

FLOOD DAMAGE PREVENTION REGULATION

FOR

BIG HORN COUNTY, WYOMING

ADOPTED March 5, 1997
AMENDED January 21, 2014

RESOLUTION NO. 8 2014-2015

**RESOLUTION FOR THE ADOPTION OF AN AMENDED
FLOOD DAMAGE PREVENTION REGULATION FOR BIG HORN COUNTY**

WHEREAS, the Big Horn County Board of Commissioners recognize the need to modify floodplain administration practices in the County (refer to Resolution No. 5 2013-2014); and

WHEREAS, the Amended Flood Damage Prevention Regulation of 2014 is in conformance with the policies of the Flood Emergency Management Agency (FEMA) and the National Flood Insurance Program (NFIP); and

WHEREAS, the public had an opportunity to provide input in the preparation of the Amended Flood Damage Prevention Regulation;

NOW, THEREFORE, BE IT RESOLVED that this County hereby adopts the Big Horn County Flood Damage Prevention Regulation, amended during the period between September of 2013 and January of 2014.


This resolution, Resolution No. 5 2013-2013 and regulations hereafter adopted/modified under the provisions of the named resolutions shall supersede previous resolutions and regulations relating to flood damage prevention and the administration of development in areas designated as flood zones in unincorporated Big Horn County.

PASSED, APPROVED and ADOPTED this 21st DAY OF JANUARY, 2014.

By:


Jerold S. Ewen, Chairman

Big Horn County Commissioner


Keith Grant

Big Horn County Commissioner


John G. Hyde

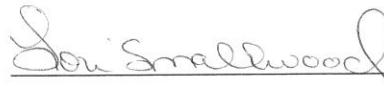
Big Horn County Commissioner

ATTEST:


Lori Smallwood, Big Horn County Clerk

CERTIFICATE

I, Lori Smallwood, Clerk of Big Horn County, hereby certify that the foregoing Resolution was adopted by the BIG HORN COUNTY COMMISSION at a public meeting held on January 21, 2014, and that the meeting was held in accordance with applicable law; and that said Resolution has been duly entered in the RECORD of the BIG HORN COUNTY COMMISSION.



RESOLUTION NO. 7 2013-2014

**RESOLUTION FOR ADOPTING FREEBOARD AND FLOOD PROTECTION ELEVATION
AS PART OF FLOOD DAMAGE PREVENTION REGULATION**

WHEREAS, the Big Horn County Flood Damage Prevention Regulation was adopted on March 5, 1997 to be eligible for the National Flood Insurance Program (NFIP);

WHEREAS, the Big Horn County Board of Commissioners recognize the need to modify current floodplain administration practices in the County (Resolution No. 5 2013-2014);

WHEREAS, Big Horn County recognizes that the Flood Emergency Management Agency (FEMA) has established base flood elevation (BFE) as the minimum standard for lowest level of construction in a flood zone;

WHEREAS, the Board of County Commissioners feel that additional protection measures are necessary to protect landowners and their property;

NOW, THEREFORE, BE IT RESOLVED that this County hereby:

1. Requires a two-foot freeboard in addition to BFE.
 - a. "Freeboard" means a factor of safety, usually expressed in feet above a flood level, for the purposes of floodplain management.
 - b. 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.
2. The required condition of BFE plus freeboard shall be referred to as Flood Protection Elevation in the amended Flood Damage Prevention Regulation of 2014.
3. Flood Protection Elevation was established to compensate for the many unknown factors that could heighten anticipated BFE in special flood hazard areas in the county.

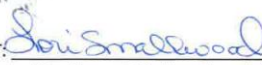
PASSED, APPROVED and ADOPTED this 7th DAY OF JANUARY, 2014.

By: 
Jerold S. Ewen
Big Horn County Commissioner

Keith Grant
Big Horn County Commissioner

John G. Hyde
Big Horn County Commissioner



ATTEST: 
Lori Smallwood, Big Horn County Clerk

CERTIFICATE

I, Lori Smallwood, Clerk of Big Horn County, hereby certify that the foregoing Resolution was adopted by the BIG HORN COUNTY COMMISSION at a public meeting held on January 7, 2014, and that the meeting was held in accordance with applicable law; and that said Resolution has been duly entered in the RECORD of the BIG HORN COUNTY COMMISSION.



RESOLUTION NO. 5 2013-2014

**RESOLUTION FOR CONTINUED PARTICIPATION
IN THE FEDERAL FLOOD INSURANCE PROGRAM**

WHEREAS, certain areas of Big Horn County are subject to periodic flooding, mudslide (i.e., mudflows), or flood-related erosion, causing serious damages to properties within these areas; and

WHEREAS, relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of the Big Horn County Board of Commissioners to require the recognition and evaluation of flood or flood-related erosion hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, this body has legal authority to restrict the location of buildings, structures and use on lands in the unincorporated areas of the county pursuant to W.S. 18-5-201; and

WHEREAS, Big Horn County entered into the National Flood Insurance Program (NFIP) in 1997 and wishes to continue participation into the future; and

WHEREAS, the Big Horn County Board of Commissioners recognize the need to modify current floodplain administration practices in the County following the Flood Insurance Reform Act of 2012, to remain eligible for NFIP participation;

NOW, THEREFORE, BE IT RESOLVED that this County hereby:

1. Assures the Federal Emergency Management Agency (FEMA) that it will keep current a Flood Damage Prevention Regulation and adequate land use control measures with effective enforcement provisions, including:
 - a. Requiring permits for all proposed construction or other development in the county so that it may determine whether such construction or other development is proposed within the floodplain.
 - b. Review proposed floodplain development plans to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law.
 - c. Review and maintain all floodplain development permit applications to determine whether proposed building sites will be reasonably safe from flooding.
 - d. Review and maintain all floodplain development permit applications to ensure that any development activities are consistent with criteria set forth in Paragraph 60.3(d) of the NFIP Regulations (44 CFR 59, etc.).

2. Vests the Big Horn County Land Planner and Emergency Management Coordinator with the responsibility, authority and means to:

- a. Serve as the floodplain administrators for unincorporated areas of Big Horn County.
- b. Modify/update the existing Flood Damage Prevention Regulation for Big Horn County, and related permit applications, as necessary and appropriate, to remain compliant with current NFIP standards.
- c. Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain, mudslide or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining flood hazard areas/features.
- d. Upon occurrence, notify the FEMA Regional Administrator, in writing, whenever the boundaries of a community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all Flood Hazard Boundary Rate Maps accurately represent the community's boundaries, include within such notification the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.
- e. Ensure that the community's Flood Insurance Rate Maps are maintained and kept current by providing FEMA any new or updated flood risk data or any modified data reflecting natural or man-made changes to the floodplain.


3. Appoints the Big Horn County Land Planning Department to maintain for public inspection and to furnish upon request any elevation or flood-proofing certificates, and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures. In addition, include whether or not such structures contain a basement and, if the structure has been flood-proofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed. This information may be used for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map.

4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.

This resolution and regulations hereafter adopted/modified under the provisions of this resolution shall supersede the existing resolutions and regulations relating to flood damage prevention and the administration of development in areas designated as flood zones in unincorporated Big Horn County.

PASSED, APPROVED and ADOPTED this 1ST DAY OF OCTOBER, 2013.

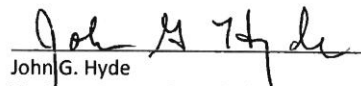
By:


Jerold S. Ewen

Big Horn County Commissioner

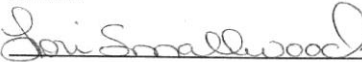

Keith Grant

Big Horn County Commissioner


John G. Hyde

Big Horn County Commissioner

ATTEST:



Lori Smallwood, Big Horn County Clerk

CERTIFICATE

I, Lori Smallwood, Clerk of Big Horn County, hereby certify that the foregoing Resolution was adopted by the BIG HORN COUNTY COMMISSION at a public meeting held on October 1, 2013, and that the meeting was held in accordance with applicable law; and that said Resolution has been duly entered in the RECORD of the BIG HORN COUNTY COMMISSION.





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CHAPTER 1:

STATUTORY AUTHORITY, FINDINGS OF FACT, PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM, PURPOSE AND OBJECTIVES

SECTION 1 – STATUTORY AUTHORITY

The Legislature of the State of Wyoming, in W.S. 18-5-201, authorizes each board of county commissioners to regulate and restrict the location and use of structures and the use, condition of use or occupancy of lands for residence, recreation, agriculture, industry, commerce, public use and other purposes in the unincorporated area of the county to promote the public health, safety, morals and general welfare of the county.

SECTION 2 – FINDINGS OF FACT

- a. Flood hazard areas exist in unincorporated Big Horn County and are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, floodproofed or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities. Local government units have the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management.

SECTION 3 – PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM

The National Flood Insurance Program (NFIP) is a federal program created by Congress to mitigate future flood losses nationwide through sound, community-enforced development regulations and to provide access to affordable, federally-backed flood insurance protection for property owners. The NFIP is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to structures and their contents caused by floods.

Participation in the NFIP is based on an agreement between local communities and the federal government that states that if a community will adopt and enforce a floodplain management regulation to reduce future flood risks to new construction in Special Flood Hazard Areas (SFHAs), the federal government will make flood insurance available within the community as a financial protection against flood losses.

Unincorporated Big Horn County entered into the NFIP as a community in 1997, adopting its initial Flood Damage Prevention Regulation in March of that same year.

SECTION 4 – STATEMENT OF PURPOSE

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

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

SECTION 5 – OBJECTIVES

The objectives of this regulation are to:

- a. Protect human life, health and property;
- b. Minimize damage to public facilities and utilities, such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, communication towers, streets and bridges located in floodplains;
- c. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas;
- d. Minimize expenditure of public money for costly flood control projects;
- e. Minimize the need for rescue and emergency services associated with flooding that are generally undertaken at the expense of the general public;
- f. Minimize prolonged business interruptions; and

Serve as a resource to inquiring landowners or land buyers regarding the potential presence of floodplain on properties in unincorporated Big Horn County.

CHAPTER 2: DEFINITIONS

Unless specifically defined in Chapter 2, words or phrases used in this regulation shall be interpreted according to the meaning they have in common usage. **Bolded** definitions are required per the direction of FEMA.

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

“Area of shallow flooding” means a designated AO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 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 sheet flow.

“Bankfull flood” means initial elevation on the stream bank where flooding begins. In many stream systems, the bankfull stage is associated with the flow that just fills the channel to the top of its banks and at a point where the water begins to overflow onto a floodplain.

“Base flood” means the flood having a one percent chance of being equaled or exceeded each year.

“Base Flood Elevation (BFE)” means the water surface elevation during the base flood in relation to a specified datum. The base flood elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

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

“Community” means the area which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction. For the purposes of this document, community refers to the unincorporated areas of Big Horn County, Wyoming.

“Development” means any man-made change to improved or unimproved real estate, either above ground or below ground, including, but not limited to, structures, mining, dredging, filling, grading, paving, excavation, drilling operations, and storage of equipment or materials.

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

“Elevation Certificate” is an administrative tool of the National Flood Insurance Program which is to be used to provide elevation information necessary to ensure compliance with community

floodplain management ordinances, to determine the proper insurance premium rate or support a request for a Letter of Map Amendment (LOMA).

“Existing structure” means a structure for which the “start of construction” commenced before the date of the effective FIRM.

“Existing manufactured home park or subdivision” means 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 date of the effective FIRM.

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

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

“Flood” or “Flooding” means:

- a. 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 (i.e., mudflows) which are proximately caused by flooding as defined in paragraph a.2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; or
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

“Flood Elevation Study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

“Flood Fringe” means the portion of the floodplain outside of the floodway covered by floodwaters during a flood.

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

“Flood Insurance Study (FIS)” means the official report by FEMA evaluating flood risk data for specific watercourses and lakes within a community. The information and maps within include flood elevation data in flood profiles and data tables.

“Flood Protection Elevation” means the BFE plus adopted freeboard.

“Floodplain” means the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of a flood. The riverine floodplain includes the floodway and the flood fringe.

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

“Floodproofing Certificate” is an administrative tool of the National Flood Insurance Program which is to be used to certify a floodproofing design for non-residential structures that are permitted as an alternative to elevating to or above the base flood elevation.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

“Freeboard” means 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.

“Functionally Dependent Facility” means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface prior to construction, next to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 086-0-33, for HAG related to structure elevation information.

“Historic Structure” means a structure that is:

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

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in 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 in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

“Letter of Map Change (LOMC)” means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies (see FEMA’s MT-2 Forms). LOMCs are issued in the following categories:

- Letter of Map Amendment (LOMA): A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
- Letter of Map Revision (LOMR): FEMA's modification to an effective Flood Insurance Rate Map (FIRM). 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 FIRM 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 or FIS report. All requests for changes to effective maps, other than those initiated by FEMA, must be made in writing by the Chief Executive Officer (CEO) of the community or an official designated by the CEO. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the base flood elevation and is excluded from the special flood hazard area.
- Conditional Letter of Map Revision (CLOMR): A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

“Lowest Adjacent Grade (LAG)” means the lowest point of the ground level next to the structure. Refer to the Elevation Certificate, FEMA Form 086-0-33, for LAG related to structure elevation information.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement) used for living purposes, which includes working, storage, cooking and eating or recreation, or any combination thereof. An unfinished or flood-resistant enclosure, used solely for parking of vehicles, structure access or storage in an area other than a basement area is not considered a structure’s lowest floor. The lowest floor is a determinant for the flood insurance premium for a structure, home or business.

“Major Subdivision” means the subdivision of one unit of land into three or more lots, each smaller than 35 acres, per the *Subdivision Regulations for Big Horn County*.

“Manufactured Home” means a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Mudslide” 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 Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

“New construction” means a structure for which the “start of construction” commenced on or after the date of the effective FIRM, and includes any subsequent improvements to such structures.

“New Manufactured Home Park or Subdivision” means a place where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and final site grading or the pouring of concrete pads) is completed on or after the date of the effective FIRM.

“No-Rise Certification” (also referred to as an encroachment review) means an engineering analysis demonstrating that the proposed development will not impact the pre-project base flood elevations (mandatory), floodway elevations (optional), or floodway data widths (optional). The certification should be obtained from the applicant and be signed and sealed by a professional engineer.

“Recreational Vehicle” means a vehicle that is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towed by a light duty truck; and

- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Simple Subdivision” means a division of one unit of land into one or two lots, each smaller than 35 acres, per the *Subdivision Regulations for Big Horn County*.

“Special Flood Hazard Area (SFHA)” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In Big Horn County, SFHAs are labeled on the FIRMs and defined as follows:

- Zone A: Areas subject to inundation by the 1-percent-annual-chance flood event generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.
- Zone AE: Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.
- Zone AO: Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and floodplain management standards apply.

Some AO zones have been designated in areas with high flood velocities such as alluvial fans and washes. Communities are encouraged to adopt more restrictive requirements for these areas.

“Start of construction” includes substantial improvement and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 365 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 structures, 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 part of a structure, whether or not the alteration affects the external dimensions of a structure.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. Structures may include bridges and communication towers and the structures associated with them.

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

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The market value of the structure should be:

- a. The appraised value of the structure prior to the start of the initial repair or improvement, or
- b. In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage”, regardless of the actual amount of repair work performed. The term does not include either:
 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.

“Utilities” include above-ground and below-ground power lines and power stations, communication lines, water lines, sewer lines, gas lines or similar.

“Variance” is a grant of relief by the governing body from a requirement of this regulation.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without an elevation certificate, other certifications or other evidence of compliance with the community’s regulations is presumed to be in violation until such time as that documentation is provided.

“Water surface elevation” means the height, in relation to a current vertical datum, of floodwaters during floods of various magnitudes and frequencies in the floodplains of costal or riverine areas.

CHAPTER 3:

GENERAL PROVISIONS

SECTION 1 – LANDS TO WHICH THIS REGULATION APPLIES

This regulation shall apply to all special flood hazard areas (SFHAs) within the jurisdiction of unincorporated Big Horn County. Nothing in this regulation is intended to allow uses or structures that are otherwise prohibited by any existing zoning regulation.

SECTION 2 – BASIS FOR IDENTIFYING SPECIAL FLOOD HAZARD AREAS

The SFHAs identified by the Federal Emergency Management Agency in its *Flood Insurance Study (FIS) for Big Horn County, Wyoming and Incorporated Areas*, dated February 19, 2014, 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 regulation. The FIS and the FIRM/DFIRM are on file at the Big Horn County Land Planning Department, 417 Murphy Street, Basin, Wyoming. For the purposes of this regulation, February 19, 2014 is the date of the effective FIRM.

SECTION 3 – ESTABLISHMENT OF A FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required prior to development activities proposed in the SFHAs established in Chapter 3, Section 2. Floodplain Development Permit Applications are available at the Big Horn County Land Planning Department, 417 Murphy Street, Basin, Wyoming, as well as on the department's website (see <http://www.bighorncountywy.gov/dep-land-planning.htm>).

SECTION 4 – ESTABLISHMENT OF THE FLOOD PROTECTION ELEVATION

Whereas FEMA has established base flood elevation (BFE) as the minimum standard for lowest level of construction in a flood zone, the Big Horn County Board of Commissioners require a two-foot freeboard in addition to BFE. The required condition of BFE plus freeboard shall be referred to as flood protection elevation in the remainder of this document. Flood protection elevation was established to compensate for the many unknown factors that could heighten anticipated BFE in SFHAs.

SECTION 5 – INTERPRETATION

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

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the governing body, and;
- c. Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 6 – WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this regulation 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 regulation does not imply that land outside the SFHAs or uses permitted within such areas will be free from flooding or flood damages. This regulation shall not create liability on the part of Big Horn County or by any officer or employee thereof for flood damages that result from reliance on this regulation or an administrative decision lawfully made hereunder.

CHAPTER 4:

ADMINISTRATION

SECTION 1 – DESIGNATION OF COUNTY FLOODPLAIN ADMINISTRATOR

The Big Horn County Land Planner and Emergency Management Coordinator are hereby appointed as the County Floodplain Administrators who are responsible for administering and implementing the provisions of this regulation.

SECTION 2 – DUTIES AND RESPONSIBILITIES OF A COUNTY FLOODPLAIN ADMINISTRATOR

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

- a. Review and be knowledgeable of the requirements outlined in this regulation, as well as any pertinent statutory or federal requirements related to floodplain management.
- b. Review all Floodplain Development Permit Applications to assure that the permit requirements of this regulation have been satisfied.
- c. Review proposed development to ensure that necessary permits have been received from governmental agencies from which approval is required by federal or state law.
- d. When BFE data or floodway data are not available from FEMA:
 1. The County Floodplain Administrator shall attempt to obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source in order to administer the provisions of this regulation. Army Corps of Engineers (ACOE), Department of Agriculture, National Resource Conservation Service, USGS, soil and conservation groups and WYDOT may have study data available.
 2. When BFEs or other current engineering data are not available, the applicant will be required to provide a completed FEMA Elevation Certificate, certified by a licensed engineer or architect, to the County Floodplain Administrator. FEMA Publication 265, *Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations*, provides guidance for determining BFEs.

The County Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed development site will be safe from flooding.

- e. Obtain and review completed FEMA Elevation and/or Floodproofing Certificates that have been certified by licensed engineers or architects, as well as any additional flood study data that may have been obtained by the applicant.
- f. Review overall development plans to ensure that the applicant has addressed the flood protection elevation requirement.
- g. Where interpretation is needed of the exact location of boundaries of SFHAs including floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the County Floodplain Administrator and Engineer shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this regulation.
- h. All records pertaining to the provisions of this regulation shall be maintained in the Big Horn County Land Planning Department and shall be open for public inspection.

SECTION 3 – PERMIT PROCEDURES

The process to apply for and acquire a permit to complete development in an area designated as a floodplain in Big Horn County is as follows.

- a. Application Stage
 - 1. The applicant shall acquire a Floodplain Development Permit Application from the Big Horn County Land Planning Department at 417 Murphy Street, Basin, WY, or from their “Forms and Regulations” web page.
 - 2. The applicant shall submit a completed Floodplain Development Permit Application to the county Land Planning Department, for each instance where the project area intersects a unique watercourse’s floodplain, or where the project area crosses several instances of the same watercourse’s floodplain. For example, if a waterline project spanning several miles proposes to cross the floodplain of three different streams, at least three permits must be submitted with plans related to the waterline development proposed within each, independent section of the floodplain.
 - 3. In addition, the applicant will be required to submit the supporting documentation identified in the Floodplain Development Permit Application. Additional information may be requested after the application and supporting documentation have been reviewed.
- b. Application Review Stage
 - 1. The County Floodplain Administrator will conduct a preliminary review of each Floodplain Development Permit Application and supporting documentation provided by the applicant.

- (a) If documentation is incorrect or incomplete, the County Floodplain Administrator will request additional information from the applicant.
 - (b) The County Floodplain Administrator will attempt to identify permits that may be required by federal, state or other entities and gather any available historic flood study/elevation data, as necessary.
2. A visit will be made to the proposed site of construction by the County Floodplain Administrator.
- (c) A GPS reading will be collected by the County Floodplain Administrator while onsite, as well as pictures of the as-is conditions at the location where development is proposed.
 - (d) The County Floodplain Administrator will verify that the GPS location does, in fact, fall within the SFHA within the DFIRM.
- NOTE: If the site of proposed development happens to fall outside of the SFHA, the applicant will be notified of the discrepancy, their Flood Development Permit Application will be cancelled and fee returned and the Land Planning Department will reconsider granting a Development permit using the originally submitted Development Permit Application.
3. Following review of the Floodplain Development Permit Application and data acquired during the visit to the proposed site of development, the County Floodplain Administrator will:
- (a) Submit the application, supporting documentation and site visit data to the County Engineer for review and comments.
 - (b) If the County Engineer determines that additional information is needed to make a recommendation, the applicant will be asked to provide additional information. Upon receipt of the information, the County Engineer will conduct another review.
4. Upon approval or disapproval of the application by the County Engineer and County Floodplain Administrator, the application and supporting documents will be given to the Board of County Commissioners, hereafter referred to as "the Board," for their review and comment.
- (a) If the Board determines that additional information is needed, the applicant will be asked to provide the information by a specified date. Once the information is provided, the Board shall conduct another review and comment accordingly.
 - (b) If the Board denies the application, they shall indicate such on the Floodplain Development Permit Application and note reason for their decision. The County Floodplain Administrator will contact the applicant and explain the reasoning behind the denied application.
 - (c) If the Board approves the application, the County Floodplain Administrator will issue a permit to the applicant with permission to proceed with the start of construction.

- (d) If the Board approves the application with conditions, they shall indicate such on the Floodplain Development Permit Application with notes regarding the outstanding conditions to be met. The County Floodplain Administrator will issue a permit to the applicant with permission to proceed with the start of construction, noting the outstanding conditions that must be met.
- (e) If the Board grants a variance, in accordance with Chapter 6, Sections 1 and 2, such shall be indicated on the Floodplain Development Permit Application with notes regarding the decision. The County Floodplain Administrator will issue a permit to the applicant with permission to proceed with the start of construction, noting any special conditions of the variance.

5. Expiration of Floodplain Development Permit

All floodplain development permits shall be conditional upon the commencement of work within 365 days. A floodplain development permit shall expire 365 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion. It is the responsibility of the permit holder to contact the County Floodplain Administrator to communicate the intended date of the start of construction.

c. Construction Stage

1. Start of construction: For structure development, permit holders must submit a completed Footer Elevation Certificate, certified by a licensed engineer, at the start of construction. Footer Elevation Certificates are available at the Big Horn County Land Planning Department. If certificate deficiencies are found or recorded elevations do not meet the requirements of this regulation, the County Floodplain Administrator will issue a stop work order and correction of course prior to recommencing construction.

It is strongly recommended that permit holders acquire completed FEMA Elevation and/or Floodproofing Certificates during construction; however, certificates are not required at this stage. If certificate deficiencies or violations are found, the County Floodplain Administrator will require a stop-work and correction of course prior to recommencing construction.

2. Completion of Construction: Upon completion of all new construction and substantial improvements, the permit holder must submit a completed FEMA Elevation and/or Floodproofing Certificate, certified by a licensed engineer or architect, to the Land Planning Department. If certificate deficiencies or violations are found, the County Floodplain Administrator will require corrections to be made or the permit holder may be subject to fines.

d. Project Compliance Review Stage

1. The administrator(s) and engineer will review the FEMA Elevation and/or Floodproofing Certificate to ensure that construction was in compliance with the regulations and any special conditions noted on the permit.

2. Certificate deficiencies identified by the County Floodplain Administrator shall be corrected by the permit holder immediately. Failure to submit certification or failure to make the corrections shall be cause for the County Floodplain Administrator to issue a stop-work order for the project and/or the permit holder may be fined for noncompliance.

CHAPTER 5:

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION 1 – SUBDIVISION STANDARDS

In SFHAs, all subdivision proposals shall be consistent with the need to minimize flood damage and require the following provisions.

- a. All subdivision plats/development plans shall include the mapped flood hazard zones from the effective FIRM and a statement regarding the limitations of development within the floodplain.
- b. For simple subdivision proposals, where the parcel(s) included have mapped flood hazard zones within their boundaries, acquisition of BFE data shall be required under the following circumstances:
 1. If the parcel has less than one (1) continuous acre of land, that is suitable for structure and septic development, outside of the mapped floodplain, a BFE study will be required where no BFE data exists.
 2. Where a parcel has more than one (1) continuous acre of land that is suitable for structure and septic development outside of the mapped floodplain and the developer has identified intentions of developing within the mapped floodplain, a BFE study will be required where no BFE data exists.
- c. For major subdivision proposals where any portion of the land includes mapped flood hazard zones, a BFE study will be required for all parcels that include floodplain where BFE data do not exist. Exclusions may apply to parcels specifically designated on the plat as having no insurable structures (i.e., common areas, playgrounds, pavilions, basketball courts, parking areas).
- d. BFE studies are required for planning purposes and to ensure that all future development is built flood-safe. BFE studies must be conducted by a licensed engineer at the expense of the applicant. BFE study results must be submitted to the Land Planning Department as part of the subdivision application process. Where a BFE study is required, subdivision approval (simple or major) will not be granted until study data are reviewed and approved by a County Floodplain Administrator.
- e. All subdivisions shall have utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.

- f. All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- g. All subdivisions shall conform to the requirements stated in the Big Horn County Subdivision Regulations.

SECTION 2 – CONSTRUCTION STANDARDS

In all SFHAs, the following provisions are required for new construction or substantial improvements to an existing structure, including a structure that has been substantially damaged:

- a. The structure or improvements shall have the lowest floor at or above the flood protection elevation.
- b. The structure or improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- c. The structure or improvements shall be constructed with materials and utility equipment resistant to flood damage. FEMA provides guidance for the design of building utility systems in FEMA Publication 348, *Principles and Practices for the Design and Construction of Flood Resistant Building Utility Systems*.
- d. The structure or improvements shall be constructed by methods and practices that minimize flood damage.
- e. All structures or improvements that include a fully enclosed area located below the lowest floor formed by the foundation and other exterior walls shall be designed to be an unfinished or flood-resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect and meet the following minimum criteria:
 - 1. Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding as follows:
 - (a) The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening, and
 - (b) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
 - 2. The unfinished or flood-resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
 - 3. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - 4. For crawlspace foundation types, construction must follow the guidelines in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Structures Located in Special*

Flood Hazard Areas: National Flood Insurance Program Interim Guidance, specifically:

- (a) Below-grade crawlspaces are prohibited at sites where the velocity of floodwaters exceed five (5) feet per second (data may be available in the floodway data tables in the *Flood Insurance Study (FIS) for Big Horn County, Wyoming and Incorporated Areas*, dated February 19, 2014);
 - (b) Interior grade of the crawlspace below the BFE must not be more than 2 feet below the lowest adjacent grade (LAG);
 - (c) Height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace to the bottom of the floor joist must not exceed 4 feet at any point;
 - (d) Contain an adequate drainage system that removes floodwaters from the interior area of the crawlspace.
5. Any spaces that do not fulfill the criteria in items 1-4 above will be rated as a basement.
- f. All heating and air conditioning equipment and components, electrical, ventilation, plumbing, and other facilities shall be designed and/or elevated to prevent water from entering or accumulating within the components during flooding.
 - g. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - h. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - i. On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding.
 - j. Any alteration, repair, reconstruction or improvement to a structure that is not compliant with the provisions of this regulation, shall be undertaken only if the nonconformity is minimal in order to meet health and safety standards.

SECTION 3 – MANUFACTURED HOME STANDARDS

In all SFHAs, these standards for manufactured homes and recreational vehicles shall apply.

- a. Manufactured homes placed or substantially improved must have the lowest floor, including basement, elevated to the flood protection elevation when:
 - 1. On individual lots or parcels;
 - 2. In new or substantially improved manufactured home parks or subdivisions; or

3. In expansions to existing manufactured home parks or subdivisions, or on a site in an existing manufactured home park or subdivision where a manufactured home has incurred “substantial damage” as the result of a flood.
- b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 1. The lowest floor of the manufactured home is elevated to or above the BFE, or
 2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches above the HAG.
- c. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchoring shall be consistent with FEMA Publication 85, *Protecting Manufactured Homes from Floods and Other Hazards*, and the U.S. Department of Housing and Urban Development (HUD) *Permanent Foundations Guide for Manufactured Housing* (4930.3G).
- d. Manufactured homes placed on solid perimeter walls shall meet the flood vent requirements in Chapter 5, Section 2d.

SECTION 4 – ACCESSORY STRUCTURE STANDARDS

Relief from the elevation or dry floodproofing standards may be granted for an accessory structure containing no more than 500 square feet. Such a structure must meet the following standards:

- a. It shall not be used for human habitation;
- b. It shall not be used to store high-value tools or farming, construction or similar equipment;
- c. It shall be constructed of flood-resistant materials;
- d. It shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- e. It shall be firmly anchored to prevent flotation;
- f. Services such as electrical and heating equipment shall be elevated or floodproofed to or above the flood protection elevation;
- g. It shall meet the opening requirements of Chapter 5, Section 2e.

SECTION 5 – RECREATIONAL VEHICLE STANDARDS

In all SFHAs, recreational vehicles must:

- a. Be on the site for fewer than 180 consecutive days; and

- b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices and have no permanently attached structures or addition; or
- c. The recreational vehicle must meet all the requirements of Section 3, Manufactured Home Standards.

SECTION 6 – STANDARDS FOR NON-BUILDING UTILITY CONSTRUCTION

The following considerations shall be made for the installation of non-building utilities (e.g., above-ground and below-ground power lines and power stations, communication lines, water lines, sewer lines, gas lines or similar):

- a. The type of utility planned for installation must be noted on the application.
- b. If the installation is below-ground, the depth of bury must be noted on the application/plan.
- c. If the utility being installed will be attached to an existing structure (e.g., a bridge), it must be noted on the application/plan.
- d. Methods used to install new utility lines shall not alter the watercourse or landscape in such a way that infiltration of flood waters into the area will be increased;
- e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- g. All permits required by state, federal or other agencies must be secured prior to issuance of a Floodplain Development Permit from Big Horn County.

SECTION 7 – FLOODWAY STANDARDS

Floodway is 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. The following provisions shall apply in a floodway:

- a. Any project in a floodway must undergo an engineering analysis in the form of a No-Rise Certification to determine its effect on flood flows before a permit can be issued. The No-Rise Certification must be signed by a registered professional engineer and supported by technical data or an explanation of why a hydraulic analysis is not required; a hydraulic analysis will be required in most cases. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM). See FEMA's IS-9 Home Study Course Manual, *"Managing Floodplain Development Through the National Flood Insurance Program"* for guidance.

A No-Rise Certification must include:

1. Determination and documentation that the filling, grading or construction of a structure will not obstruct flood flows and will not cause an increase in flood heights upstream or adjacent to the project site;
 2. Determination and documentation that grading, excavation, channel improvements, bridge and culvert replacements that remove an obstruction, do not cause increases in downstream flood flows;
 3. Signed No-Rise Certificate and documentation (back-up data) by a licensed professional engineer that the project will not result in a rise in flood heights;
 4. The County Floodplain Administrator may make the encroachment determination for minor projects, such as projects that do not increase the natural grade (e.g., paving a driveway or parking lot at existing grade, open fences and small isolated obstructions such as a mailbox or telephone pole).
- b. Upon demonstrating that there are no alternatives, the applicant may propose an encroachment in the floodway that will cause an increase in the BFE, provided that the applicant obtains a Conditional Letter of Map Revision (CLOMR) from FEMA before the development can be approved and permitted. Also, a Letter of Map Revision (LOMR) must be submitted and approved by FEMA. Fees associated with CLOMRs and LOMRs are the responsibility of the applicant.
- c. In areas outside of Zone AE, where floodway has not been defined, the County Floodplain Administrator shall make the determination whether a flood elevation study is required or not.

SECTION 8 – STANDARDS FOR ZONES WITH BASE FLOOD ELEVATIONS

In SFHAs designated Zone AE (with estimated BFE), the following provisions are required.

- a. New residential construction and substantial improvements must meet the requirements of Chapter 5, Section 2.
- b. For non-residential construction:
 1. New construction or the substantial improvement of any commercial, industrial or non-residential structure must be floodproofed to the flood protection elevation, if it is not elevated.
 2. The structure and attendant utility and sanitary facilities must be designed to be water tight to the flood protection elevation with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
 3. A licensed professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these provisions, and shall provide a FEMA Floodproofing Certificate to the County Floodplain Administrator.

- c. Where the floodway has not been determined, no new construction, substantial improvements or other development (including fill) shall be permitted, 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. Thus a No-Rise Certification is required to ensure that development will not cause more than a one-foot rise. See Section 7.a. for further explanation about the No-Rise Certification.
 - 1. Applicants of proposed projects that increase the BFE more than one foot are required to obtain and submit a CLOMR to FEMA before the start of construction.
 - 2. Following construction, the applicant must apply to FEMA for a LOMR for changes to the flood hazard map proposed in the CLOMR.

SECTION 9 – STANDARDS FOR ZONES WITHOUT BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A ZONES)

These standards apply in SFHAs where streams exist but no BFE data have been provided (A Zones), or where base flood data have been provided but a floodway has not been delineated.

- a. When BFE or floodway data have not been identified by FEMA in an FIS and/or FIRMs, then the County Floodplain Administrator shall attempt to obtain, review, and reasonably utilize scientific or historic BFE and floodway data available from a federal, state, or other source, in order to administer this regulation.
 - 1. If data are not available from any source, only then provisions b and c shall apply. This pertains to proposed residential, single family development only. For proposed commercial development, a BFE study will be required.
 - 2. Where the County Floodplain Administrator has obtained BFE data and has reasonable concerns that the proposed project will cause a rise in the BFE of more than a foot, the County Floodplain Administrator may require a No-Rise Certification. (See Section 7.a. for further explanation about the No-Rise Certification.) Applicants of proposed projects that increase the BFE more than one foot shall obtain a CLOMR before the start of construction and a LOMR at the completion of construction.
- b. No encroachments, including structures or fill, shall be located within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless certification by a licensed professional engineer documents that the encroachment will not result in any increase in flood levels during the base flood.
- c. In SFHAs without BFE data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement or crawlspace) elevated no less than two feet above the HAG at the building site. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Chapter 5, Sections 2 and 3.

SECTION 10 – STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

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

- a. All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the HAG at least as high as the flood depth number specified in feet on the Flood Insurance Rate Map (FIRM). If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the HAG. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Chapter 5, Section 2.d.
- b. New construction or the substantial improvement of a non-residential structure may be floodproofed in lieu of elevation. The structure and attendant utility and sanitary facilities must be designed to be water tight to the specified base flood level or at least two (2) feet above the HAG, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these provisions, and shall provide a completed FEMA Floodproofing Certificate to the County Floodplain Administrator.
- c. Drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

SECTION 11 – STANDARDS FOR THE ALTERATION OF A WATERCOURSE

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

- a. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to issuance of a Floodplain Development Permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
- b. Adjacent communities, the U.S. Army Corps of Engineers, the Wyoming State Engineer's Office and the Wyoming Department of Environmental Quality (Water Quality Division) must be notified prior to any alteration or relocation of a watercourse. Evidence of notification must be submitted to the County Floodplain Administrator and to the Federal Emergency Management Agency.
- c. For bridge construction, results of hydrologic and hydraulic analysis may be used as best available data.
- d. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished.

- e. The applicant shall meet the requirements to submit technical data in Sections 12.a and 12.b of this chapter when an alteration of a watercourse results in the relocation or elimination of the SFHA, including the placement of culverts.

SECTION 12 – REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

- a. For all development proposals that impact floodway delineations or BFEs, Big Horn County shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - 1. Floodway encroachments that increase or decrease BFEs or alter floodway boundaries;
 - 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the SFHA in accordance with Chapter 5.
 - 3. Alteration of watercourses that result in a relocation or elimination of the SFHA, including the placement of culverts; and
 - 4. Subdivision or large-scale development proposals requiring establishment of BFEs according to Chapter 5, Section 1.c.
- b. It is the responsibility of the applicant to have technical data prepared in a format required for a CLOMR or LOMR and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

CHAPTER 6:

VARIANCE AND APPEAL PROCEDURES

SECTION 1 – VARIANCE

A variance is a grant of relief from the terms of a floodplain management regulation, which generally involves allowing development that is contrary to good floodplain management practices. Because the result can be an increased risk to life and property, the granting of floodplain variances is rare.

- a. A written request for a floodplain development variance must be submitted to the County Floodplain Administrator.
- b. Upon receipt of a request for a floodplain development variance, the County Floodplain Administrator will:
 - 1. Review the request, taking into consideration the originally submitted Floodplain Development Permit Application.

2. Notify the Board of County Commissioners of the request.
3. Notify the State and Regional FEMA NFIP Coordinators of the request.
- c. The County Floodplain Administrator will work closely with FEMA to determine if the variance is warranted.
- d. The County Floodplain Administrator and FEMA's recommendation will be presented to the Board of County Commissioners to assist in making their final decision regarding the requested variance.

SECTION 2 – CRITERIA FOR VARIANCES

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

- a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation. As the lot size increases, the technical justification required for issuing the variance increases.
- b. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- 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 may be issued upon;
 1. A showing by the applicant of good and sufficient cause;
 2. A determination that failure to grant the variance would result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and regulations.
 3. A determination that the use proposed is a functionally dependent facility.
- e. Variances pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods.

SECTION 3 – VARIANCE DECISION

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

SECTION 4 – APPEALS

Once the Board of County Commissioners has made a decision regarding denial of a permit or interpretation of this regulation, that decision is final. If an applicant wishes to appeal that decision they have the right to pursue a judicial review of the administrative decision in accordance with WS §16-3-114.

CHAPTER 7:

PENALTIES FOR VIOLATION

- a. No structure or land shall hereafter be located, extended, converted or altered unless in full compliance with the terms of this regulation and other applicable regulations.
- b. Violation of the provisions of this regulation may result in the issuance of a stop work order at the location of non-permitted development.
- c. Violation of the provisions of this regulation 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 be fined not more than five hundred dollars (\$500) per calendar day. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Big Horn County from taking such other lawful actions as is necessary to prevent or remedy any violation.

CHAPTER 8:

SEVERABILITY

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

CHAPTER 9:

REPEAL OF CONFLICTING PROVISIONS

This regulation shall not in any way impair or remove the necessity of compliance with any other laws, regulations, etc. Where this regulation imposes a greater restriction, the provisions of this regulation shall control.