

## CHAPTER 4

**ADMINISTRATION**

## SECTION:

- 12-4-1: Development Permit
- 12-4-2: County Building Inspector
- 12-4-3: Duties And Responsibilities Of Inspector
- 12-4-4: Variance And Appeal Procedure

12-4-1: **DEVELOPMENT PERMIT:**

- A. Development Permit Required: A development permit shall be obtained before construction or development begins within any area of special flood hazard as established in section 12-3-2 of this title. The permit shall be for all structures including manufactured homes, as set forth in chapter 2 of this title, and for all "development", including fill and other activities, also set forth in chapter 2 of this title.
- B. Application For Development Permit: Application for a development permit shall be made on forms furnished by the county building inspector, and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
  - 1. Lowest Floor: Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
  - 2. Floodproofing: Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification: Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 12-5-2B of this title; and
4. Alteration Of Watercourses: Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. (Ord. 87-3, 3-23-1987)

12-4-2: **COUNTY BUILDING INSPECTOR:** The county building inspector is hereby appointed to administer and implement this title by granting or denying development permit applications in accordance with its provisions. (Ord. 87-3, 3-23-1987)

1 2-4-3: **DUTIES AND RESPONSIBILITIES OF INSPECTOR:** Duties of the county building inspector shall include, but not be limited to:

A. Permit Review:

1. Permit Requirements: Review all development permits to determine that the permit requirements of this title have been satisfied.
2. Necessary Permits: Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
3. Developments In Floodway: Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection 12-5-3A of this title are met.

B. Use Of Other Base Flood Data: When base flood elevation data has not been provided in accordance with section 12-3-2 of this title, the county building inspector may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer sections 12-5-2 and 12-5-3 of this title.

C. Information To Be Obtained And Maintained:

1. Elevation Of Lowest Floor: Where base flood elevation data is provided through the flood insurance study or required as in subsection B of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. New Structures: For all new or substantially improved floodproofed structures:
  - a. Actual Elevation: Verify and record the actual elevation (in relation to mean sea level), and
  - b. Certifications: Maintain the floodproofing certifications required in subsection 12-4-1B3 of this chapter.
3. Records: Maintain for public inspection all records pertaining to the provisions of this title.

D. Alteration Of Watercourses:

1. Notification: Notify adjacent communities and the Idaho state department of water resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal insurance administration.
2. Maintenance: Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation Of FIRM Boundaries: Make interpretations where needed as to exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 12-4-4 of this chapter. (Ord. 87-3, 3-23-1987)

**12-4-4: VARIANCE AND APPEAL PROCEDURE:****A. Appeal Board:**

1. **County Commissioners:** The board of county commissioners shall sit as an appeal board and shall hear and decide appeals and requests for variances from the requirements of this title.
2. **Hearings:** The appeal board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the county building inspector in the enforcement or administration of this title.
3. **Appeals To District Court:** Those aggrieved by the decision of the appeal board, or any taxpayer, may appeal such decision to the district court of the fifth judicial district as provided in the Idaho administrative procedure act<sup>1</sup>.
4. **Factors Considered:** In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this title, and:
  - a. **Shifting Of Materials:** The danger that materials may be swept onto other lands to the injury of others;
  - b. **Life And Property:** The danger to life and property due to flooding or erosion damage;
  - c. **Susceptibility To Damage:** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. **Importance Of Services:** The importance of the services provided by the proposed facility to the community;
  - e. **Necessity Of Location:** The necessity to the facility of a waterfront location, where applicable;
  - f. **Alternative Locations:** The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

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<sup>1</sup> IC title 67, chapter 52.

- g. Compatibility Of Use: The compatibility of the proposed use with existing and anticipated development;
  - h. Comprehensive Plan: The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. Access: The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. Impact Of Flood: 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. Governmental Services: 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.
5. Conditions: Upon consideration of the factors of subsection A4 of this section and the purposes of this title, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this title.
6. Records And Reporting: The county building inspector shall maintain the records of all appeal actions and report any variances to the federal insurance administration upon request.
- B. Conditions For Variances:
- 1. Lot Size: Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half ( $\frac{1}{2}$ ) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections A4a through A4k of this section have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.
  - 2. Historic Places: Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the national register of historic places or the state inventory of historic places, without regard to the procedures set forth in this section.

3. Increase In Flood Levels: Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
4. Minimum Variance: Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Requirements: Variances shall only be issued upon:
  - a. Showing Of Cause: A showing of good and sufficient cause;
  - b. Hardship: A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - c. Detrimental Effects: A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection A4 of this section, or conflict with existing local laws or ordinances.
6. Applicability: Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
7. Nonresidential Buildings: Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection B1 of this section, and otherwise complies with subsections 12-5-1A and B of this title.
8. Notice; Insurance: Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 87-3, 3-23-1987)