renter moved out, this would help cover unpaid utility payments if there were any.

She also said there are shutoff fees in place for delinquent customers. There is a fee of \$50 to turn utilities back on if a person's utilities are shutoff. She explained they also looked into the shutoff fees in place in other cities. In Ammon, they charge a \$150 deposit and a \$150 is charged to turn utilities back on. The City could also take the deposit to cover the unpaid balance if they are shutoff and/or the customer would be required to pay a new deposit to turn it back on. Ms. Oats stated this would hopefully help deter shutoffs from happening.

Concerning arrangements, Ms. Oats said currently the City allows arrangements to be made for delinquent accounts to avoid shutoffs. For example, if a bill came out in early January with a due date of January 10<sup>th</sup>, if the customer were to not pay the bill before the end of January, a \$5 late fee charge will be added. The February bill would then be sent out and include both the unpaid January bill, the \$5 late fee, and the February bill with a due date of February 10<sup>th</sup>. If the minimum amount is not paid or an arrangement to pay the minimum amount is not turned in, then the utilities are considered delinquent and turned off. The arrangement is a piece of paper that states that said customer agrees to pay the minimum payment before the end of the month. She said the change they have discussed making would be to still allow arrangements to be made but instead of the minimum payment being made, the customer would have to pay their account in full, which would include the January and February payment.

She explained another option to help alleviate the problems with utilities would be to require the utilities to be placed in the tenant's name that is on the lease agreement and not allow any other names. The tenant would need to bring in the lease agreement with their name on it to turn the utilities on. This idea comes from the issue of numerous collections accounts that switch names between families or other people living in the house to turn on the water again, which is cheaper than paying the delinquent fee and full payment. Allowing only the tenant with their name on the lease agreement should stop this problem from occurring.

Due to the amount of transfers with rentals, she said the City is looking at charging a \$15 transfer fee whenever the utilities are transferred back into the landlord's name. Every time a transfer is made, the water department goes out and reads the meter. This \$15 would cover the time and work involved.

She stated starting this month, the City has changed their collections process to send delinquent accounts to collections after 60 days instead of 90 days. The City has also stopped making courtesy calls on accounts but is instead putting notices with all of the delinquent bills. She said any one or all of these options would be helpful in saving the City time and money.

The Mayor stated one of the charges to the City is to keep the bills as low as possible; that is why the Council and the City are addressing this issue today. He asked if there was any discussion by the Council.

Councilwoman Simpson asked Ms. Oats how the City would know when a renter moved out so they could be refunded the deposit. Ms. Oats stated it becomes known when the account is closed out. Usually a customer will call and say they need to take the utilities out of their name and close the account or someone else will move in and transfer the utilities under their name, which closes out the other account.

Councilman Brown asked what percentage of people actually call and close out their account. Ms. Oats responded that a high number of people call in and close their account when they move because they do not want to keep paying their bills after they move out.

Councilman Gardner stated all of the suggestions sounded great to him.

Mayor Loomis asked if there was a motion to move into public hearing. Councilman Jensen motioned to move into public hearing. Councilwoman Simpson seconded. All were in favor. Motion carries.

Mayor Loomis reminded the audience and the speakers that there is a comment time limit of 3 minutes.

The letter from John Dixon was read to the Council by Attorney Garrett Sandow into public record:

## JOHN D. & DIXIE DIXSON

290 Park Street Blackfoot, Idaho 83221

(208)782-0808 (208)785-0831

jdidarch@aol.com

March 3, 2015

**MAYOR PAUL LOOMIS  
CITY OF BLACKFOOT, IDAHO**

157 North Broadway

Blackfoot, Idaho 83221-1754

Re.: Landlord Utility Issue

Dear **Paul**,

Pursuant to the issue regarding the proposal to abrogate the responsibility to monitor, manage and assume the liability for the

utilities that are provided by the City to the landlords of a leased or rented property I submit the following. A property owner/landlord does not have the responsibility, right or means to start or stop a utility service.

That

responsibility, right and means has always been that of the City in accordance with the Idaho Code. I am certain that you

understand and realize that it is the responsibility of the City, as required by Idaho Code, to manage and furnish the utility

services at the lowest possible cost to the inhabitants/patrons of the City.

Idaho code reads in pertinent part as follows:

50-1028. Grant of authority. Any city acquiring, constructing, reconstructing, improving, bettering or extending any works pursuant to this act, shall manage such works in the most efficient manner consistent with sound economy and public advantage, to the end that the services of such works shall be furnished at the lowest possible cost. No city shall operate any works primarily as a source of revenue to the city, but shall operate all such works for the use and benefit of those served by such works and for the promotion of the welfare and for the improvement of the health, safety, comfort and convenience of the inhabitants of the city.

50-1031. Supervision of projects. The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works or rehabilitated existing electrical generating facilities under the provisions of this act, and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of the governing body of the city.

Abrogating the responsibility to a property owner/landlord for the collection of revenues for the utility services rendered by the City is in direct conflict with the intent, requirements and stipulation of Idaho Code 50-1028 and 50-1031!

It is my opinion

and position that this proposal is without merit or foundation and should be appropriately abandoned.

Best personal wishes,

**John Dixon**

Email: [mayor@cityofblackfoot.org](mailto:mayor@cityofblackfoot.org), [cjensen@cityofblackfoot.org](mailto:cjensen@cityofblackfoot.org)  
[bbrown@cityofblackfoot.org](mailto:bbrown@cityofblackfoot.org), [lgardner@cityofblackfoot.org](mailto:lgardner@cityofblackfoot.org)  
[jsimpson@cityofblackfoot.org](mailto:jsimpson@cityofblackfoot.org)

Bryan Mitchell, 2932 Trevino, stated he and 16 others got together and came up with multiple suggestions for the City as to solve the problem. Some of the ideas were a form that the utilities staff would have tenants fill out and ask for references from someone they have previously had utilities with to make sure they have been paying their bills in the past. He stated after looking at the fees that are charged to delinquent accounts, the City is really only losing out on \$25,000, which is 1% of the City budget. The biggest thing he and his group could suggest is to stiffen the policies, get bigger deposits, and shrink how long delinquent accounts are allowed to correct the problem. He said he appreciates the City trying to keep utilities as low as possible.

Jim Thomas, 229 Monroe St, referenced the form that he uses to rent to tenants and said if the City were to use that form, then the City would know who is going to have the utilities in their name; the account would have to stay in their name as long as they are living there. He stated he thinks the City is waiting too long to turn the water off. He says the City should only wait 30 days instead of 2 months. He said if they are past due on the 10<sup>th</sup> or when the bill is due, they should turn them off then. He said they are willing to work with the City to figure something out.

Bob German, 2080 Borreson, did not agree with putting the utilities in the landlord's name and cited researched information on why he felt the City could not do this. He felt that not returning the deposit until they move out is a good idea.

Lina Beauvais, 600 Plaza Dr, said she was relieved not having the landlord's keep the utilities in their name. She said in Arizona the tenants have to pay a \$300 deposit to the City for utilities, which is refundable after 12 months with a good record; if the tenant has had utilities there before and a good record, the deposit is waived entirely. She said that is a high deposit but \$75 is too low. She recommended the City should not refund deposits until the renter moves out.

Audrey Stanfield, 98 N Broadway, does not agree with requiring utilities to be put in the landlord's name. She suggested creating an indigent fund like the County does for people who cannot pay their bill.

The Mayor stated the citizens of Blackfoot do have access to that indigent fund if they qualify.

Shane Gifford, 339 N 300 W, does not agree with having to put the landlord's name on the utilities. Also does not like that the City is not making calls anymore. He suggested that repeat offenders should be charged more.

Councilwoman Simpson confirmed with Ms. Oats that the City was losing \$25,000 annually on collections on average.

Mayor Loomis addressed the issue of phone calls. He stated the phone calls are not about collection but a notice that their utilities will be turned off. He felt these calls were training people to wait for that phone call to pay. He compared this to a parent counting to 3; when the customer reached 3 they would

finally pay their bill after multiple opportunities previously given to them. He said this is rewarding people to not pay their bills until they got a phone call. He stated the City will not make that phone call any longer.

Councilwoman Simpson asked if we made calls and written notices. Mayor Loomis responded the City sends 3 written notices before making phone calls that they will actually be shutoff. After the water is turned off and they still have not paid for 90 more days, then those accounts are sent to collections.

Brent Arave, 1295 Daniel Way, said the City needs to make it easier and give more reasons for people to want to move here. He stated he is hesitant about all of the deposits and rates being raised. He is afraid the fees will make it so they cannot get renters and this will cause renters to have to let properties go.

Mayor Loomis stated that concluded all of those who signed up to speak at the public hearing. Councilman Brown motioned to adjourn the public hearing. Councilman Gardner seconded. All were in favor. Motion carries.

Councilman Gardner stated the City needs to clean up the ordinances. He stated he also owns rentals but the difference is that they are all multiplexes. In multiplexes, utilities are a part of the rent. It is the single house owners that did not want this change and he can understand that. He stated the current ordinance is very ambiguous and that needs to be cleaned up. The ordinance should differentiate between the single homes and multiplexes.

Mayor Loomis acknowledged the ordinance does need to be cleaned up and that should be worked on. He asked if there were any administrative actions that needed to happen.

Councilwoman Simpson stated what she sees is city taxpayers are taking a \$25,000 loss. Brian Mitchell came forward again to state he is not asking the City to take that loss but they are asking the City to find better ways to protect themselves from having that loss in the first place. He said the \$25,000 dollar loss could be reduced by 100% by initiating some of the suggestions that were given.

Councilwoman Simpson stated what she is hearing is that the landlord's do not want the City to raise the deposits or fees because that will in turn scare the renters off. He responded that a small raise in deposit and fees and then do a better job of interviewing who was going to be putting their name under the utilities. Councilwoman Simpson stated again that she had been hearing from other people that if they did do these things and raised the deposit to \$200 it would be too much. She asked about \$150. He said there should not be a set fee and the City needs to base the fee on the payment background of the tenant, even doing a credit check would be good. Councilwoman Simpson retorted that would take more city time and money; she said she feels as if the City is not in the business of having to do credit checks.

Councilman Brown stated he liked the idea of giving the home owners the deposit back after 12 months since they more than likely will stay for a longer period of time; keeping the deposit for renters until they move is also a good idea just in case there are fees that need to be covered. He said he feels like this will help solve a majority of the loss issue.

Councilman Jensen stated he liked most of the ideas given. He said raising the fees would be good but raising them too much could be detrimental.

Councilman Gardner stated that ensuring only the lease holder could have the utilities in their name would not be too hard to enforce.

### **Direction from Council Regarding Ban on Plastic and Paper Bags**

Mayor Loomis mentioned the discussion on the ban of one-use bags in Blackfoot was tabled and he asked the Council if there was discussion to have this addressed tonight at Council Meeting. The Council decided they needed more time to research the issue before making any decisions.

### **Ordinance for Floodplain Management**

Mayor Loomis prefaced the discussion by stating the City received a letter from the Department of Water Resources, which stated the City's ordinance on floodplain management is either nonexistent or deficient. He stated the City does have standards for floodplain management in subdivisions, which is embedded in the Planning & Zoning for subdivisions; a specific floodplain ordinance is not there. The City has done research with the County to ensure that the City is in sync with their floodplain ordinance. At this point he stated the City is proposing this floodplain ordinance.

Attorney Garrett Sandow stated the need for this ordinance and it is exactly like the County's ordinance for the floodplains. He asked if there were any questions.

## **CITY OF BLACKFOOT FLOOD PLAIN ORDINANCE**

### **ORDINANCE NO. 2129**

AN ORDINANCE OF THE CITY OF BLACKFOOT, A CITY OF THE STATE OF IDAHO REGULATING FLOODPLAIN DEVELOPMENT, ESTABLISHING PURPOSE AND AUTHORITY; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; REQUIRING PERMITS; PROVIDING FOR ADMINISTRATION, PERMIT PROCESSING AND THE AUTHORITY OF THE ADMINISTRATOR; PROVIDING SUBDIVISION, CONSTRUCTION, MANUFACTURED HOME, RECREATIONAL VEHICLE, AND FLOODWAY STANDARDS; PROVIDING VARIANCE AND APPEAL PROCESSES AND CRITERIA; PROVIDING THAT A VIOLATION IS A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS, OR JAIL NOT TO EXCEED ONE HUNDRED EIGHTY DAYS, OR BOTH; PROVIDING SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

IT IS ORDAINED by the City Council of the City of Blackfoot, Idaho as follows:

- I. STATUTORY AUTHORIZATION, PURPOSE, OBJECTIVES, SEVERABILITY AND REPEAL OF CONFLICTING PROVISIONS
  - A. Statutory Authority

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

B. Statement of Purpose

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

(1) Require that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction;

(2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

(3) Control filling, grading, dredging and other development within the Area of Special Flood Hazard 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) Control the alteration of natural floodplains, stream channels, and natural protective barriers that help to store or channel flood waters.

C. Objectives

The objectives of this ordinance are to:

(1) Protect human life, health and property;

(2) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(3) Help maintain a stable tax base by providing for the sound use and development of flood prone areas;

(4) Minimize expenditure of public money for costly flood control projects;

(5) Minimize the need for rescue and emergency services associated with flooding and generally undertaken at the expense of the general public;

(6) Minimize prolonged business interruptions.

#### D. Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to that end the provisions of this Ordinance are severable.

#### E. Repeal of Conflicting Provisions

Upon enactment of this ordinance all other ordinances or parts of ordinances in conflict herewith, are hereby repealed. All sections of the aforementioned Ordinances repealed by this Ordinance shall remain in force as to the authorization and enforcement of said Ordinances prior to the effective date of this Ordinance.

#### F. Warning and Disclaimer of Liability

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

## II. DEFINITIONS

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

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

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

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

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

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

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

Building: see "Structure."

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 has been the National Geodetic Vertical Datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

Board: The elected governing City Council of the City of Blackfoot, Idaho.

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

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

Existing Construction: means a structure for which the "start of construction" commenced before November 15, 1979.

Existing Manufactured Home Park or Subdivision: means a manufactured home park or subdivision for which the "start of construction" commenced before November 15, 1979.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

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

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

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

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

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

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

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

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

Flood Protection Elevation (FPE) means an elevation that corresponds to the elevation of the one percent (1%) chance annual flood (base flood), plus any increase in flood elevation due to proposed floodway encroachment, plus 0.1 foot of freeboard. Therefore the Flood Protection Elevation for Bingham County is equal to the BFE, plus proposed encroachment, plus 0.1 foot of freeboard.

Floodway / Regulatory Floodway means the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood and delineated on the FIRM.

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

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for HAG related to building elevation information.

Historic Structure means a structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district.

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior, or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

i. By an approved state program as determined by the Secretary of the Interior, or

ii. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Corrections (LOMC) are official FEMA determination letters used to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are issued in the following categories:

#### Letter of Map Amendment (LOMA)

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

#### Letter of Map Revision (LOMR)

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

#### Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Lowest Adjacent Grade (LAG) means the lowest point of the ground level next to the structure. Refer to the Elevation Certificate, FEMA Form 81-31, for LAG related to building elevation information.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement) used for living purposes, which includes working, storage, cooking and eating, or recreation, or any combination thereof. This includes any floor that could be converted to such a use including a basement or crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or

storage, in an area other than a basement, is not considered a structure's lowest floor. The lowest floor is a determinate for the flood insurance premium for a building, home or business.

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

New construction means a structure for which the "start of construction" commenced after November 15, 1979, and includes subsequent improvements to the structure.

New Manufactured Home Park or Subdivision means 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 pad(s) is completed on or after November 15, 1979.

Recreational Vehicle means a vehicle that is:

- (a) Built on a single chassis,
- (b) 400 square feet or less when measured at the largest horizontal projection,
- (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.

Start of construction includes substantial improvement and 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 on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of a building.

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

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

Substantial Improvement means reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage”, regardless of the actual amount of repair work performed.

The term does not include either:

- (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (b) Alteration of a Historic Structure provided that the alteration will not preclude the structure's continued designation as a Historic Structure.

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

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other specified datum) of floods of various magnitudes and frequencies in the flood plains of costal or riverine areas.

### III. GENERAL PROVISIONS

#### A. Lands to Which This Ordinance Applies

This Ordinance applies to all Special Flood Hazard Areas within the areas of the City of Blackfoot, Idaho. All persons, entities and government units, including their political subdivision, shall comply with this ordinance unless specifically exempted by State or Federal Law. Nothing in this Ordinance shall eliminate the need to conform to appropriate State or Federal regulations and the need to obtain any other required permits or to allow uses or structures that are otherwise prohibited by the Zoning Ordinance.

#### B. Basis for Area of Special Flood Hazard

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for the City of Blackfoot, Idaho, 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 ordinance. The FIS and the FIRM are on file at the Planning and Zoning and City Hall offices.

#### C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required prior to development activities in Special Flood Hazard Areas established in Article III Section B.

D. Interpretation

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

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

IV. ADMINISTRATION

A. Designation of Floodplain Ordinance Administrator

The Building Official is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this ordinance.

B. Permit Procedures

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the administrator or the administrator's designee prior to starting development activities. Specifically, the following information is required:

- (1) Application Stage
  - (a) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities.
  - (b) Elevation in relation to the Flood Protection Elevation, or highest adjacent grade, of the lowest floor level, including crawlspaces or basement, of all proposed structures;
  - (c) Elevation to which any non-residential structure will be flood-proofed;
  - (d) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure not exempted by V-D will meet the flood-proofing criterion in Article V;
  - (e) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.
- (2) Construction Stage
  - (a) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level, using

appropriate FEMA elevation or flood-proofing certificate, immediately after the lowest floor or flood-proofing is completed. When flood-proofing is utilized for non-residential structures, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

(b) Certificate deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections may be cause for the Floodplain Administrator to issue a stop-work order for the project.

(3) Technical Review

(a) If the community does not have the expertise to evaluate the technical data that is part of the application, the community may contract for an independent engineering review or require a review by FEMA through the Letter of Map Revision process.

(b) The applicant will pay the costs of an independent technical review.

(4) Expiration of Floodplain Development Permit

(a) All floodplain development permits shall be conditional upon the commencement of work within 180 days.

(b) A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion.

C. Duties and Responsibilities of the Administrator

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

(1) Review all floodplain development permit applications to assure that the permit requirements of this ordinance have been satisfied.

(2) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law. Copies of such permits shall be provided by the applicant and maintained on file.

(3) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this ordinance.

(4) When Base Flood Elevations or other current engineering data are not available, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site will be reasonably safe from flooding.

- (5) Obtain, and record the actual elevation in relation to the vertical datum on the effective FIRM, or highest adjacent grade, of the lowest floor level, including basement, of all new construction or substantially improved structures.
- (6) Obtain, and record the actual elevation, in relation to the vertical datum on the effective FIRM to which any new or substantially improved structures have been flood-proofed.
- (7) When flood-proofing is required for a structure as per Article V, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect.
- (8) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (9) All records pertaining to the provisions of this ordinance shall be maintained in the City of Blackfoot's Planning & Zoning office and shall be open for public inspection.

#### V. PROVISIONS FOR FLOOD HAZARD REDUCTION

##### A. Subdivision Standards

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

##### B. Construction Standards

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

- (1) New construction and substantial improvements of an existing structure, including a structure that has been substantially damaged, shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) New construction and substantial improvements of an existing structure, including a structure that has been substantially damaged, shall be constructed with materials and utility equipment resistant to flood damage and by methods and practices that minimize flood damage.

(3) All new construction or substantial improvements of an existing structure, including a structure that has been substantially damaged, that includes a fully enclosed area located below the lowest floor formed by the foundation and other exterior walls shall be designed to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings with a total net area of not less;

- i. than one square inch for every square foot of enclosed area subject to flooding;
- ii. the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
- iii. openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

(b) To comply with the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(d) For crawlspace foundation types, construction must follow the guidelines in FEMA TB 11-01, Crawlspace Construction for Structures Located in Special Flood Hazard Areas: National Flood Insurance Program Interim Guidance, specifically:

- i. Below grade crawlspaces are prohibited at sites where the velocity of floodwaters exceed 5 feet per second;
- ii. Interior grade of the crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG);
- iii. Height of the below grade crawlspace, measured from the lowest interior grade of the crawlspace to the bottom of the floor joist must not exceed 4 feet at any point;
- iv. Contain an adequate drainage system that removes floodwaters from the interior area of the crawlspace.

(4) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other facilities shall be designed and/or elevated to prevent water from entering or accumulating within the components during flooding.

(5) New and replacement water supply systems shall be designed to minimize or to eliminate infiltration of flood waters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(7) On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding.

(8) Any alteration, repair, reconstruction or improvement to a structure that is not compliant with the provisions of this ordinance, shall be undertaken only if the nonconformity is minimal in order to meet health and safety standards.

#### C. Manufactured Home Standards

In all Areas of Special Flood Hazard where the Flood Protection Elevation is established, these standards for manufactured homes and recreational vehicles that are an allowed use under the zoning ordinance shall apply:

(1) Manufactured homes placed or substantially improved:

(a) On individual lots or parcels

(b) In new or substantially improved manufactured home parks or subdivisions

(c) In expansions to existing manufactured home parks or sub-divisions, or on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor, including basement, elevated to the Flood Protection Elevation.

(2) Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:

(a) The lowest floor of the manufactured home is elevated to the Flood Protection Elevation or one foot above the level of the base flood elevation, whichever is higher.

(b) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches above the highest adjacent grade.

3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to, and consistent with, applicable state requirements.

(4) Manufactured homes placed on solid perimeter walls shall meet the flood vent requirements in Article V(B)(4).

#### D. Accessory Structures

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 3,000 square feet. Such a structure must meet the following standards:

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

#### E. Recreational Vehicle Standards

In all Areas of Special Flood Hazard, Recreational Vehicles, must either:

- (1) Be on the site for fewer than 180 consecutive days;
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or
- (3) The recreational vehicle must meet all the requirements for "New Construction," including the anchoring and elevation requirements.

#### F. Floodway Standards

The following provisions shall apply in a floodway:

- (1) A project in the regulatory floodway must undergo an encroachment review to determine its effect on flood flows. An encroachment analysis must include:

(a) Determination and documentation that the filling, grading or construction of a structure will not obstruct flood flows and will not cause an increase in flood heights upstream or adjacent to the project site;

(b) Determination and documentation that grading, excavation, channel improvements, bridge and culvert replacements that remove an obstruction, do not cause increases in downstream flood flows;

(c) Certification and documentation by a licensed professional engineer that the project will not result in a rise in flood heights;

(d) The Administrator may make the encroachment determination for minor projects, such as projects that do not increase the natural grade (e.g., paving a driveway or parking lot at existing grade, open fences and small isolated obstructions such as a mailbox or telephone pole.

(2) Upon demonstrating that there are no alternatives, the applicant may propose an encroachment in the floodway that will cause an increase in the base flood elevation in excess of the allowable level provided that the applicant obtain a Conditional Letter of Map Revision from FEMA before the development can be approved and permitted.

#### G. Standards for Zones with Base Flood Elevations

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

##### (1) New residential construction and substantial improvements

(a) Where base flood elevation data are available, new construction or substantial improvement of any residential structure or manufactured home shall have the lowest floor, including basement, constructed at or above the community's Flood Protection Elevation.

(b) If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Article V(B)(4).

##### (2) Non-Residential Construction

New construction or the substantial improvement of any non-residential structure located in zones A1-30, AE, or AH must be flood-proofed if the new construction or improvement is not elevated. The structure and attendant utility and sanitary facilities, must be designed to be water tight to the Flood Protection Elevation or to one (1) foot above the base flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A licensed professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these provisions, and shall provide certification to the Administrator.

(3) Where the floodway has not been determined, no new construction, substantial improvements, or other development (including fill) shall be permitted in Zones A1-30 and AE on the effective FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. Applicants of proposed projects that increase the base flood elevation more than one foot are required to obtain and submit to the Floodplain Administrator, a Conditional Letter of Map Revision (CLOMR) preconstruction.

(4) Post construction, the applicant must apply to FEMA for a Letter of Map Revision for changes to the flood hazard map proposed in the CLOMR.

(5) In AH Zones, drainage paths shall be provided to guide flood water around and away from proposed and existing structures.

#### H. Standards for Zones Without Base Flood Elevations and/or Floodway

##### (A Zones)

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

(1) When base flood elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, then the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer this ordinance. If data are not available from any source, only then provisions 2 and 3 shall apply.

(a) Where the floodplain administrator has obtained base flood elevation data, applicants of proposed projects that increase the base flood elevation more than one foot shall obtain a Conditional Letter of Map Revision preconstruction and a Letter of Map Revision post construction.

(2) No encroachments, including structures or fill, shall be located within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless certification by a licensed professional engineer documents that the encroachment will not result in any increase in flood levels during the base flood.

(3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the enclosed area (including basement or crawlspace) elevated no less than two feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Articles V (B) and (C).

## I. Standards for Areas of Shallow Flooding (AO Zones)

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

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

## J. Alteration of a Watercourse

A water course is considered altered when any change occurs within its banks.

- (1) The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a floodplain development permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.
- (2) Adjacent communities, the U.S. Army Corps of Engineers and the Idaho Department of Water Resources Stream Channel Alteration program must be notified prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the floodplain administrator and to the Federal Emergency Management Agency.
- (3) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course so that the flood carrying capacity will not be diminished.
- (4) The applicant shall meet the requirements to submit technical data in Sections K (1) and K(2) when an alteration of a water course results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

K. Requirement to Submit New Technical Data

(1) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

- (a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
- (b) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area in accordance with V (A)(3);
- (c) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts;
- (d) Subdivision or large-scale development proposals requiring establishment of base flood elevations according to Article V (A)(3).

(2) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

VI. VARIANCE AND APPEAL PROCEDURES

A. Variance

(1) An application for a variance must be submitted to the Flood Plain Administrator on forms provided and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.

(2) Upon receipt of a completed application for a variance, the variance request will be set for a public hearing before the Board.

(3) Prior to the public hearing, Notice of the hearing will be published in the official newspaper at least 15 days prior to the hearing. In addition to the newspaper publication, written notice shall be provided to all adjoining property owners by parcel post.

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

B. Criteria for Variances

(1) Generally, the only condition under which a variance from the elevation standard may be

issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structure constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

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

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

(4) Variances may be issued upon;

(a) A showing by the applicant of good and sufficient cause;

(b) A determination that failure to grant the variance would result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances.

(5) Variances pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods.

#### C. Variance Decision

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

#### D. Appeals

The Board shall hear and decide appeals from the interpretations of the Administrator.

(1) An appeal must be filed with the Administrator within fourteen (14) days of the date of any permit denial or interpretation of the Administrator. Failure to timely file an appeal shall be considered a failure to exhaust the administrative remedies. The appeal must set out the interpretation of the Administrator and a narrative setting forth the facts relied upon by the appellant and the appellants claim regarding the error in the interpretation.

(2) Upon receipt of a completed appeal, the appeal will be scheduled for a public meeting to be heard by the Board. The Board shall consider the following in ruling on an appeal:

(a) All technical evaluations, all relevant factors, standards specified in other sections of this ordinance, including:

- i. The danger that materials may be swept onto other lands to the injury of others;
- ii. The danger to life and property due to flooding or erosion damage;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual landowner;
- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity of the facility to a waterfront location, where applicable;
- vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- ix. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- xi. The cost of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

#### E. Decision

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

#### VII. PENALTIES FOR VIOLATION

No structure or land shall hereafter be located, extended, converted or altered unless in full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 180 days, or both. Each day the violation continues may be considered a separate offense.

Nothing herein contained shall prevent the City of Blackfoot from taking such other lawful actions as is necessary to prevent or remedy any violation.

VII. EFFECTIVE DATE

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

PASSED AND APPROVED by the Mayor and City Council this 3rd day of March, 2015.

CITY OF BLACKFOOT, IDAHO

By: \_\_\_\_\_

Paul Loomis, Mayor

ATTEST: \_\_\_\_\_

City Clerk

Councilman Gardner motioned to suspend the reading or any further reading of and approve Ordinance No. 2129. Councilwoman Simpson seconded. Mayor Loomis called for a roll call vote:

Councilman Brown –	Yes
Councilman Gardner –	Yes
Councilman Jensen –	Yes
Councilwoman Simpson –	Yes

All were in favor. Motion carries.

**Sanitary Sewer Waiver**

Mayor Loomis informed the Council there are 2 homes in the City that could connect to sewer but the depth of the sewer connection is an issue. He stated it would be in the best interest of the City to grant these 2 homes a waiver until the City can bring the sewer lines from the other direction. With the exception, the 2 homes would still pay the availability fee now, which is a onetime fee and they would be required to connect when the sewer line becomes available.

Superintendent Rex Moffat of the Waste Water Treatment Plant stepped forward to answer questions. He stated the existing line in Harbor Drive is 2 ½ ft deep and the line in Ridgecrest is deep enough but the City would need to get an easement through private property to extend that line. The private property owner is not favorable to that idea. He did say there is a potential for growth but he is not sure how far out that is. It could be 5 years or 20 years for a line to come in that would be deep enough to connect too. There is a line on Lilac St. that is 11 ½ ft deep and could be extended but they are unsure of when that will happen. Until they can hook up to the sewer line they are asking for a waiver of connection. The water is coming off of Harbor Drive, which connects it to City water. So the 2 homes would be connected to City water, just not the sewer. Mr. Moffat recommended that the Council approve the waiver of connection at the current time until there is an available and feasible connection opportunity. The service availability fee will be paid now and it will be attached to the deed of the

property, so even if the land transferred names, the fee would not need to be paid again. Until the sewer connection is made, no monthly collections will be made for these 2 properties.

Councilman Brown motioned to approve the Sanitary Sewer Waiver and the contract completed by Attorney Sandow. Councilman Jensen seconded. All were in favor. Motion carries.

### **Approval of the Latest Version of the Idaho Standards of Public Works Construction 2012 Edition and to Accept the 2015 Updated Manual**

Richard Mangum, Public Works Director, stated this is the latest version of the Idaho Standards of Public Works and all contractors in the State of Idaho are required to abide by it. Within the next 30 -60 days the 2015 edition will be released and the City will receive it for free. Without adopting the 2015 edition, the contractors in the City can only abide by the passed 2005 edition, which was the last edition approved in the City. By the Council approving this 2015 edition that will come out, the contractors will be required to abide by the new standards.

Councilman Jensen moved to adopt and approve the latest 2015 edition of the Idaho Standards of Public Works construction when it becomes available. Councilwoman Simpson seconded. All were in favor. Motion carries.

### **Reallocation of Funds in Street Department**

Mayor Loomis asked Street Superintendent Vaughn Key to come forward to talk about the reallocation of the \$200,000 match that was set aside for the TIGER Grant, which the City did not receive. Mr. Key stated instead of putting the money into the carryover funds, one of the items would be to purchase a Crack Seal Machine, which was originally removed from the budget due to budget constraints. This would help save some of the streets in the City which are still worth saving. This machine helps seal the cracks in the streets, keeps water out of the road base, and protects the road, which makes the road last longer. He stated they received 3 quotes for the machine for both new and used (under 35 hours of use). He said the Street Department would like to purchase a fairly new machine that was only used for demos, which would have the possibility of adding an air compressor with the purchase to help blow the cracks out. This would cost \$45,600 or with the air compressor at \$98,000 if so desired.

He stated the Street Department would also like to purchase approximately 17 tons of filler material for \$15,000, which would fill 1 mile of crack per ton.

Councilman Gardner asked Mr. Key how many people it would take to run the machine. Mr. Key responded 3 men, one to drive and one to blow and one to fill.

Mr. Key said they would like to use the rest of the funds to go toward chip sealant. The cost is \$275 per square yard. They would like to purchase 44,000 sq yards, which would cover 34 blocks. Chip seal protects the asphalt for about 5-10 years.

Councilwoman Simpson moved to reallocate the Street Funds for uses as declared by Mr. Key. Councilman Gardner seconded. All were in favor. Motion carries.

### **Ratify Awarding contract to JUB Engineering as the Engineers for the WWTP Clarifier Project**

The contract with JUB Engineers is being brought before council to ratify the contract since the approval of the contract is not found in previous minutes, which was signed by Mayor Mike Virtue. Due to this, the City finds it needful to ratify that action.

Councilman Jensen motioned to ratify the contract with JUB Engineers for the WWTP Clarifier Project. Councilman Gardner seconded. All were in favor. Motion carries.

### **Review Park and Rec Fees for Concession Stands in Parks**

A proposal to waive the concession stand fees is being made by Senor Garcia to give the City 10% of gross sales from selling concessions in the parks. He would still be required to take out liability insurance and abide by health department guidelines. Mayor Loomis stated he would like to try this for one year and see how it goes. He stated he is not asking to open this to all vendors at this point but use this one vendor on a trial basis. They would still allow the Little League to do vending during tournaments as it says in the city Ordinance. But Senor Garcia would also be allowed to sell food except hamburgers. A contract will be drawn up upon approval of the Council. 10% of the gross sales will be verified with daily receipts.

Councilman Jensen moved to approve the 1 year trial for the suspension of the concession stand fees and will allow sales during tournaments. Councilman Gardner seconded. All were in favor. Motion carries.

### **Grant Administrator Contract**

Heather Schild, City Treasurer, stated the City is currently in the running for a \$500,000 ICDB Grant for the WWTP. The grant administration training will take more time than Ms. Schild has to give. The City would like to bring Grant Administrator Tricia Mitchell to administer the ICDBG for \$35,000. An RFP was sent out to multiple Eastern Idaho administrators and Mrs. Mitchell was the highest scoring contender.

Councilman Jensen moved to approve the Grant Administrator Contract as presented. Councilwoman Simpson seconded. All were in favor. Motion carries.

### **Financials**

Ms. Schild presented the financial report to the Council.

### **Adjourn**

Councilman Jensen moved to adjourn. Councilman Brown seconded. All were in favor. The meeting adjourned at 8:34 P.M.

City of Blackfoot

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Mayor Paul Loomis

Attest:

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City Clerk Suzanne McNeel