

DRAFT ORDINANCE NO. 266

AN ORDINANCE OF THE CITY OF DONNELLY, VALLEY COUNTY, IDAHO, AMENDING TITLE 18 “ZONING”, CHAPTER 10 “DEFINITIONS”, SECTION 020 “MEANING OF TERMS OR WORDS”; DELETING CHAPTER 80 “FLOOD HAZARD OVERLAY DISTRICT (FH)” IN ITS ENTIRETY; ADDING NEW CHAPTER 80 “FLOOD DAMAGE PREVENTION ORDINANCE”; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Donnelly, Idaho is a municipal corporation organized and operating under the laws of the State of Idaho; and

WHEREAS, the Mayor and City Council of the City of Donnelly desire to protect the health, safety and welfare of the citizens of Donnelly by updating regulations relating to land use.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DONNELLY, Valley County, Idaho;

Section 1: That Title 18 “Zoning”, Chapter 10 “Definitions”, Section 020 “Meaning of terms or words”, is hereby amended with the terms and words to be defined to be bold and underlined and other underlined text to be added and strike thru text to be deleted as follows:

Abandoned sign: ~~means~~ a sign which no longer advertises a bona fide business, lessor, owner, product or activity.

Aboveground Combustible Liquid Tank(s): ~~means~~ any vessel containing more than 60 gallons (227 L) of Class II liquids, Class III-A liquids, or Class III-B liquids as defined herein as “combustible liquid” (e.g., diesel). Aboveground combustible liquids do not include LPG (propane). The use of any aboveground combustible liquid tank is prohibited except where listed as a conditional and/or accessory use. Home heating fuel for personal use is exempt from this definition.

Accessory Use or Structure: ~~means~~ a structure subordinate to the principal use on the same lot or premises and serving a purpose customarily incidental to the use of the principal building.

1. Attached Accessory Structure. Any structure which is not part of the principal structure, but which is located within three feet of, or attached to, the principal structure.
2. Detached Accessory Structure. Any accessory structure located more than three feet from the principal structure.
3. Accessory Dwelling Unit. Secondary living unit on a single-family lot. An ADU contains its own kitchen, sleeping area, and bathroom facilities. ADUs can also be attached or detached from the primary residential unit. ADUs are subordinate in size, location, and appearance to the primary dwelling unit. ADUs are commonly referred to as mother-in-law apartments, ECHO homes (elder cottage housing opportunities), guest cottages, caretaker cottages, garden cottages, carriage houses, or rental units. Recreational vehicles shall not be approved as and ADU.

4. Accessory structures must be used for parking or storage, be small and represent a minimal investment by owners, and have low damage potential. FEMA considers size limits based on flood zone, where “small” means not larger than a one-story two-car garage (600 sq. ft.) in flood zones identified as A zones (A, AE, A1-30, AH, and AO). Examples of small accessory structures include, but are not limited to, detached garages, storage and tool sheds, and small boathouses. Accessory structures (located within a (Special Flood Hazard Area) greater than 600 sq. ft. must have an approved floodplain development permit or variance prior to the start of construction.

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

Administrator: means the City of Donnelly Planning and Zoning Administrator.

Affected person: means any person having an interest in real property which may be adversely affected by the issuance or denial of a permit, variance, or other action of the staff, commission, or board in regard to provisions of this title.

Agricultural Building: means any building to be used for agricultural purposes, placed on agricultural land of five acres or more, categorized as agricultural by the Valley County assessors’ office, and which is not intended for human habitation (including pump houses, barns, tool sheds, storage buildings, etc.).

Agricultural Uses: means farming; dairying; pasturage; cultivation; tillage; horticulture; floriculture; silvaculture; viticulture; vermiculture; and animal, poultry, and fish husbandry as the principal use and the necessary accessory use for packing, treating, or storing the produce. Agricultural uses shall not include commercial riding stables, race tracks, slaughterhouses, plants, factories, works for the reduction of animal matter, or commercial poultry, kennels or feedlots.

Airport: means any runway, landing area, or other facility designed or used either publicly, privately, or commercially by any person for all landing and taking off of aircraft, including any associated taxiway, aircraft storage and tie-down areas, hangars, passenger terminals, and other buildings.

Alley: means a minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting a street.

Alteration Building/Structure” ~~shall mean~~ any change in size, shape, character, occupancy, or use of a building or structure.

Animated Sign: means any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Apartment: means a multifamily residential complex; all units are owned by a single person, group of people, or corporation, and rented or leased to individuals.

Appeal: a request for review of the Administrator's interpretation of provisions of Donnelly City Code (DCC).

Applicant: means any owner of land or an authorized representative; or an individual group who has legal or equitable interest in the land; and who files an application for a permit, variance, or appeal in accordance with the requirements of this title.

Area of Shallow Flooding: a designated AO, or 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 evident. Such flooding is characterized by ponding or sheet flow.

Area of Sign/Sign Area: means the area of all faces of a sign within a perimeter which forms the outside shape, excluding any necessary supports upon which the sign may be placed. Where a sign consists of more than one face, section, or module, all areas shall be totaled.

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

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

Base Flood Elevation (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 or greater chance of occurrence in any given year. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Flood Protection Elevation.

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

Art: means that which has form or beauty and which is not intended to display a commercial message, including paintings, photography, sculptures or drawings.

Artisan Shop: means a use in a building which is 3,000 square feet or less wherein an artist or craftsman produces products and sells those same products to the public.

Banner: means any sign of lightweight fabric or similar material permanently mounted to a pole or building located outdoors.

Base Flood: means the flood having a one percent chance of being equaled or exceeded in any given year, also previously referred to as the "100-year flood." Designation on maps always includes the letter A or V.

Base Flood Elevation (BFE): means the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the flood insurance study report, or depth of the base flood, usually in feet, above the ground surface. a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Flood Protection Elevation.

Basement: ~~means any floor level below the first story in a building, provided such floor level is more than four feet below grade for more than 50 percent of the perimeter. any area of the building having its floor sub-grade (below ground level) on all sides.~~

Beacon: ~~means~~ any light with one or more beams directed at any point not on the same property as the light source; also, any light with one or more beams that rotate or move.

Bed and Breakfast Inn: ~~means~~ a building which has no more than eight sleeping rooms available for rent for short-term (less than 15 days) residential occupancy, and serves through a main entrance.

Bench Signs: ~~means~~ any outdoor furniture with commercial signage.

Best Management Practices: ~~means:~~

1. The exercise of judgment, and care under the circumstances then prevailing, which persons of prudence and discretion exercise in the management of their affairs.
2. Best management practices in engineering, planning, or administration to prevent or reduce runoff pollutants.

Bike Path: ~~means~~ a hard surfaced path which has been created for nonmotorized transportation and is usually physically separate from automobile travel lanes.

Boarding and Rooming House: ~~means~~ a building in which the proprietor resides and which has not more than six rooms available for rent or lease for residential occupancy and in which no cooking or dining facilities are provided in the individual rooms.

Bond: ~~means~~ a contract between the applicant and the city in which the applicant guarantees ~~that he will~~ to perform certain requirements of any permit under this title. The contract shall require the applicant to secure performance of the contract by surety, cash, collateral, or other consideration sufficient to assure either performance or reclamation of any act or acts authorized by the permit. This contract includes, but is not limited to, performance, reclamation, contractors, materialman indemnification or other bond assuring the performance of applicant under any permit and the payment of all labor and material in the performance of any work provided to or for the benefit of the applicant under any permit. Any bond would require an A+ Best's rating. In the discretion of the board, the principals of such bond may be required to include the real parties in interest such as officers, directors, shareholders or partners.

Buffer: for the purposes of this title, includes, but is not limited to, a landscape strip, solid fence, or solid wall designed to lessen the negative impacts one land use may have on another.

Building: ~~means~~ any structure used or intended for supporting or sheltering any use or occupancy.

Building Footprint: ~~means~~ the area of the lot or parcel which is within the perimeter created by a vertical extension to the ground of the exterior walls of all enclosed portions of a building, including attached garages, carports, enclosed decks, bay windows, porches, solariums and similar enclosed extensions, attachments and accessory annexes. Not included in the footprint are unenclosed portions or extensions of buildings, including, but not limited to, unenclosed decks, porches, eaves and roof overhangs.

Building Frontage: means the width of a building facing the street to which the building or business is oriented. In the case of corner lots the frontage shall be one of the streets to which the building is oriented, to be determined by the administrator.

Building Official: means the Valley County Building Official, or other individual designated by the City Council.

Bulky Retail: means retail sales of bulky items including but not limited to farm equipment, manufactured homes, furniture, appliances, and farm and garden supplies.

Business: means any retail, or wholesale store, professional office, or similar kind of commercial establishment.

Catering Services: means a facility for the preparation and storage of food and food utensils for off-premises consumption and service.

Central Sewage Treatment Facility: means any plant, lagoon, or system, other than an approved individual modified septic tank, drain field, or pit privy, for receiving, treating and disposing of sewage.

Changeable Copy Sign: means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face of the sign. A sign on which the message changes more than one time per day shall be considered an animated sign.

Channel: means a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, and which, in the absence of evidence to the contrary, shall be presumed to consist of the area between the boundaries of vegetation on either side of the watercourse.

Church Buildings or Church Campgrounds: means any structure or property which is directly used for exempt purposes and is owned by any church which is qualified as an organization exempt from income tax or operated by a body of religious believers for the purpose of practicing their faith.

City: means the city of Donnelly, Idaho.

Clean Water Act (CWA): means the Federal Water Pollution Control Act (33 USC Section 1251 et seq.), and any subsequent amendments thereto.

Cluster development: means a subdivision or other development planned and constructed so as to group structures or lots into relatively concentrated and contiguous areas while providing a unified network of open space, wooded area, recreational or agricultural land.

Combustible liquid: means a liquid having a flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius). Combustible liquids are subdivided as follows; the category of combustible liquids does not include compressed gases or cryogenic fluids.

Class II liquids are those having closed cup flash points at or above 100 degrees Fahrenheit (37.8 degrees Celsius) and below 140 degrees Fahrenheit (60 degrees Celsius). Class III-A liquids are those having closed cup flash points at or above 140 degrees Fahrenheit (60 degrees Celsius) and below 200 degrees Fahrenheit (93.3 degrees Celsius). Class III-B liquids are those liquids having closed cup flash points at or above 200 degrees Fahrenheit (93.3 degrees Celsius).

Commercial use: means occupancy of a building, structure, or other property which involves any retail sale, wholesale distribution, professional office, entertainment service, recreational area, restaurant, room for rent, hybrid production facility, or any combination of any of these uses with any other use. This definition shall not include churches, public schools, hospitals, public civic centers, or public recreational facilities, or other facilities owned by, or operated strictly for the benefit of, the public.

Commission: means the planning and zoning commission of the city of Donnelly, Idaho.

Common Open Space: means a portion of real property for use by all property owners within the subdivision including permanent viewsheds, golf courses, conservation easements, or other like uses that also meet the definition of “open space.”

Community Housing: means residential units that are occupied by local employees, local retirees, and other long-term community residents as their primary home, that is affordable for low to moderate income households and have restrictions that will preserve their affordability into the future through deed restrictions.

Community or Civic Event: means a public event which is of interest to the community as a whole rather than the promotion of any product, political candidate, religious leader, or commercial goods or services.

Comprehensive Plan: means compilation of goals, objectives, maps, and other data guiding the physical, social, and economic development, both public and private, of the country and its environs as defined in the Local Planning Act of 1975, and adopted by resolution from the Donnelly ~~planning and zoning commission to the Donnelly~~ city council or as hereafter amended.

Conditional Use: means a use or occupancy of land permitted only upon the issuance of a conditional use permit, and subject to the limitations and restrictions specified in such permit in addition to all other applicable regulations and provisions of this title.

Condominium: means a multifamily dwelling containing two or more dwelling units in which each unit is under single ownership, excluding the ground beneath the unit.

Construction: means the erection, fabrication, reconstruction, demolition, conversion, repair of a building, or the installation of equipment therein normally a part of the structure.

Construction Activity: means activities occurring in furtherance of a construction project, including, but not limited to, land disturbing activities; temporary crushing and screening operations lasting less than 180 calendar days; hauling soil and rock; explosive and abrasive blasting; implosion; handling of building materials; concrete, stone and tile cutting; operation of motorized and nonmotorized machinery; and the operation of motor vehicles on a construction site, a staging area, a parking area, a storage area, or any access routes to the construction site.

Convenience Store: means a small-scale grocery operation that may provide self-service gasoline.

Copy: means any graphic, letter, numeral, symbol, insignia, text, sample, model, device, or combination thereof which is intended to advertise, identify, or notify.

Council: means the City Council of the City of Donnelly, Idaho.

County: means Valley County, Idaho, and/or its representative's staff or assigns.

County Recorder: means the county recorder of Valley County, Idaho.

Critical Facilities: facilities that are vital to flood response activities or critical to the health and safety of the public before, during, and after a flood, such as a hospital, emergency operations center, electric substation, police station, fire station, nursing home, school, vehicle and 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.

Cul-De-Sac: means a dead end street that provides a turnaround at its terminus (court or place).

Day Care Business: means the care and supervision, provided for compensation during part of a 24-hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's own home. This term includes preschools, nursery schools, play schools, kinder-care, and any like or similar operation, in accordance with "National Health and Safety Performance Standards."

1. Day Care Center: means a day care operation providing care for 13 or more children.
2. Day Care Facility: means a day care operation providing care for no more than 12 children.
3. Day Care Home: means a day care operation providing care for six or fewer children at any one time, having not more than three employees, and operating between the hours of 7:00 a.m. and 6:00 p.m.
4. Child: means any person under 12 years of age.
5. Employee: means any person working for compensation in any day care operation.

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 basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

Deck: means an exterior floor system connected to an adjoining residential dwelling where the top of the floor system is less than 30 inches above adjacent grade (e.g., a porch or a patio). A "deck" is not a building or structure subject to the setback requirements of this title.

Dedication: means the setting apart of land or interests in land for use by the public. Land becomes dedicated only when accepted by the board as public dedication, either by the passage of a city ordinance or by entry of a resolution of approval in the official minute book of the meetings of the council.

Density: means the number of residential lots or dwelling units per acre of land excluding any land designated as a Floodway.

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 means any grading, vegetation removal, construction activity, or any other activity which changes the existing character or use of the land or has any impact on adjoining properties.~~

Development Activity: any activity defined as Development which will necessitate a Floodplain Development Permit; such as: the 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.

Development Agreement: ~~means~~ a contract between the applicant and the city to assure performance of the applicant on any permit and for the payment of any fees, or other duties and obligations of the applicant related to the permit.

Development Standards: ~~means~~ the combination of controls which establish regulations for development. ~~the maximum size of a building and its location on the lot, including, but not limited to:~~

- ~~1. The size of buildings and other structures.~~
- ~~2. The shape of buildings and other structures.~~
- ~~3. The location of exterior walls of buildings and other structures, in relation to property lines, streets, and other buildings or structures.~~
- ~~4. Open space requirements.~~
- ~~5. Lot area per dwelling unit.~~

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

Double Frontage Lot: means a lot other than a corner lot having frontage on two parallel or approximately parallel streets.

Driveway: ~~means~~ a nondedicated, vehicular access constructed on private property which is not designated as a private road providing access to not more than five residential dwelling units.

Duplex: ~~means~~ a ~~multiple~~ two-family dwelling under single ownership containing two dwelling units in which at least one of the units is rented or leased or intended for rent or lease.

Dwelling Unit: ~~means~~ the descriptive unit of measure for determining residential use and density. It may be a single building or part thereof, having a kitchen, which provides for the full living facilities of one or more persons, including:

- ~~1. Single family detached dwelling.~~
- ~~2. Single family attached or clustered multi-unit component such as a duplex or condominium.~~
- ~~3. Mobile home, travel trailer, recreational vehicle or preconstructed modular unit on a temporary foundation, which meets the above criteria.~~

Dwelling Unit Equivalent: means a single building or part thereof that provides for partial living facilities but excludes cooking and laundry facilities within the individual living spaces. One half dwelling unit is where food preparation and dining facilities are not provided on site as part of the development, and laundry facilities are provided as a service only. One third dwelling unit equivalent is where food preparation, dining, and laundry services as well as meeting and other public spaces are included on site as part of the development. The above shall not exclude a microwave oven, coffeemaker, and/or small under counter refrigerator such as is provided in a motel/hotel application that is not intended for long term, continuous stay.

Dwelling, Multi-Family: A dwelling consisting of three (3) or more dwelling units with varying arrangements of entrances and party walls, commonly referred to as apartments. Multi-family housing may include public housing.

Dwelling, Single-Family: A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space. This classification includes manufactured homes and any home in which eight (8) or fewer supervised unrelated mentally and/or physically handicapped or elderly persons reside.

Dwelling, Single-Family Attached: A dwelling consisting of two (2) or more dwelling units attached to one another by common walls with each dwelling unit being on a separate lot, commonly referred to as townhouses and/or townhomes.

Dwelling, Two-Family: A dwelling, consisting of two (2) dwelling units which may be either attached side by side or one above the other, commonly referred to as duplexes. This definition does not include accessory dwelling units.

Dwelling Unit: Space within a dwelling comprising living, dining, sleeping room or rooms and storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family.

Easement: means a right to the use of land, other than as a tenant, for a specific purpose by someone other than the owner who holds title to the land.

Electronic Message Sign: means a permanent sign which changes copy electronically more than once per day using switches and electric lamps.

Engineer: means a professional engineer registered in the State of Idaho.

Enhanced Specialized Mobile Radio (ESMR): means private land mobile radio with telephone services.

Elevated Building: for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, 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; 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 formed when any space below the BFE/FPE is enclosed on all sides by walls or partitions. Insect

screening or open wood lattice used to surround space below the BFE/RFPE is not considered an enclosure.

Encroachment: the advance or infringement of uses, fill, excavation, buildings, structures, or development into the Special Flood Hazard Area (SFHA), which may impede or alter the flow capacity of the SFHA.

Erected: includes built, constructed, reconstructed, moved upon, or any other physical operations on the premises required for building. Excavation, fill, drainage, and the like shall be considered a part of erection.

Erosion: means progressive detachment and removal of particles, including soil and rock fragments, from the earth's surface by means of water, wind, ice, gravity or mechanical processes, including vehicular traffic.

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 April 15, 1977, 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, December 17, 2018.

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).

Exterior Lighting: means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outdoors. Emergency or warning lights outside are considered exterior lighting for the purpose of this title. Exterior lighting does not include vehicles.

Fees, Impact: means the fees authorized by the state of Idaho statutes for those services provided by the county or other local taxing agencies which would otherwise be funded by tax revenues. The fee shall be reasonably related to, but shall not exceed, the actual cost of the service rendered. The fees shall be in cash or other consideration that may be negotiated with an applicant.

Fees, Reimbursement: means any applicant for any permit involving a planned unit development which is residential or multiuse, subdivision, cluster development, condominium, or any other proposed change in use which significantly alters the characteristics of the existing use shall be required to pay a reimbursement fee to the city for all reasonable administrative and other costs heretofore or hereafter incurred directly or indirectly by the city in processing the application and monitoring the construction,

maintenance, and completion of all or part of the permit. These fees may be adopted by resolution.

Federal Emergency Management Agency (FEMA): The agency with the overall responsibility of administering the National Flood Insurance Program (NFIP).

~~Fence: means a natural or artificial barrier intended to be an enclosure or to delineate a boundary and located within 20 feet of a property line. For the purposes of this title, the term “fence” shall include hedges and walls~~

Final Plat: ~~means~~ a map for recording of real estate interests with the county recorder prepared by a registered professional land surveyor and conforming to the requirements of the subdivision, planned unit development or other development. The final map, drawing, and related documents are presented to the city for approval, and which, if approved, will be submitted to the county recorder for recording.

Finished Floor: The finished floor is the first habitable walking surface referenced in the elevation certificate (FEMA form 81-31 sections C2a and C2b) as the top of the next highest floor or the top of a slab on grade floor.

Flag: means any fabric banner or bunting containing distinctive colors, patterns or symbols used as a symbol of a government or political subdivision.

Flammable Liquid: ~~means~~ a liquid having a closed cup flash point below 100 degrees Fahrenheit (37.9 degrees Celsius). The category of flammable liquids does not include compressed gases or cryogenic fluids. Flammable liquids are further categorized into a group known as Class I liquids. The Class I category is subdivided as follows:

1. Class I-A Liquids: include those having a flash point below 73 degrees Fahrenheit (22.9 degrees Celsius) and having a boiling point below 100 degrees Fahrenheit (37.8 degrees Celsius).
2. Class I-B Liquids: include those having a flash point below 73 degrees Fahrenheit (22.8 degrees Celsius) and having a boiling point at or above 100 degrees Fahrenheit (37.8 degrees Celsius).
3. Class I-C Liquids: include those having a flash point at or above 73 degrees Fahrenheit (22.8 degrees Celsius) and below 100 degrees Fahrenheit (37.8 degrees Celsius).

Flashing Signs or Lights: ~~means~~ any sign which contains an intermittent light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. A sign on which the only intermittent lights display an indication of time or temperature shall not be considered a flashing or electronic message sign for the purpose of this title.

Flood of Flooding: ~~means~~ a general and temporary condition of partial or complete inundation of normally dry lands from ~~(1) the overflow of inland waters and/or (2) the unusual and rapid accumulation of runoff or surface waters from any source:~~

- 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;
or
 3. Mudslides (mudflows) which are proximately caused by flooding as defined in division A2 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 division A1 of this definition.

Flood Elevation Determination: See Base Flood Elevation (BFE).

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

Flood Fringe: The portion of the floodplain outside of the floodway covered by floodwater during the regulatory flood.

Flood Insurance Rate Map (FIRM): an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood 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”) ~~means a relatively flat area or low land adjoining a body of water which has been or may be inundated by water from the 100-year flood.~~

Floodplain Administrator: the individual appointed to administer and enforce the floodplain damage prevention regulations.

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

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

Floodplain Management Regulations: zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance, and erosion control ordinance), and other applications of

police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing: 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 the Freeboard.

- a. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet (2’) of freeboard; and
- b. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two feet (2’) above the highest adjacent grade.

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

Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. ~~means that portion of the flood hazard area that includes the channel and the portion of the adjacent area which conveys the major portion of the flow for the 100-year flood.~~

Floor Area: ~~means~~ the gross area included within the surrounding exterior walls of a building or portion thereof, including all floor levels, exclusive of vent shafts, courts, attics, or garages or other enclosed automobile parking areas, subject to the following restrictions:

1. The unfinished basement of a single or multiple-family dwelling is not included as floor area; and
2. The basement of any other building is included as floor area.

Freeboard: a factor of safety usually expressed in feet above a flood 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. The Base Flood Elevation (BFE) plus the freeboard establishes the Flood Protection Elevation (FPE). Freeboard shall be two feet (2’).

Freestanding Sign: ~~means~~ any sign erected on a freestanding frame, platform, base, mast, or pole and not structurally attached to any building.

Freestanding Tower: ~~means~~ a tower standing without any external supports.

Frontage: ~~means~~ the distance along the front lot line.

Fuel Storage Tank: See “aboveground combustible liquid tank(s).” Prohibited except where listed as a conditional and/or accessory use.

Functionally Dependent Use: a facility that cannot be used for its intended purpose unless it is located 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. The term does not include long-term storage, manufacture, sales, or service facilities.

Garage: means a building or portion thereof in which a motor vehicle containing flammable or combustible liquid or gas in its tank is or is intended to be stored, repaired, or kept.

Gated Community: means a residential community served by private streets with restricted access by means of a gate or any other means of access control.

Glare: means stray, unshielded light striking the eye that may result in:

1. Nuisance or annoyance glare, such as light shining into a window;
2. Discomfort glare such as bright light causing squinting of the eyes;
3. Disabling glare such as bright light reducing the ability of the eyes to see into shadows; or
4. Reduction of visual performance.

Hazardous Sign: means a sign which, due to structural weakness, design defect, or other reason, constitutes a threat to the health, safety, and welfare of any person or property.

Health Care Facility: means hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, intermediate care facilities, kidney disease treatment centers, including but not limited to freestanding hemodialysis and chemodialysis units, ambulatory surgical facilities, birthing centers, community health centers, health maintenance organizations (HMO), independent laboratories, migrant health centers, public health clinics, and freestanding emergency care centers.

Height, Fence or Screen: means the vertical distance measured from the existing grade prior to construction to the top of the fence. For the purpose of applying height regulations, the average height of the fence along any unbroken run may be used, provided the height at any point is not more than 10 percent greater than that permitted by this title.

Height of Building: means the greatest vertical distance measured from the lowest point of record grade within any portion of the building footprint to the highest point of the roof surface thereof, exclusive of cupolas, chimneys up to 10 feet above the highest point of the roof surface, steeples, and spires, according to current building codes.

Height of Sign: means the vertical distance measured from the ground plane to the top of the sign, including the air space between the ground and the sign.

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 a 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.

Home Occupation: ~~means~~ a business-related activity conducted entirely within a dwelling which is incidental and secondary to the use of a dwelling as a residence and does not negatively impact the surrounding neighborhood. Home occupations are defined for the purpose of this title as those activities that represent a departure from the daily routine associated with a residential use and could, therefore, impact the neighborhood.

Hotel: ~~means~~ a building which is used for short-term occupancy, offering sleeping accommodations to the public on a nightly basis and access to all sleeping rooms through a main entrance, and which may provide food, entertainment, or various personal services.

Hybrid Production Facility: ~~means~~ a use in a building wherein finished consumer goods are manufactured or produced and those same goods are offered for sale to the general public. Hybrid production facilities must be similar in size, scale and scope of operation to adjacent or nearby uses.

Improvements: ~~means~~ street pavements, paths, bikeways, sedimentation control facilities, revegetation, curbs, gutters, sidewalks, water systems, sanitary and storm systems, gas lines, electric and telephone lines and appurtenances, street signs, lights, irrigation canals, landscaping, lot corner monuments, and other such items as may be required for compliance with the regulations of the title.

Indirect Illumination: ~~means~~ a source of light separate from the sign itself.

Individual Retail Trade: ~~means~~ any retail business or businesses allowed in the applicable zoning district.

Industry, Heavy: ~~means~~ any manufacturing, processing, or testing of goods and materials, including the production of power, where the byproducts of such use include noise, smoke, odor, glare, gas, vibration, dust, light, or traffic which may have a detrimental effect on neighboring property.

Industry, Light: ~~means~~ warehousing, wholesaling, manufacturing, and/or processing of goods and materials which do not emit offensive odor, dust, smoke, glare, gas, light, noise, or vibration which cannot be confined to the site itself.

Inflatable Signs or Displays: means any inflatable object used for promotional or sign purposes.

Infrastructure: means the facilities, properties, supports, and utilities which provide services.

Kennel: means an enclosure for the commercial or private boarding or breeding of more than three dogs.

Kitchen: means a room or area for storage, preparation, and cooking of food.

Letter of Map Change (LOMC): a general term used to refer to the several types of revisions and amendments to FIRMs 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 or structure's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property or structure 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 a 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.

Light Manufacturing: means the warehousing, manufacturing, and/or processing of goods and materials which do not emit odor, dust, smoke, glare, gas, light, noise, or vibration which cannot be confined to the site itself. Wholesaling is permitted as a light industrial use only if the items are manufactured on site and are not for sale as retail merchandise to the general public.

Light Pollution: means any adverse effect of manmade light including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, up-lighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky.

Light Trespass: means light falling on the property of another or the public right-of-way when it is not required to do so.

Liquefied Petroleum Gas (LP Gas): means a material which is composed predominantly of the following hydrocarbons or mixtures of them: propane, propylene, butane (normal butane or isobutene) and butylenes.

Loading Space, Off-Street: means space logically and conveniently located for pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required parking spaces are filled.

Lot: means a plot, parcel, or tract of land with fixed boundaries of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or an approved private street, and may consist of:

1. A single lot of record.
2. A combination of complete lots of record, or portions of lots of record.

Lot, Corner: means a lot located at the intersection of two or more streets.

1. Lot, Normal Corner: means a corner lot where the streets border the outside, or convex, lot lines.
2. Lot, Reverse Corner: means a corner lot where the streets border the inside, or concave, lot lines (cul-de-sac).

Lot Coverage: means the ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage percent of the total lot occupied by the principal building.

Lot Line Adjustment: means a change or modification of easement lines or boundary lines between existing lots, parcels of land, or properties which does not reduce the area, frontage, width, depth, or building setback lines of each lot, parcel of land, or property below the minimum zoning requirements and which does not create additional lots or new streets.

Lot Line, Front: means the property line dividing a lot from a street. On a corner lot, only one street line shall be considered the front lot line and the main or front entrance to the primary building on the lot shall face such lot line. For buildings located on a corner with more than one business within the building, the lot front is the side where the business's street address is listed.

Lot Line, Rear: means the lot line opposite the front lot line.

Lot Line, Side: means any lot line other than the front or rear lot lines.

Lot of Record: means a lot which is part of a subdivision recorded in the office of the County Recorder or a lot described by metes and bounds, the description of which has been so recorded.

Lot Split: means a one-time division of an original parcel into not more than two lots. Such a split shall not reduce the area, frontage, width, depth, or building setback lines of each lot below the minimum zoning requirements and shall not create any new streets. If an original parcel has already been divided, subsequent divisions must be processed by the subdivision regulations.

Lot Width: means the distance, parallel to the front lot line, measured between side lot lines half-way between the front and rear property lines.

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

Lowest Floor: means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3 and Chapter 18.80 DCC, Flood Damage Prevention Flood Hazard Overlay District (FH).

Lumber Mill: means the site, equipment, and buildings necessary to saw, plane, or mill tree logs into poles, building logs, lumber, dimensional lumber, or similar products.

Major Addition: means any extension, having a floor area of 200 square feet or greater, to an existing building. Extensions to dwellings which do not increase the total number of dwelling units shall not be considered as major additions.

Manufactured Home: means a structure, constructed after June 15, 1976, in accordance with the HUD and FHA manufactured home construction and safety standards, and as defined by Idaho Code section 39-4105, ~~and is transportable in one or more sections, which, in the traveling mode, and is eight twelve~~ body feet or more in width ~~or is 40~~ body feet or more in length, ~~or when erected on site is 320 or~~ and is 690 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; ~~except, that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 USC Section 5401 et seq.~~

Manufactured/Mobile Home Park: means any site or tract of land which has been approved in accordance with the city ordinances for two or more manufactured homes (including mobile homes upgraded per Donnelly City Ord. No. 159 to the HUD safety standard), installed for dwelling units, including any roadway, building, structure, vehicle, recreational facility or enclosure used or intended for use as a part of the facilities of such park.

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.

Marquee Sign: means any sign attached to or made part of any permanent roof-like structure projecting beyond a building, generally designed and constructed to provide protection from the weather.

Master Plan: means a comprehensive plan, prepared by the city, which indicates the general locations recommended for the various functional classes of public works, places and structures and for the general physical development of the city and any amendment to such plan or part of such plan separately adopted and any amendment to such plan or part thereof. In the absence of any formally adopted plan, the general policy of the city on the matter in question will govern.

Mean High Water Mark: means the mark on all watercourses where the presence and action of water is common and continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, and destroy its value for agricultural purposes. In areas where riprap bank stabilization has occurred, the measurement shall begin on the landward side of such stabilization work.

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.

Mechanical Equipment: Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities.

Mixed-Use Development: means the development of land which includes two or more land uses such as residential, commercial, office and/or light industrial, encouraging flexibility and creativity in the development of property in order to improve the combination of land uses and assure that they are properly integrated, and as may otherwise be defined within this code.

Mobile Home: means a housing unit of one or more sections constructed in a factory prior to June 15, 1976. To be eligible for installation in the city, mobile homes must have been upgraded per the "HUD Safety Standards"/Chapter 25 of Title 44 of the Idaho Code, Mobile Home Rehabilitation.

Mobile Sign: means a sign mounted on wheels.

Motel: means a building or group of buildings which are used for short-term occupancy, offering sleeping accommodations to the public on a nightly basis, which may provide food and entertainment totally within the primary building of the motel.

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 measures 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.

Multiple-Family Dwelling: means a building or property containing two or more dwelling units. For the purposes of this title the term “multiple family dwelling” includes duplex, apartment, townhouse, condominium, and detached accessory dwelling unit.

Municipal Use: means use for a public purpose by a governing agency.

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.

Neon Sign: means any sign or portion of a building illuminated or outlined by tubes using electrically stimulated neon or other gas.

New Construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 17, 2018, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures 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.

No Adverse Impact: Floodplain management where the action of one property owner does not adversely impact public property or other private property, as measured by increased flood peaks, flood stage, flood velocity, and erosion and sedimentation. No adverse impact floodplain management is a policy which provides a means to promote the use of retention/detention or other techniques to mitigate increased runoff from urban areas.

Nonconforming Sign: means any advertising structure or sign which was lawfully erected and maintained prior to the effective date of the ordinance codified in this title, and which fails to comply with any applicable regulations and restrictions herein.

Nonconforming Use: means an existing nonconforming use at the time of adoption of this title or a legal building, structure, or use of land which:

1. Exists, or for which a valid building permit exists, at the effective date of the ordinance codified in this title, and which violates any of the provisions of this title; or
2. Exists, or for which a valid building permit exists, at the effective date of any amendment to the ordinance codified in this title, and which violates any of the provisions of such amendment.

Occupancy: means the purpose for which a parcel of land, building, structure, or part thereof is used or intended to be used.

Off-Premises Sign: means any sign not located on the property associated with the business advertised. It does not include real estate or political campaign signs.

Open Space: means a portion of real property devoid of buildings and other physical improvement such as roads and parking areas, except where accessory to the provision of passive or active recreation, or fish and wildlife habitat improvements, or any natural break which serves one of the following functions:

1. Provides relief from monotonous building arrangements.
2. Conserves or preserves natural, historic and other amenities with social or cultural value.
3. Maintains the natural water table level or preserves wetlands.
4. ~~Roads, parking areas, and unusable strips of land shall not be considered in open space calculations.~~ Open space must be an amenity to the ~~planned unit~~ development. Amenities may include, but are not limited to: parks, play yards, playgrounds, beaches, waterways, ski hills, tennis courts, swimming pools, natural vegetation, gardens, wooded areas, developed recreation areas, ponds over one acre in size, etc.

Original Parcel or Lot: means any lot or parcel, held in single ownership, which was created prior to January 1, 1985.

Outpatient Animal Services: means the examination, care, treatment and grooming of domestic animals, excluding livestock, within an outpatient facility, but does not include a kennel.

Owner: means the individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity having sufficient ownership or contractual interest in the land to commence and maintain proceedings under this title, or their agent.

Parcel: means any unsubdivided land recorded as the property of one individual, or more than one individual, if considered as one interest, but not otherwise defined as a lot.

Parking Space: means space used for the temporary, transient storage of private passenger vehicles used for personal transportation. Parking shall not include storage for any other purpose other than specified above.

Pathway: means any sidewalk, route, lane, path, corridor, open space, or trail designated to move people by nonmotorized ~~means~~ for transportation or recreation. "Nonmotorized" does not include snowmobiles, unless otherwise prohibited.

Pennant: ~~means~~ any lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

Permit: ~~means~~ an official document or certificate authorizing performance of a specified activity.

Permitted Use: ~~means any use as defined by this title which is not subject to review by the commission nor which requires a public hearing. Any use which is allowed as defined by this title and is not a prohibited use or requires approval of a conditional use permit.-~~

Personal Service: ~~means~~ any enterprise conducted for pecuniary gain which primarily offers services to the general public such as but not limited to shoe repair, watch repair, barber shops, beauty parlors, fitness and wellness facilities, and similar activities.

Personal Wireless Service Facility (PWSF): ~~means~~ a facility for the provision of personal wireless services, as defined by Section 704 of the Telecommunications Act of 1996. A PWSF is any unstaffed facility for the transmission and/or reception of personal wireless services, usually consisting of an antenna array, transmission cables, equipment shelter, and a mount.

Personal Wireless Services: ~~means~~ any personal wireless service defined in the Federal Communications Act which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services. They include, without limitation, cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and paging as well as unlicensed wire services and common carrier wireless exchange access services.

Planned Unit Development: ~~means~~ a project controlled by one owner, partnership, or corporation, and characterized by a unified site design, involving varying the normal zoning requirements and restrictions so that the maximum long-range benefit can be gained and the unique features of the site preserved and enhanced.

Planning and Zoning Commission: ~~means~~ the City of Donnelly Planning and Zoning Commission.

Plat: ~~means~~ a plan of certain described land prepared in accordance with subdivision or other regulations as an instrument for recording real estate interests with the county recorder.

Portable Sign: ~~means~~ any sign not permanently attached to the ground or to a building, and designed to be easily relocated; e.g., "sandwich board" signs.

Post-Firm: Construction or other development for which the "start of construction" occurred on or after the effective date of the initial flood insurance rate map (FIRM) or after April 15, 1977.

Pre-Firm: Construction or other development for which the "start of construction" occurred before April 15, 1977, the effective date of the initial flood insurance rate map (FIRM).

Principal Building: ~~means~~ the building in which is conducted the primary use on the property.

Print: means any copy of an original, which reproduces exactly the original drawing from which it is made.

~~**Private Driveway:** means a prescribed vehicular access serving a single private property or residence from either a private or public road.~~

Private Road: means any access road located on private property or a road so designated on the subdivision plat by a road declaration that is maintained by a property owners' association or corporation in accordance with the specification of the subdivision ordinance.

Professional Office: means an office for the conduct of the following types of uses: accountant, architect, attorney, chiropractor, optometrist, engineer, surveyor, drafting service, designer, dentist, physician, surgeon, and other similar uses.

Projecting Sign: means any sign affixed to a building or wall in such a manner that its leading edge extends more than nine inches beyond the surface of a building or wall.

Public Road: means any access road located within a right-of-way dedicated to the public use, constructed to county standards, and approved and accepted by the County Commissioners (or City Council) in accordance with the subdivision ordinance, or any access road used by the general public for road purposes and maintained at public expense for a period of five years or more.

Public Service Facility: means a public facility established for the protection and welfare of the surrounding neighborhood including but not limited to a police station, fire station, or ambulance center.

Public Use: means a use for a public purpose by a city, school district, county, state, or any other public agency or a public utility.

Public Utility Facility: means a structure or facility including poles or towers used by a public utility. Such poles or towers may not exceed 48 feet in height, except where otherwise provided in a franchise agreement. Public utilities include, but are not limited to, gas, electric, or telephone companies. Facilities for wireless communications are not included, and are specifically regulated by Chapter [18.105](#) DCC.

PUD Agreement: means a development agreement as regulated within DCC [18.140.100](#) and Chapter [18.170](#) DCC.

Reasonably Safe From Flooding: Base floodwaters will not inundate the land or damage structures to be removed from the area of special flood hazard in areas previously included in base flood delineations on the current flood insurance rate map, which shall be certified as reasonably safe from flooding by an applicant's registered professional engineer according to the criteria in FEMA technical bulletin 10-01.

Record Grade: means the natural grade existing prior to any site preparation, grading, or filling, unless a new record grade is approved at the time of subdivision approval and noted on the filed final plat.

Recreation Business: means recreation or athletic activities or facilities open to the general public where fees are charged or duties are required for the use of the facility.

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.

This includes tiny homes and tiny manufactured homes which are 400-square feet or less

Recreational Vehicle Park: means a parcel of land which has been planned and improved or which is let, rented, or used for the placement of two or more transient recreational vehicles for dwelling purposes. This does not include the recreational use of the parcel by friends and family of the property owner/lessee on a temporary basis.

Regulatory Floodway: See Floodway

Reimbursement Fees: See definition of “Fees, Reimbursement.”

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 impacts 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 1977.

Research and Development: means specialized nonpolluting activities with emphasis on investigation, experimentation, testing, engineering, inventing, and conceptually designing prototypes and new technologies or associated light manufacturing. These technologies may include electronics, computer and data systems, medical and precision instruments, machine components, communication systems and equipment, and other technological instruments, equipment, and systems.

Residential Business: means a business owned and operated by the occupant of a residence, located on the same lot or parcel as the residence, which retains the residential character. Restrictions will be applied to ensure the residential character is retained. Restrictions may include:

1. Limit on the number of employees working on the premises;
2. Limit on working hours;
3. Operational requirements to lessen impacts on nearby properties, such as requiring doors and windows to be closed to lessen noise;
4. Limit on heavy truck traffic;
5. Limit on traffic volume;
6. Limit on the total square feet or on the percentage of the total property that can be devoted to business use;

7. Limit or prohibition of outdoor storage or display; and
8. Limit on size or bulk of buildings.

Residential Development: ~~means a platted subdivision with more than one lot.~~

Restrictive Covenants: ~~means~~ a private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded.

Retailer: Unless otherwise specifically defined, this term shall be understood to relate to the sale of goods, merchandise, articles, or things in small quantities direct to consumer.

Right-of-Way: ~~means~~ a strip of land dedicated or reserved for use as a public street, private street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, trails, pathways, or for another special use.

Riparian Setback: ~~means~~ the distance measured at right angles from the mean high-water mark of a waterway, between the mean high water mark and an imaginary line parallel to the mean high water mark, defining an area between such lines within which no building or other applicable structure may be placed, and whereby any existing vegetation shall remain undisturbed.

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

Roadway: ~~means~~ that portion of a public street improved, designed or ordinarily used for vehicular traffic, exclusive of a sidewalk, berm or shoulder even though such a sidewalk, berm or shoulder is used by persons riding bicycles or other human powered vehicles.

Roof Sign: ~~means~~ any sign erected in a manner so that it projects either partially or wholly over any roof or is mounted to any roof.

Runway: ~~means~~ any existing or planned surface of an airport which is specifically designed and used or planned to be used for the landing and/or taking off of an aircraft.

School: shall include kindergarten, elementary, junior high, and high school, or any other public education facilities.

Semi-Public Use: ~~means~~ public and/or private colleges, hospitals, safe houses, learning centers, and other facilities of an educational, charitable, philanthropic, or nonprofit nature.

Service Station: ~~means~~ a personal service establishment involving the dispensing of gasoline and/or automobile repair.

Setback: ~~means~~ the required distance between every structure and all lot lines on the lot on which structures are located, the required clear distance between structures, or the required distance between structures and features such as water bodies. Setbacks are measured from the eaves or furthest protuberance.

Shall: ~~means~~ mandatory.

Short-Term Occupancy: ~~means~~ the rental of any unit or structure or portion thereof for a period of not more than 30 days.

Short-Term Rental or Vacation Rental: ~~means~~ any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium,

cooperative or timeshare, or owner-occupied residential home that is offered for a fee and for less than 30 days. “Short-term rental” or “vacation rental” does not include a unit that is used for any retail, restaurant, banquet space, event center, hotel/motel type lodging, or another similar use.

Short-Term Rental Marketplace: means a person that provides a platform through which a lodging operator, or the authorized agent of the lodging operator, offers a short-term rental or vacation rental to a prospective lessee.

Sidewalk: means a hard surfaced pathway for nonmotorized vehicles, normally designated for pedestrians, which is within the public right-of-way and is usually separate from motorized vehicle travel lanes. Sidewalks shall be constructed in accordance with the city of Donnelly master transportation plan.

Sign: means every advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface, or space erected or maintained in view of the observer thereof for identification, advertisement, or promotion of the interest of any person, entity, product, or service. The definition of “sign” shall also include the sign structure, supports, lighting system, and any attachments, ornaments, or other features used to draw the attention of others.

Sign Creating Traffic Hazard: means a sign at or near any public street, or at the intersection of any public streets, situated in such a manner as to create a traffic hazard by obstructing vision. Additionally, any sign at any location which would interfere with, obstruct the view of, or be confused with any authorized traffic sign.

Signs on Vacant Property: No sign over four-square feet per face, except freestanding signs advertising the property “for sale” or “for lease” on properties or subdivisions of greater than five acres in the aggregate, shall be erected or maintained on a property on which either no structure is erected or on which the primary structure is vacant. This provision shall not include those properties for which a valid building permit exists.

~~**Single-Family Dwelling:** means a detached building, including attached or detached carports and automobile garages, containing living facilities including provisions for sleeping, eating, cooking and sanitation for not more than one family.~~

Site Plan: means an engineering or architectural drawing of existing and planned conditions to facilitate review and approval of an application before the commission and to guide construction of improvements.

Sky-Glow: means the overhead glow from light emitted sideways and upwards. Sky-glow is caused by the reflection and scattering of light by dust, water vapor, and other particles suspended in the atmosphere. Sky-glow reduces one’s ability to view the night sky.

Slope: ~~refers to~~ an incline from the horizontal plane which may be expressed as “percent slope,” “slope ratio” or “gradient.” A 15 percent slope is equal to a 15-foot rise within a 100-foot horizontal distance.

Solar Access: means an exposure to sunlight and solar radiation upon land or a building.

Solar Energy System: means any device, structure, or mechanism which uses solar radiation as an energy source for heating, cooling, or electrical energy.

1. Active: An indirect thermal system in which solar heat is collected and stored in devices separated from the building space to be conditioned using conventional energy systems (fans, pumps, etc.).
2. Passive: The collection and storage of solar radiation for heating or cooling by nonmechanical means: A system that employs aspects of both active and passive designs.

Special Flood Hazard Area (SFHA): the land in the floodplain 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”.

Specialized Mobile Radio (SMR): means a form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier. Used primarily for data, delivery vans, truckers, or taxis within a small, definable geographic area.

Staff: means personnel employed or contracted by the City of Donnelly to administer this title.

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

Storage: means the safekeeping of personal property in any structure.

Stream Alteration: means to obstruct, diminish, destroy, alter, modify, relocate, or change the existing shape of the natural channel within or below the mean high-water mark. It includes removal of material or structures in the stream channel.

Street: means a way for public vehicular traffic, whether designated as a street, avenue, boulevard, highway, thoroughfare, parkway, road, lane, place or alley or however otherwise designated, which affords the principal means of access to abutting property.

Street, Arterial or Major: means a fast or heavy traffic street of considerable continuity and used primarily as a traffic artery.

Street, Collector or Secondary: means a street which carries traffic from local or minor streets and which serves for the circulation of traffic in residential areas or developments.

Street, Cul-De-Sac or Dead-End: means a street with only one outlet.

Street, Local or Minor: means a street used primarily for access to the abutting properties.

Street, Private: means a street which provides vehicular and pedestrian access to more than five dwelling units, or within a nonresidential development, but is not accepted for a dedication or maintenance by the city.

Structure: means anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. For the purposes of Chapter 18.80 DCC, Flood Damage Prevention Flood Hazard Overlay District (FH), the definition shall include gas or liquid storage tanks that are located principally above ground.

Structure, Principal: means the main building containing the permitted use on the property. For example, within any residential district, the principal structure is that which contains the dwelling unit. All other structures are considered to be accessory.

Subdivider or Developer: means any individual, firm, association, syndicate, corporation, trust or other legal entity commencing proceeding under this title to effect a subdivision of land hereunder for himself or for another.

Subdivision: means any division of land or real property into two or more parts, or a modification of boundaries of a parcel of land that includes a new street.

Substantial Damage: Damage of any origin sustained by a building whereby the cost of restoring the structure to its before damaged condition would equal or exceed forty percent (40%) of the market value of the structure before the damage occurred. Substantial Damage, also means flood-related damage sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty percent (20%) of the market value of the structure before the damage occurred. See definition of Substantial Improvement.

Substantial Improvement: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds forty percent (40%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure” and the alteration is approved by variance issued pursuant to this ordinance.

Surveyor: means a Professional Land Surveyor registered in the State of Idaho.

Tank: means a vessel containing more than 60 gallons (227 L).

Technical Bulletins and Technical Fact Sheets:

- A. FEMA publications that provide guidance concerning the building performance standards of the NFIP, which are contained in 44 CFR Part 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations. Rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.
- B. It should be noted that TECHNICAL BULLETINS AND TECHNICAL FACT SHEETS provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.

Telecommunication Facilities: means all wires, cables, equipment, apparatus or other installations necessary to furnish service, by which there is accomplished, or may be accomplished, the sending or receiving of information, data, message writing signs, signals, pictures, and sounds of all kinds, by aid of such wires, cables, equipment, apparatus or other installations, but shall not include the habitable structure in which such telecommunications facilities are housed.

Temporary Sign: means a sign which is intended for use during a specified, limited time, and removed from display following that specified time.

Temporary Structure: means any building, modular unit, or other structure that is intended for any use for a period of not more than one year, excluding construction trailers or other structures erected solely in conjunction with a construction project.

Temporary Use: means any use not more than 30 days in duration and related to a specific project or occasion.

Townhouse: means a dwelling unit in a multiple-family dwelling which is owned together with the ground under the unit.

Townhouse Development: means a planned residential project of two or more townhouse units, which may be constructed as single building(s) containing two or more townhouse units. Each unit within the development shall be separated from the adjoining unit or units by fire walls as required by the current building code in effect at the time of construction. Each unit shall have its own access to the outside, and no unit located over another unit in part or in whole. All townhouse developments shall be platted under the procedures contained herein.

Townhouse Sub-Lot: means the lot resulting from platting a residential townhouse development; townhouse sub-lots shall have a minimum area equal to that of the perimeter of each individual townhouse unit and an additional area three feet in width to any access opening, measured at the foundation. Any detached accessory structures shall be contained within the perimeter of the townhouse sub-lot except as otherwise permitted herein.

Tract: means any unsubdivided land recorded as the property of one individual, or more than one individual, if considered as one interest, but not otherwise defined as a lot.

Trellis: means a light construction of lattice work no more than eight feet in height. Said lattice work shall be of open design.

Undue Hardship: means special conditions as a result of the geographic characteristics of the site depriving the applicant of rights commonly enjoyed by other property owners under the same terms of this title, but not merely a matter of convenience or profit.

Unnumbered "A Zone": An area shown on the flood insurance rate map (FIRM) as an "A zone" in which base flood depths and a clearly defined channel are not shown.

Usable Open Space: means an area not encumbered with any roadway, parking area, or substantial structure maintained for either informal or structured recreational uses.

Use: means the purpose for which land or a building thereon is designed, arranged, intended, or for which it is or may be occupied or maintained.

Utilities: means all water supply, drainage, sewer, gas, electrical, telephone, telegraph, television and other communications lines and related features.

Variance: a grant of relief by the governing body from a requirement of DCC. ~~means a modification of the requirements of the zoning regulations as to lot area, lot coverage, width, depth, front yard, side yard, rear yard setback, parking space, or other regulation affecting the size or shape of a structure or the placement of structures upon lots, or the size of the lots and signs.~~ A variance shall not include a modification of allowed uses.

Vehicle: means any motorized device designed for the purpose of carrying or conveying persons or materials. For the purpose of this title those devices directly powered by human action, such as a bicycle, shall not be considered vehicles.

Vehicle Signs: means signs mounted on the roof or antenna of automobiles, with the exception of student driver and auto transportation services, or those painted on vehicles parked and visible from the public right-of-way, unless said vehicle is licensed, registered and used as a vehicle in the normal day-to-day operations of the business.

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.

Wall Sign: means any sign attached parallel to, but within nine inches of, a wall, painted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

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.

Wetlands: means those areas that are within the definition of wetlands as defined by the Environmental Protection Agency and within the jurisdiction of the Corps of Engineers.

Wholesaler and Wholesale Dealer: Unless otherwise specifically defined, such terms shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale.

Wind Sign: means any pennant, propeller, or similar device which is designed to flutter, rotate, whirl, or display other movement under the influence of the wind.

Wind Turbine, Commercial: means a wind energy conversion system which converts wind energy into electricity through the use of a wind driven turbine generator when the total height exceeds 150 feet or the nameplate capacity exceeds 100 kilowatts. Such wind turbine includes the turbine, blade, tower, base, and pad transformer, if any.

Wind Turbine, Hobbyist: means a wind energy conversion system which converts wind energy into electricity through the use of a wind driven turbine generator when the total height is less than 50 feet and a prop diameter of 12 feet or less.

Wind Turbine, Personal: means a wind energy conversion system which converts wind energy into electricity through the use of a wind driven turbine generator when the total height is between 50 feet and 150 feet and the nameplate is less than 100 kilowatts.

Window Sign: means any sign installed upon or within three feet of a window for the purpose of viewing from outside the premises. This term does not include merchandise displayed.

Wireless Communication Facility (WCF): means those facilities that are nonpersonal wireless service facilities (PWSFs), by definition of the Telecommunications Act of 1996, but that are also subject to Chapter [18.105](#) DCC due to their height above ground level. Any antenna, including mount and/or equipment support structure over 35 feet above ground level, that is not a PWSF shall be considered a WCF and regulated by this chapter.

Wood Processing Plant: means the site, equipment, and buildings necessary to convert wood into chips, or fibers into byproducts such as paper, plywood, and particleboard, or to extract byproducts from wood fibers.

Yard: means that portion of the open area on a lot existing open and unobstructed from the ground upward from a given lot line for a depth or width specified by the setback regulations for the district in which the lot is located.

Section 2: That Title 18 “Zoning”, Chapter 80 “Flood Hazard Overlay District (FH)” shall be deleted in its entirety.

Section 3: That new Title 18 “Zoning”, Chapter 80 “Flood Damage Prevention Ordinance” shall be added as follows:

CHAPTER 18.80

FLOOD DAMAGE PREVENTION ORDINANCE

Sections:

18.80.010 Statutory Authorization, Findings of Fact, Purpose, and Objectives

18.80.020 General Provisions

18.80.030 Administration

18.80.040 Provisions of Flood Hazard Reduction

18.80.050 Legal Status Provisions

**18.80.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE,
AND OBJECTIVES**

Section A. Statutory Authority

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 Council of the City of Donnelly, Idaho does hereby ordain as follows:

Section B. Findings of Fact

1. The flood hazard areas of the City of Donnelly 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;
 - d. 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 may be caused by development 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. Local government units have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

Section C. Statement of Purpose

The purpose of this ordinance 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:

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, generally undertaken at the expense of the general public;
6. Minimize prolonged business interruptions;
7. Ensure potential buyers are notified the property is in an area of special flood hazard; and
8. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions.

Section D. Objectives and Methods of Reducing Flood Losses

In order to accomplish its purpose, this ordinance 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 development 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.

18.80.020 GENERAL PROVISIONS

Section A. Lands to Which This Ordinance Applies

This Ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Donnelly. Nothing in this ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance.

Section B. Basis for Special Flood Hazard Areas

The Special Flood Hazard Areas identified by the Federal Insurance Administrator in a scientific and engineering report titled “Flood Insurance Study (FIS) for Valley County, Idaho, And Incorporated Areas”, dated February 1, 2019, 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 office of the City Clerk at Donnelly City Hall, 169 Halferty Street, Donnelly, Idaho.

Section C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 18.80.030(C).

Section D. 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 ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This ordinance 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.

Section F. 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.

Section G. 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 City of Donnelly or by any officer or employee thereof for flood damages that result from reliance on this ordinance, or an administrative decision lawfully made hereunder.

Section 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 chapter and other applicable regulations. The city attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this title. Penalties for failure to comply with or violations of the provisions of this title shall be as follows:

Violation of any of the provisions of this title 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, and be punishable as provided in Section 18.20.060 of this code. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such violation may be found guilty of a separate offense. Nothing herein contained shall prevent the council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of the Idaho Code.

18.80.030 ADMINISTRATION

Section A. Designation of Floodplain Ordinance Administrator

The Donnelly Planning and Zoning Administrator, or a designated individual, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this ordinance.

Section B. Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator 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 ensure that the requirements of this ordinance have been satisfied and all proposed development is reasonably safe from flooding.
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, and IDAPA 37-03-07.
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 Insurance Administrator (FIA).

4. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;
5. Prevent encroachments into floodways unless the certification and flood hazard reduction provisions of Section 18.80.040(E) are met.
6. Obtain and maintain actual elevation (in relation to mean sea level) of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 18.80.030(C)(3).
7. Obtain and maintain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 18.80.030(C)(3).
8. Review plans to verify public utilities are constructed in accordance with the provisions of Section 18.80.040(A)(5-7).
9. When floodproofing is utilized for a particular structure, obtain, and maintain certifications from a registered professional engineer or architect in accordance with the provisions of Section 18.80.030(C)(3) and Section 18.80.040(B)(2).
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, and floodways (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 of Section 18.80.020(B), obtain, review, and reasonably utilize any BFE data, along with floodway data available from a Federal, State, or other source, including data developed pursuant to Section 18.80.040(A)(16), in order to administer the provisions of this ordinance.
12. When Base Flood Elevation (BFE) data is provided but no floodway data has been provided in accordance with the provisions of Section 18.80.020(B), require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area (SFHA) is above the Base Flood Elevation (BFE), 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 permit file.
14. Permanently maintain all records that pertain to the administration of this ordinance 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 shall 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.
16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, 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.
17. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) 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 the community. 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 purposes of inspection or other enforcement action.
19. Follow through with corrective procedures of Section 18.80.030(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 Section 18.80.020(B) DCC, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify the NFIP State Coordinator and FEMA of your community'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).
23. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator (FIA) of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.
24. Upon occurrence, notify the Federal Insurance Administrator (FIA) in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all FIRM's accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority.
25. A temporary Certificate of Occupancy (C/O) or Temporary Certificate of Compliance (C/C) will NEVER be issued for any structure in the floodplain.

Section C. Floodplain Development Application, Permit, and Certification Requirements

1. Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator 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 plan drawn to scale by a licensed surveyor or civil engineer 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 as delineated on the FIRM or other flood map as determined in Section 18.80.020(B), or a statement 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 Section 18.80.020(B).
 - iv. the boundary of the floodway(s) as determined in Section 18.80.020(B).
 - v. the Base Flood Elevation (BFE) where provided as set forth in Section 18.80.020(B); Section 18.80.020(C); or Section 18.80.040(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.
- b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- i. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;
 - ii. Elevation in relation to mean sea level to which any non-residential structure in Zone A, AE, AH, or AO will be floodproofed; and
 - iii. Elevation in relation to mean sea level to which any proposed utility equipment and machinery will be elevated or floodproofed.
- c. If floodproofing, a Floodproofing Certificate (FEMA Form FF-206-FY-22-153) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures will be required prior to Certificate of Occupancy/Completion.
- d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

- i. The proposed method of elevation, if applicable (i.e., fill, solid foundation 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 Section 18.80.040(A)(8)(b), when solid foundation perimeter walls are used in Zones A, AE, AH, and AO.
 - 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 Section 18.80.040(B)(5 and 6), DCC 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-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and
 - i. A map (if not shown on plot 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, riprap, docks, 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 available data specified in Section 18.80.020(B).
 - c. The Flood Protection Elevation required for the lowest floor and all attendant utilities.
 - d. The Flood Protection Elevation required for the protection of all utility equipment and machinery.

- e. All certification submittal requirements with timelines.
 - f. A statement that no fill material or other development shall encroach into the floodway of any watercourse, as applicable.
 - g. The flood openings requirements, if in Zones A, AE, AH, or AO.
 - h. All floodplain development permits shall be conditional upon the start of construction of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has commenced as per the Start of Construction definition.
 - i. Fully enclosed areas below the lowest floor are usable solely for parking of vehicles, building access, or storage.
 - j. All materials below BFE/FPE must be flood resistant materials.
3. Certification Requirements.
- a. Elevation Certificates
 - i. A Construction Drawings Elevation Certificate (FEMA Form 86-0-33) is 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 elevation of the lowest floor, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - ii. A final as-built Finished Construction Elevation Certificate (FEMA Form FF-206-FY-22-152) 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 lowest floor 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 Certificate 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. Floodproofing Certificate. If non-residential floodproofing is used to meet the Flood Protection Elevation requirements, design plans, with 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 floodproofed design elevation of the lowest floor and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such 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. Prior to requesting a Certificate of Compliance/Occupancy a Floodproofing Certificate (FEMA Form FF-206-FY-22-153) shall be provided to the Floodplain Administrator for review and approval.
- c. If a manufactured home (including tiny home or park model) is placed within Zone A, AE, AH, or AO 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 Section 18.80.040(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; and
 - 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 downstream; 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, are exempt from the elevation/floodproofing certification requirements specified in items a. and b. of this subsection:
 - i. Recreational Vehicles meeting requirements of Section 18.80.040(B)(5)(a);

- ii. Temporary Structures meeting requirements of Section 18.80.040(B)(6); and
 - iii. Accessory Structures less than 200 square feet meeting requirements of Section 18.80.040(B)(7).
- 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, improvements, repairs of 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 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 and this ordinance is required.
- 5. Any other information deemed necessary for review of public safety and floodplain management requirements by the floodplain administrator.
- 6. A temporary Certificate of Occupancy (C/O) or Temporary Certificate of Compliance (C/C) will NEVER be issued for any structure in the floodplain.

SECTION D. Corrective Procedures

- 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 Event 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 as 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 ninety (90) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action 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) calendar 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.

SECTION E. Variance Procedures

1. The City Council shall hear and decide requests for variances from the requirements of this ordinance.
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 facilities, if determined to meet the definition as stated in Section 18.10.020 DCC, provided provisions of Section 18.80.030(E)(8)(b – d), 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 safety; or
 - c. any other type of development, provided it meets the requirements of this Section.
3. In passing upon variances, the City Council shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, 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 defined under 18.10.020 DCC as a functionally dependent facility, where applicable;
 - 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 the 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 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 Section 18.80.030(E)(3)(a-k) with their application for a variance.
5. Upon consideration of the factors listed above and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
6. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official 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 may result in increased premium rates for flood insurance. 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 Insurance Administrator 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. Variances shall not be issued within any designated floodway 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;
 - 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 lowest floor of any structure is elevated or floodproofed to at least the Flood Protection Elevation.
 - d. The use complies with all other applicable Federal, State, and local laws.
10. The City of Donnelly 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 City Council may appeal such decision to the Court, as provided in Idaho Code 67-6535.

18.80.040 PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General Standards

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

1. All new construction, substantial improvements, and development shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All new construction, substantial improvements, and development shall be constructed with materials and utility equipment resistant to flood damage in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.
3. All new construction, substantial improvements, and development shall be constructed by methods and practices that minimize flood damages.
4. All new and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during 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.
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 flood waters.
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 used solely for parking, access, and storage shall:
 - a. be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and
 - b. include, in Zones A, AE, AH, and AO, 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, provided they permit the automatic flow of floodwaters in both directions; and
 - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or flood resistant 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 ordinance, shall meet the requirements of “new construction” as contained in this ordinance.
10. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, or stream setback, provided there is no additional encroachment below the Flood Protection Elevation in the floodway, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
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 Section 18.80.030(E)(9). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Flood Protection Elevation and certified in accordance with the provisions of Section 18.80.030(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 have 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. All subdivision proposals and other development proposals greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data.
17. 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.

18. 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.
19. Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not signing the Community Acknowledgement page for Conditional Letters or Letters of Map Revision (CLOMR-F or LOMR-F).
20. A temporary Certificate of Occupancy (C/O) or Temporary Certificate of Compliance (C/C) will NEVER be issued for any structure in the floodplain.

Section B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 18.80.020(B), or Section 18.80.040(D), the following provisions, in addition to the provisions of Section 18.80.040(A), are required:

1. **Residential Construction.** New construction, substantial improvements, and development of any residential structure (including manufactured homes, tiny homes, and park models) shall have the lowest floor, including basement, and utilities including ductwork, elevated no lower than the Flood Protection Elevation, as defined in 18.10.020 DCC.
2. **Non-Residential Construction.** New construction, substantial improvements, and development of any commercial, industrial, or other non-residential structure shall have the lowest floor, including basement, and utilities including ductwork, elevated no lower than the Flood Protection Elevation, as defined in Section 18.10.020 DCC. Structures located in Zones A, AE, AH, and AO may be floodproofed 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 floodproofing elevation shall be in accordance with Section 18.80.040(F)(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 18.80.030(C)(3), along with the operational plan and the inspection and maintenance plan.
3. **Manufactured Homes.**
 - a. New and replacement manufactured homes (including tiny homes, and park models) shall be elevated so that the lowest floor of the manufactured home

is no lower than the Flood Protection Elevation, as defined in Section 18.10.020 DCC.

- b. Manufactured homes (including tiny homes, and park models) 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). 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 or skirting below the lowest floor shall meet the requirements of Section 18.80.040(A)(8)(a and b).
 - 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. Additions/Improvements.
- a. Additions and/or improvements to pre-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 must be designed to minimize flood damages and must not be any more non-conforming than 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 non-compliant 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 non-compliant 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 ten (10) year period, the cumulative cost of which equals or exceeds forty percent (40%) of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the ten (10) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are 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.
- 5. 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 (including tiny homes, and park models) that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction, as set forth in Section 18.80.040(A), (B)(1), and (B)(3).
- 6. 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 specific 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.
- f. Temporary structures in the floodway must provide a Hydraulic and Hydrology Analysis along with a No-Rise Certification.

7. Accessory and Agricultural Structures (Appurtenant structures).

When accessory structures (sheds, detached garages, etc. used solely for parking, and storage) are to be placed within a Special Flood Hazard Area, elevation or floodproofing certifications are required for all accessory structures in accordance with Section 18.80.030(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 Section 18.80.040(A)(1); and
- f. All utility equipment and machinery, such as electrical, shall be installed in accordance with the provisions of Section 18.80.040(A)(4); and
- g. Accessory structures greater than 600 sq. ft., proposed to have the lowest floor below the Flood Protection Elevation (wet floodproofed), must have an approved variance prior to the start of construction.

For accessory structures less than 200 sq. ft. and is a minimal investment of less than three thousand dollars (\$3,000.00), and used solely for parking or storage, flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below the Flood Protection Elevation in conformance with the provisions of Section 18.80.040(A)(8) in lieu of elevation.

Accessory structures not used solely for parking or storage must be elevated per Section 18.80.040(B)(1 and 2).

An accessory structure with a footprint of less than 200 square feet and is a minimal investment of less than three thousand dollars (\$3,000.00) and satisfies all the criteria outlined in a - f above is not required to provide the elevation certificate per Section 18.80.040(B)(2).

8. 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 may 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.

9. Construction of a Crawlspace Foundation.

Must meet all the following requirements, including:

- a. The structure must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. Flood openings must be installed that allow for the automatic entry and exit of floodwaters.
- c. The portions of the structure below the BFE (plus freeboard) must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE.
- d. The interior grade of a crawlspace must not be more than two feet (2') below the exterior lowest adjacent grade (LAG).
- e. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace sill plate, must not exceed four feet (4') at any point.
- f. 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.
- g. The velocity of floodwaters at the site should not exceed five feet (5') per second.
- h.

10. Subdivision Plats.

Flood zones.

- a. A note must be provided on the final plat documenting the current flood zone in which the property or properties are located. The boundary line must be drawn on the plat in situations where two or more flood zones intersect over the property or properties being surveyed.
- b. FEMA FIRM panel(s): #160085C,1302C, etc.
FIRM effective date(s): mm/dd/year
Flood Zone(s): Zone X, Zone A, Zone AE, etc.
Base Flood Elevation(s): AE ____ .0 ft., etc.

Flood Zones are subject to change by FEMA & all land within a floodway or floodplain is regulated by Chapter 18.80 of the Donnelly City Code.

11. Critical Facilities:

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) one percent (1%)(often called the “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.

12. Floodplain Development Permits Related to Irrigation Activities and Development.
 - a. Irrigation Floodplain Development Permit

The Floodplain Administrator must exercise their professional judgement when reviewing activities to determine if an activity requires a permit. When in doubt, the Floodplain Administrator should seek consultation from the IDWR Floodplain Coordinator to determine permit necessity.

Upon review of the proposed activities and projects, the Floodplain Administrator will assess the project for necessary permitting and will notify the applicant in writing (or email) accordingly.

The Floodplain Administrator shall advise the applicant or project sponsor of their assessment via written notice (email is preferable). The Floodplain Administrator shall maintain a copy of all proposed project notifications and responses.

Activities and projects that will require a Floodplain Development Permit:

1. Dredging and grading of irrigation and drainage channels, provided that 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 days.
2. Seasonal grading within natural stream channels to check or direct water into irrigation facilities (i.e., earthen “push-up dams” and “wing dams”).
3. Deposition of fill within the SFHA for less than 10 days. After 10 days, 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.

4. Construction of new underground utilities that do not permanently alter the topography. Excess soil from new pipes larger than 2 feet in diameter must be disposed of outside the regulatory floodway and SFHA.
 5. 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.
 6. New driveways, trails, sidewalks, roads, and streets constructed completely at-or-below existing grade.
 7. New underground utilities that do not permanently alter the existing grade elevations by ± 0.5 feet.
 8. 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) provided 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.
- b. Irrigation projects within the regulatory floodway require a Hydrologic and Hydraulic Analysis with No-Rise Certification in addition to a Floodplain Development Permit.
13. Compensatory Storage: New development shall not reduce the effective flood storage volume of the Regulatory Floodway and SFHA. At a minimum, a development proposal shall provide compensatory storage if grading or other activity eliminates any effective flood storage volume. Compensatory storage shall:
 - a. Provide equivalent volume at equivalent elevations to that being displaced. For this purpose, "equivalent elevation" means having similar relationship to ordinary high water and the best available one hundred (100) year water surface profiles;
 - b. Be hydraulically connected to the source of flooding; and
 - c. Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins.
 - d. The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.
 14. Pit, Mine, Quarry, or Gravel Extraction: Approval of a CLOMR shall be required as a condition of approval for any proposed pit, mine, quarry, or gravel extraction. The CLOMR application shall demonstrate that the extraction site will be designed to avoid river avulsion (the sudden separation of land from one property and its attachment to

another, especially by flooding or a change in the course of a river). FEMA must approve the CLOMR prior to commencement of the use or breaking ground. Gravel mining operations or excavations are not permitted within one hundred feet (100') of the top of riverbank regardless of floodway or floodplain designation. Material stockpiles and permanently installed structures shall not be located within the regulatory floodway.

15. Bridges and Culverts: IDAPA 37.03.07 Rule 59 requires that communities participating in the NFIP must have 1.0 ft. freeboard above the 100-year flow. Thus, the low chord must be at least 1.0 ft. above the Base Flood Elevation (BFE). In an A Zone without BFE the BFE will be determined by a Hydrologic & Hydraulic Analysis the project applicant develops. The Hydrologic & Hydraulic Analysis with BFE will be provided to the community as a part of the Floodplain Development Permit. Upon completion of the project, the project applicant may be required to submit a Letter of Map Revision (LOMR) application to FEMA.
16. Density: Land designated as Floodway shall be excluded when calculating residential density and in no case shall the residential density within a Floodplain, outside of the Floodway area, exceed one dwelling unit per acre.

Section C. Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Zone A (also known as Unnumbered A Zones) and established in Section 18.80.020(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 18.80.040(A), shall apply:

The BFE used in determining the Flood Protection Elevation (FPE) shall be determined based on the following criteria:

1. 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 Section 18.80.040(A and B).
2. When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Section 18.80.040(B and E).
3. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section

18.80.020(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.

4. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the lowest floor shall be elevated or floodproofed (non-residential) to two feet (2.0 ft.) above the Highest Adjacent Grade (HAG) at the building site or to the Flood Protection Elevation (FPE) whichever is higher, as defined in Section 18.10.020 DCC. All other applicable provisions of Section 18.80.040(B) shall also apply.

Section D. Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways.

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source, but floodways are not 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 Section 18.80.040(A and B); and
2. Until a regulatory floodway 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 more than one foot at any point within the community.

Section E. Standards for Floodways and Flood Fringe Areas.

Areas designated as floodways located within the Special Flood Hazard Areas established in Section 18.80.020(B). The floodways 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 18.80.040(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 (*No-Rise Analysis & Certification*) and

presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

- 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 Section 18.80.040(E)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
3. Manufactured homes (including tiny homes, and park models) may be permitted provided the following provisions are met:
 - a. the anchoring and the elevation standards of Section 18.80.040(B)(3); and
 - b. the encroachment standards of Section 18.80.040(E)(1)).
4. Other Development in regulated floodways.
 - a. Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways shall meet the limitations of Section 18.80.040(E), DCC.
 - b. Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 18.80.040(E), DCC.
 - 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, shall meet the limitations of Section 18.80.040(E), DCC. The applicant/developer shall submit an application for a Letter of Map Revision (LOMR) upon completion of construction for the purpose of providing FEMA better available data.
 - d. Drilling water, oil, and/or gas wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways shall meet the limitations of Section 18.80.040(E), DCC.
 - e. Docks, piers, boat ramps, marinas, moorings, decks, docking facilities, port facilities, shipbuilding, and ship repair facilities that encroach into regulated floodways shall meet the limitations of Section 18.80.040(E), DCC
 - f. Gravel and sand and their subsequent extraction on lands within the Special Flood Hazard Area that encroach into regulated floodways shall meet the limitations of Section 18.80.040(E), DCC. A Reclamation Plan Bond for LOMR shall be posted by the mine/property owner with the City of

Donnelly to cover the estimated costs of a Reclamation LOMR as determined by the mine/property owner and shall provide supporting documentation for the estimated LOMR cost. A Reclamation LOMR shall be completed within one year of the completion of mining. Upon failure of the property owner to obtain a Reclamation LOMR of the mining site within one year, the Reclamation Plan Bond for LOMR will be forfeited.

5. All buildings shall be set back a minimum of one hundred feet (100') from the floodway line. Except that when the special flood hazard area boundary is one hundred feet (100') or less from the floodway line, the boundary line shall be the setback line.

6. No development is permitted within the twenty-five foot (25') setback from all waterways called the riparian zone and riparian vegetation shall be maintained in its natural state for the protection and stabilization of the riverbank, and removal of trees or other vegetation is regulated in accordance with this chapter.

Section 4: The provisions of this ordinance are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this ordinance.

Section 5: This ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law. In lieu of publication of the entire ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code, may be published.

Approved and adopted this ____ day of _____, 2025

CITY OF DONNELLY

Valley County, Idaho

Susan Dorris

Mayor, City of Donnelly

ATTEST:

Lori Clemens

City Clerk, City of Donnelly