

# Article 9 Special Overlay Districts

# Article 9 - Special Overlay Districts

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The Airport Vicinity Overlay District applies to all areas found within the area identified on the Airport Overlay Map (Div. 9.1.5.)

### 9.1.1. Purpose

The purpose of the Airport Overlay Districts is to ensure that the uses established in the vicinity of and on the Driggs-Reed Memorial Airport will not be in conflict with the Driggs Comprehensive Plan, Airport Master Plan or Airport Layout Plan; that sensitive or vulnerable uses will be reasonably protected from airport related activities including noises, hazards and similar conditions; and that the airport and airport related activities are reasonably protected from the encroachment of uses incompatible with the operation of the airport.

### 9.1.2. Scope and Boundaries

The provisions of this Division, in addition to other applicable provisions of this code, apply to all land and structures within the following overlay districts, which are part of the Airport Vicinity Overlay found in the Airport Vicinity Overlay Map (Div. 9.1.5)

- A. Aircraft Traffic Pattern Overlay – shown on the official Airport Vicinity Overlay Map and defined as encompassing all land on and around the airport to a distance of 14,000 feet from the runway centerline surface, except on the southeast side, where the boundary is 3,700 feet from the runway centerline surface. This difference accounts for the prescribed turning movements being on the north side of the airport.
- B. Airspace Protection Overlay – shown on the official Airport Vicinity Overlay Map and defined as the area underneath the Approach and Transitional Surfaces designated on the adopted Driggs-Reed Memorial Airport Layout Plan and also applies to land in the Airport Hazards and Airport Operations Overlays. Generally speaking, the approach surfaces are sloped at 34:1 off the SW end of the runway, 20:1 off the NE end of the runway and 7:1 on each side,

starting at the outer boundary of the Object Free Area.

- C. Airport Hazards Overlay – shown on the official Airport Vicinity Overlay Map and consisting of and defined by the following areas as established by the adopted Driggs-Reed Memorial Airport Master Plan and Airport Layout Plan.
  - 1. Object Free Area – An area 400ft in width either side of and parallel to the runway centerline. The purpose of the OFA is to enhance the safety of aircraft operations by remaining clear of objects.
  - 2. Runway Protection Zone (RPZ) – An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline.
  - 3. Lateral Safety Zone (LSZ) – An area extending 1,000 feet either side of the runway centerline.
  - 4. Inner Critical Zone (ICZ) – An area rectangular in shape and centered about the extended runway centerline. The width of the ICZ is 2,000 feet and extends a horizontal distance of 5,000 feet from each end of the runway surface.
  - 5. Outer Critical Zone (OCZ) – An area rectangular in shape and centered about the extended runway centerline. The width of the OCZ is 1,000 feet and extends a horizontal distance of 4,000 feet from each end of the ICZ.
- D. Airport Operations Overlay – shown in approximation on the official Airport Vicinity Overlay Map and defined as all properties within the airport security fence.

### 9.1.3. Process of Review

All proposed development within the Airport Vicinity Overlay shall be subject to all applicable Federal, State, and local aviation and development regulations.

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Once an application is received by the Teton County Planning Department for development in the Airport Vicinity Overlay, the following shall happen:

- A. The City of Driggs shall notify Driggs Reed Memorial Airport Board and Airport Engineer, as part of their responsibility as the general service provider review;
- B. The City of Driggs shall be invited to DRC;
- C. The City of Driggs shall be invited to provide comment about how the application is in compliance with the adopted Airport Master Plan;
- D. Comments received from the City of Driggs will be incorporated in the staff report and considered by the Planning and Zoning Commission, as well as the Board of County Commissioners in the decision making process; and

## 9.1.4. Provisions

- A. Aircraft Traffic Pattern Overlay
  - 1. Avigation Easement Required: Within the Airport Traffic Pattern Overlay, the execution of an Avigation Easement for the unobstructed passage of aircraft, as specified by the City, will be a condition of any land use permit.
- B. Airspace Protection Overlay
  - 1. Structure Height: No building permit will be issued within the Airspace Protection Overlay without acknowledgement from the FAA that a completed FAA Form 7460-1 has been received and that the proposed construction will either not encroach into the protected airspace or that acceptable mitigation has been agreed to. Airport Hazards Overlay
  - 2. Use Provisions: The following provisions restrict uses within the Airport Hazards Overlay and are in addition to the use provisions contained in Division 10. Uses not permitted below that existed at the time these regulations were

adopted may be continued pursuant to Div. 14.9.2.

- a. Object Free Area: No structures, storage, equipment or trees shall be located in the OFA except for objects needed for air navigation or aircraft ground maneuvering purposes. The only permitted land uses in the OFA are:
  - i. Aircraft runways, taxiways, ramps.
  - ii. Cropland or open space
- 3. Runway Protection Zone (RPZ): The only permitted land uses in the RPZ are:
  - a. Cropland or open space
  - b. Navigational aids
- 4. Lateral Safety Zone (LSZ): The allowed and conditionally permitted land uses in the LSZ are those allowed or conditionally permitted in the underlying zoning district, as regulated in Division 10, with the exception that the following land uses are not permitted within the LSZ.
  - a. Residential
  - b. Lodging
  - c. Civic uses with public assembly (schools, libraries, churches, etc.)
  - d. Hospital
  - e. Day care center
  - f. Playgrounds
  - g. Indoor recreation, special event facility or retail use with greater than 5,000 square feet of net floor area
  - h. Outdoor spectator sports seating

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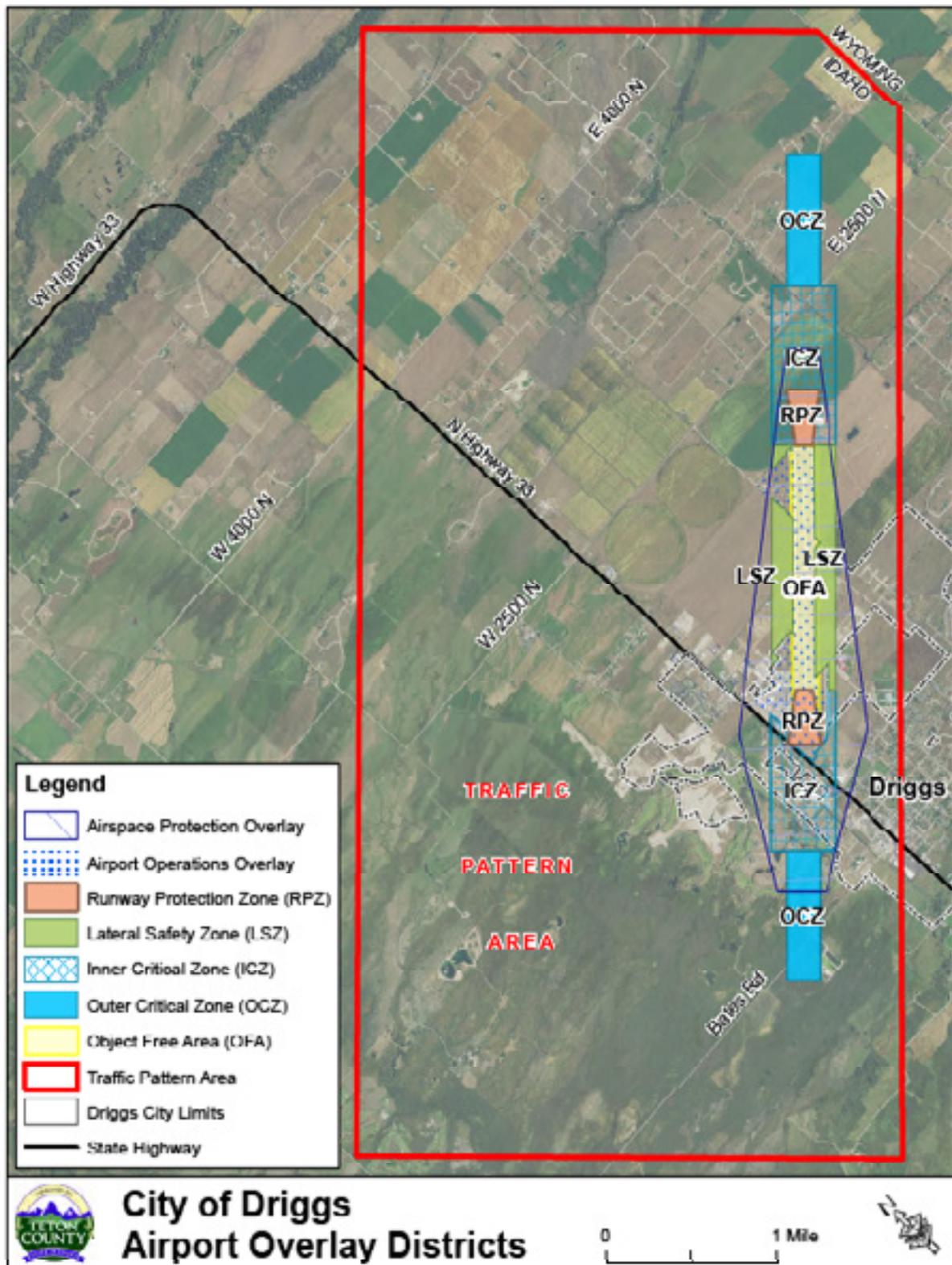
5. Inner Critical Zone (ICZ): The allowed and conditionally permitted land uses in the ICZ are those allowed or conditionally permitted in the underlying zoning district, as regulated in Division 10, with the exception that the following land uses are not permitted within the ICZ:
    - a. Hotel/Motel
    - b. Civic uses with public assembly (schools, libraries, churches, etc.)
    - c. Hospital
    - d. Day care center
    - e. Recreation, special event facility or retail building larger than 5,000 square feet of net floor area
    - f. Outdoor spectator sport facilities
  6. Outer Critical Zone (OCZ): The allowed and conditionally permitted land uses in the OCZ are those allowed or conditionally permitted in the underlying zoning district, as regulated in Division 10, with the exception that the following land uses are not permitted within the OCZ:
    - a. Hotel/Motel
    - b. Civic uses with public assembly (schools, libraries, churches, etc.)
    - c. Hospital
    - d. Day care center
  7. The City may prohibit require conditions on land use elements that are considered bird attractants, such as ponds and water features or garbage, or that may cause pilot distraction such as light glare, to ensure the safety of aircraft operations in the surrounding airspace.
- C. Airport Operations Overlay
1. Purpose: The purpose of the Airport Operations Overlay District is to preserve the safety and utility of the airport and the public investment therein by regulating the uses within the airport's perimeter security fence.
  2. Uses Allowed: Within the Airport Operations Overlay District, uses other than those listed and defined below are not permitted.
    - a. Aircraft runways, taxiways, ramps, parking areas.
    - b. Aircraft operational facilities including, but not limited to, instrument landing systems, visual navigational aids, and related equipment; communication facilities; weather service offices and equipment.
    - c. Hangars and buildings which may only be used for the storage or maintenance of aircraft; airport snow removal, sweeping and other aviation or airport maintenance equipment, and other aviation related or ancillary activities only.
    - d. Offices and facilities for airport management, air charter, air taxi, crop spraying, aircraft sales or rentals, and air cargo processing facilities.
    - e. Flight schools, flying clubs and other schools or training facilities relating to aviation or air related transportation.
    - f. Offices and facilities for the operation and maintenance of air rescue, emergency and firefighting services.
    - g. Aircraft or aviation related maintenance, manufacturing, and testing facilities.
    - h. Offices and facilities of Federal, State and local government entities.

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- i. Apartment accessory to a use on private property that is allowed in the Airport Operations Overlay District, provided that the apartment's gross floor area does not exceed 2000 square feet or 20% of the hangar floor area. On City owned property, an Accessory Apartment may only be used as crew quarters for occasional overnight and resting periods for flight crew and not as permanent or temporary residences for flight crews, aircraft owners, guests or any other person.
3. Conditional Uses Permitted:
    - a. Bulk storage of flammable or hazardous liquid above or below ground.
    - b. Crop spraying facilities and related facilities.

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## 9.1.5. Airport Vicinity Overlay Map



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### 9.2.1. Statutory Authorization, Purpose, and Objectives

#### A. Applicability

The Flood Damage Prevention Overlay District applies to all areas identified by FEMA as being in the FEMA mapped Special Flood Hazard Area (SFHA). Division 13.3.1 identifies a setback of 50' from the SFHA. This Division would apply to projects that are not required to meet that setback or have obtained a variance and will disturb land within the SFHA.

#### B. 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.

#### C. Need for Flood Hazard Protection

1. The flood hazard areas of Teton County 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.
2. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
3. Local government units have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

#### D. Purpose

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

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

#### E. Objectives and Methods of Reducing Flood Losses

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

1. Require that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety, and welfare of citizens, be protected against flood damage at the time of initial construction;
2. Restrict or prohibit uses which are dangerous to health, safety, and property due to water

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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.

## 9.2.2. General Provisions

### A. Lands to which this District applies

This division shall apply to all Special Flood Hazard Areas within Teton County. Nothing in this division is intended to allow uses or structures that are otherwise prohibited by the Land Use Development Code.

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

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Teton County, Idaho and Incorporated Areas, dated August, 4, 1988, with accompanying Flood Insurance Rate Maps (FIRM), other supporting data, and updates/amendments to those documents are adopted by reference and declared a part of this Code. The FIS and the FIRM are on file at the office of the Teton County Planning Department, 150 Courthouse Drive, Driggs, ID 83422.

### C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this division prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Div. 9.2.3.C.

### 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 division and other applicable regulations

### E. Abrogation and Greater Restrictions

This Division 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, etc. However, where this Division and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

### F. Interpretation

In the interpretation and application of this Division, 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.

### G. Warning and Disclaimer of Liability

The degree of flood protection required by this Division 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 Division 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 Division shall not create liability on the part of Teton County, Idaho or by any officer or employee thereof for flood damages that result from reliance on this Division or an administrative decision lawfully made hereunder.

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## 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 Division and other applicable regulations.

Violation of the provisions of this Division or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this Division or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100 or imprisoned for not more than 180 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Teton County from taking such other lawful actions as is necessary to prevent or remedy any violation.

## 9.2.3. Administration

### A. Designation of Floodplain Ordinance Administrator

The Planning Administrator, or his or her designee, is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this Division.

### B. Duties and Responsibilities of the Administrator

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

1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Division have been satisfied.
2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

3. Notify adjacent communities and the Idaho Department of Water Resources State Coordinator for the National Flood Insurance Program (NFIP) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
5. Prevent encroachments into floodways and flood fringe areas unless the certification and flood hazard reduction provisions of Div. 9.2.4.E. are met.
6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Div. 9.2.3.C.3.
7. Obtain 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 Div. 9.2.3.C.3.
8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Div. 9.2.3.C.3.
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Div. 9.2.3.C.3. and Div. 9.2.4.B.2.
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or flood fringe areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the

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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 Div. 9.2.2.B., obtain, review, and reasonably utilize any BFE data, along with floodway data or flood fringe area data available from a Federal, State, or other source, including data developed pursuant to Div. 9.2.4.C.2.b., in order to administer the provisions of this Division.
12. When Base Flood Elevation (BFE) data is provided but no floodway or flood fringe area data has been provided in accordance with the provisions of Div. 9.2.2.B, obtain, review, and reasonably utilize any floodway data or flood fringe area data available from a Federal, State, or other source in order to administer the provisions of this Division.
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 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 Division 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 Division, 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 Div. 9.2.3.D.

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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 Div. 9.2.2.B., including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

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

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

### 1. Application 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 site plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - i. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

- ii. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Div. 9.2.2.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 Div. 9.2.2.B.;
  - iv. The boundary of the floodway(s) or flood fringe area(s) as determined in Div. 9.2.2.B.;
  - v. The Base Flood Elevation (BFE) where provided as set forth in Div. 9.2.2.B.; Div. 9.2.2.C.; or Div. 9.2.4.C.;
  - vi. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
- 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 reference level (including basement) of all structures;
    - ii. Elevation in relation to mean sea level to which any non-residential structure in Zone A, AE, AH, AO, or A1-30 will be floodproofed; and
    - iii. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
  - c. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-33) 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.

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- d. A Engineered Foundation Plan, drawn to scale, stamped by a licensed engineer, which shall include details of the proposed foundation system to ensure all provisions of this Division 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 on columns/posts/piers/piles/shear walls); and
    - ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Div. 9.2.4.B.4.d.i-vi. when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A1-30.
  - e. Usage details of any enclosed areas below the lowest floor.
  - f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
  - g. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
  - h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Div. 9.2.4.B.6. and Div. 9.2.4.B.7. of this Division 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
  - j. 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, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
  - b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Div. 9.2.2.B.
  - c. The Flood Protection Elevation required for the reference level and all attendant utilities.
  - d. The Flood Protection Elevation required for the protection of all public utilities.
  - e. All certification submittal requirements with time-lines.
  - f. A statement that no fill material or other development shall encroach into the floodway or flood fringe area of any watercourse, as applicable.
  - g. The flood openings requirements, if in Zones A, AE, AH, AO, or A1-30.
  - h. A statement of the limitations of below BFE enclosure uses (if applicable). (i.e. parking, building access, and limited storage only).
  - i. A statement, that all materials below BFE/ FPE must be flood resistant materials.

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## 3. Certification Requirements.

### a. Elevation Certificate with Sections

A-F completed shall be submitted in accordance with the following: (C1-Elevations should be based on Construction Drawings)

- i. An 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 reference level, 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. The Floodplain Administrator may require a preconstruction Elevation Certificate (FEMA Form 86-0-33) after the reference level is established and posted on-site. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work

being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- iii. A final as-built Finished Construction Elevation Certificate (FEMA Form 86-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to 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. (The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the

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- foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable. OPTIONAL language)
- b. Floodproofing Certificate (FEMA Form 086-0-34) with Sections I-III completed shall be submitted in accordance with the following:
- i. If non-residential floodproofing is used to meet the Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), 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 reference level 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. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
  - ii. If a manufactured home is placed within Zone A, AE, AH, AO, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Div. 9.2.4.B.3.b.
  - iii. 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: a description of the extent of watercourse alteration or relocation; 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 a map showing the location of the proposed watercourse alteration or relocation. And an Idaho Stream Channel Alteration Permit approval shall be provided by the applicant to the Floodplain Administrator.
  - iv. Certification Exemptions. The following structures, if located within Zone A, AE, AH, AO, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items a. and b. of this subsection:
    - a. Recreational Vehicles meeting requirements of Div. 9.2.4.B.6.a.;
    - b. Temporary Structures meeting requirements of Div. 9.2.4.B.7.; and
    - c. Accessory Structures less than 200 square feet meeting requirements of Div. 9.2.4.B.8.

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## 4. Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- i. 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;
- ii. 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;
- iii. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- iv. 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 is required.

## 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 Overlay Division, 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

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days, nor more than one-hundred-eighty (180) calendar days or less is recommended. 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) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

## 5. Failure to Comply with Order

If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

## E. Variance Procedures

1. The variance procedure in Div. 14.7.12 shall be used for the application of a variance of this Division. In addition to the approval criteria found in Div. 14.7.12, the following applies:

2. Floodplain variances may only 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 Article 15, provided provisions of Div. 9.2.3.E.9., 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 Division.

3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Division, 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 Article 15 of this Code 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;

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- 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. A written report addressing each of the above factors shall be submitted with the application for a variance.
  5. Upon consideration of the factors listed above and the purposes of this Division, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Division.
  6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
  7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.
  8. Conditions for Variances:
    - a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
    - b. Variances shall not be issued within any designated floodway or flood fringe area if the variance would result in any increase in flood levels during the base flood discharge.
    - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
    - d. Variances shall only be issued prior to development permit approval.
    - e. Variances shall only be issued upon:
      - i. A showing of good and sufficient cause;
      - ii. A determination that failure to grant the variance would result in exceptional undue 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.
  9. A variance shall not 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.
  10. Any person aggrieved by the decision of the Planning and Zoning Commission may follow the appeals procedure in Div. 14.7.12.

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## 9.2.4. Provisions for Flood Hazard Reduction

### A. General Standards in all SFHA

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

1. All new construction and substantial improvements shall be designed (or modified) and engineered, and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
2. All new construction and substantial improvements 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 and substantial improvements 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. 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. Teton County recommends not having any fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor. However, if those areas exist they must meet the following criteria:
  - a. Shall be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and
  - b. Shall include, in Zones A, AE, AH, AO, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
    - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
    - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
    - iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
    - iv. The bottom of all required flood openings shall be no higher than one (1) foot above the interior or exterior adjacent grade;
    - v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the

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- 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 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 Division, shall meet the requirements of “new construction” as contained in this Division.
  10. Nothing in this Division shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Division and located totally or partially within the floodway, flood fringe area, or stream setback, provided there is no additional encroachment below the Flood Protection Elevation in the floodway, flood fringe area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Division.
  11. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. 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 Div. 9.2.3.C.3.
  12. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
  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 U.S.C. 1334.
  16. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
  17. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.
  18. Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision (CLOMR-F or LOMR-F).
- B. Specific Standards**
- In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Div. 9.2.2.B., or Div. 9.2.4.D., the following provisions, in addition to the provisions of Div. 9.2.4.A., are required:
1. Residential Construction.  
  
New construction and substantial improvement of any residential structure (including

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manufactured homes) shall have the reference level, including basement, elevated no lower than the Flood Protection Elevation, as defined in Article 15.

## 2. Non-Residential Construction.

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Flood Protection Elevation, as defined in Article 15. Structures located in A, AE, AH, AO, and A1-30 Zones 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 Div. 9.2.4.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 Div. 9.2.3.C.3., along with the operational plan and the inspection and maintenance plan.

## 3. Manufactured Homes.

- a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Flood Protection Elevation, as defined in Article 15.
- b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition

of the Idaho Division of Building Safety's "Idaho Manufactured Home Installation Standard" in accordance with Section 44-2201(2), Idaho Code. 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 Div. 9.2.4.B.4.
- 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.
  - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

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- b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
    - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
  - d. Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent (50%) of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this . 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 that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
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 specified time period for which the temporary use will be permitted. Time specified may not exceed six (6) months, renewable up to one (1) year;

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- 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.

## 7. Accessory (non-habitable) Structures.

When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, elevation or floodproofing certifications are required for all accessory structures in accordance with Div. 9.2.3.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 Div. 9.2.4.A.1.;
- f. All service facilities such as electrical shall be installed in accordance with the provisions of Div. 9.2.4.A.4.; and

- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of Div. 9.2.4.B.4.d.
- h. An accessory structure with a footprint less than 200 square feet and/or that is a minimal investment of \$2,500 or less and satisfies the criteria outlined in a. - g. above is not required to meet the elevation or floodproofing standards of Div. 9.2.4.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

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 design flood, including the effects of buoyancy assuming the tank is empty;

### b. Above-ground tanks, 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 design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

### c. Above-ground tanks, not elevated.

Above-ground tanks that do not meet the elevation requirements of Div. 9.2.4.B.2. of this Division shall be permitted in flood hazard areas provided the tanks

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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 and vents.

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 Below-Grade Crawlspace.

- a. The interior grade of a crawlspace must not be below the BFE and must not be more than 2 feet below the exterior lowest adjacent grade (LAG).
- b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point.
- c. 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.
- d. The velocity of floodwaters at the site should not exceed 5 feet per second for any

crawlspace. See FEMA's Technical Bulletin 11 for further information.

*Caution:*

*Buildings that have below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the lowest adjacent exterior grade (LAG).*

10. Other Development in regulated floodways and flood fringe.

a. Fences

Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways and flood fringe shall meet the limitations of Div. 9.2.4.E.

b. Retaining walls, sidewalks, and driveways.

Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways and flood fringe shall meet the limitations of Div. 9.2.4.E.

c. Roads and watercourse crossings.

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, which encroach into regulated floodways and flood fringe shall meet the limitations of Div. 9.2.4.E.

d. Drilling Water, Oil, and/or Gas Wells.

Drilling Water, Oil, and/or Gas Wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways and flood fringe shall meet the limitations of Div. 9.2.4.E.

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- e. Docks, piers, and boat ramps. Docks, piers, boat ramps, marinas, moorings, decks, Docking facilities, port facilities, shipbuilding, and ship repair facilities that encroach into regulated floodways and flood fringe shall meet the limitations of Div. 9.2.4.E.

## C. Standards for Floodplains without Established Base Flood Elevations

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

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. The BFE used in determining the Flood Protection Elevation shall be determined based on the following criteria:
  - a. When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Division and shall be elevated or floodproofed in accordance with standards in Div. 9.2.4.A. and Div. 9.2.4.B.
  - b. When floodway or flood fringe data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and flood fringe areas shall also comply with the requirements of Div. 9.2.4.B. and Div. 9.2.4.E.

- c. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/ manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted in accordance with Div. 9.2.2.B. and utilized in implementing this Division. The applicant/ developer shall submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat approval and have obtained a Letter of Map Revision (LOMR) prior to any building permits for structures being issued. (Optional)
- d. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the Flood Protection Elevation, as defined in Article 15. All other applicable provisions of Div. 9.2.4.B. shall also apply.

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

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

1. Standards of Div. 9.2.4.A. and Div. 9.2.4.B.; and
2. Until a regulatory floodway or flood fringe area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by

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a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the community.

## E. Floodways and Flood Fringe Areas

Areas designated as floodways or flood fringe areas are located within the Special Flood Hazard Areas established in Div. 9.2.2.B. The floodways and flood fringe areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Div. 9.2.4.A. and Div. 9.2.4. B., shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:
  - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
  - 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 Div. 9.2.4.E.1. is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Division.

3. Manufactured homes may be permitted provided the following provisions are met:
  - a. The anchoring and the elevation standards of Div. 9.2.4.B.3.; and
  - b. The encroachment standards of Div. 9.2.4.E.1.

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

Located within the Special Flood Hazard Areas established in Div. 9.2.2.B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Div. 9.2.4.A. and Div. 9.2.4. B., all new construction and substantial improvements shall meet the following requirements:

1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Div. 9.2.4.F.1. so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Div. 9.2.3.C.3., and Div. 9.2.4.B.2.
3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

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## 9.2.5. Legal Status Provisions

### A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Overlay Division

This Division in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention-Title 12 of Teton County enacted 2/16/2012-as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Division shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention-Title 12 of Teton County enacted on 2/16/2012-as amended, which are not reenacted herein are repealed.

### B. Effect upon Outstanding Floodplain Development Permits

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

### C. Severability

The Division is hereby declared to be severable. Should any portion of this Division 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 Division before the declaration of partial invalidity.

### D. Effective Date

This Division shall become effective on the date found in Div. 1.1.5

The Scenic Corridor Design Review Overlay District applies to all lands lying within 500 feet of the centerline of Idaho State Highways 31, 32, 33, and Ski Hill Road that is outside of the city limits of Driggs, Teton, and Victor.

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### 9.3.1. Scenic Corridor Design Review Overlay Map



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## 9.3.2. Intent

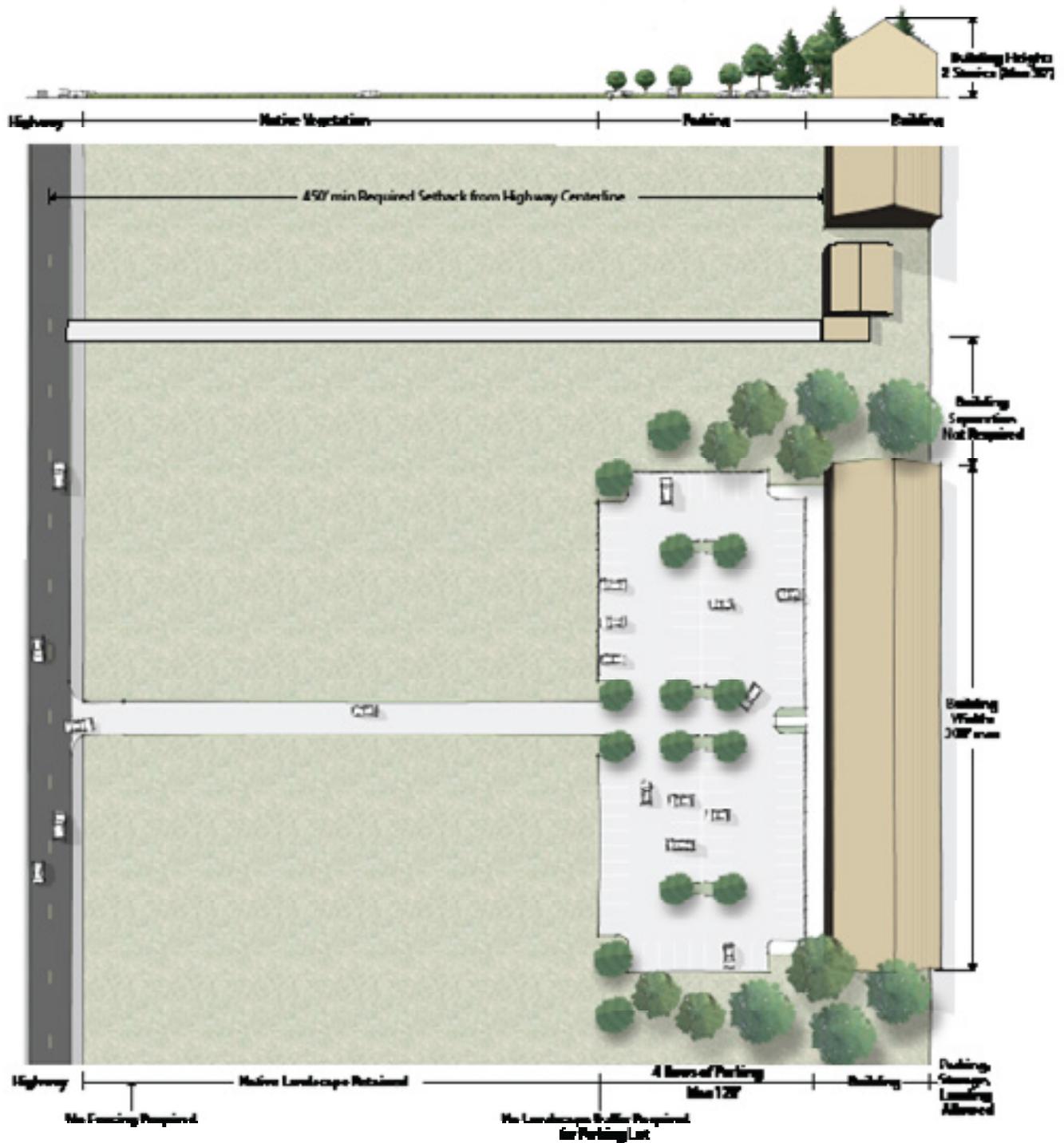
The intent of the Scenic Corridor Design Review Overlay is to manage development to ensure, to the maximum extent feasible, the location, scale, and appearance of buildings, structures, and development of land shall preserve the rural character of the area and provide limited visual intrusion along designated roadways, the retention of long vistas to the mountains and across the fields, and the preservation of existing native vegetation.

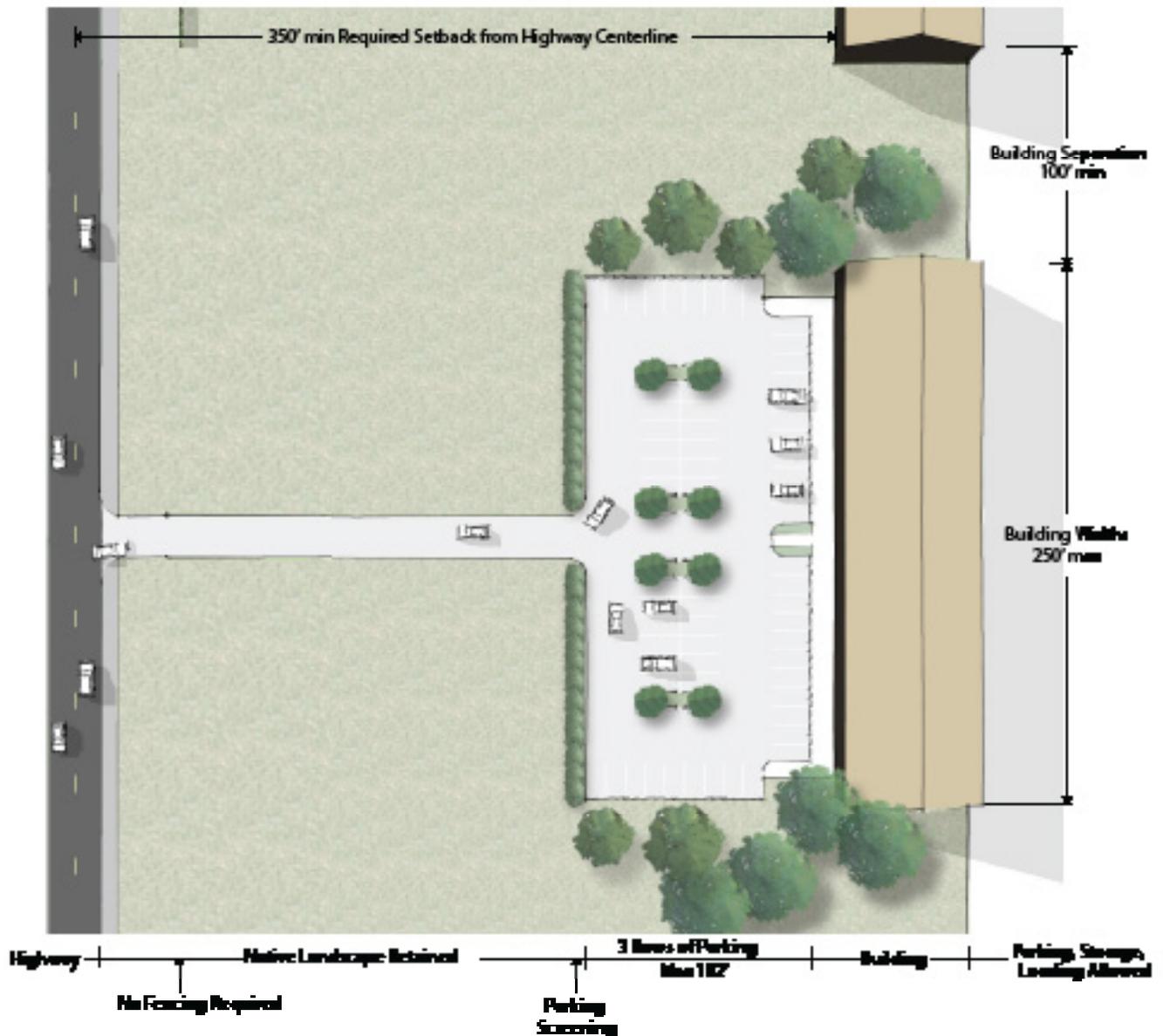
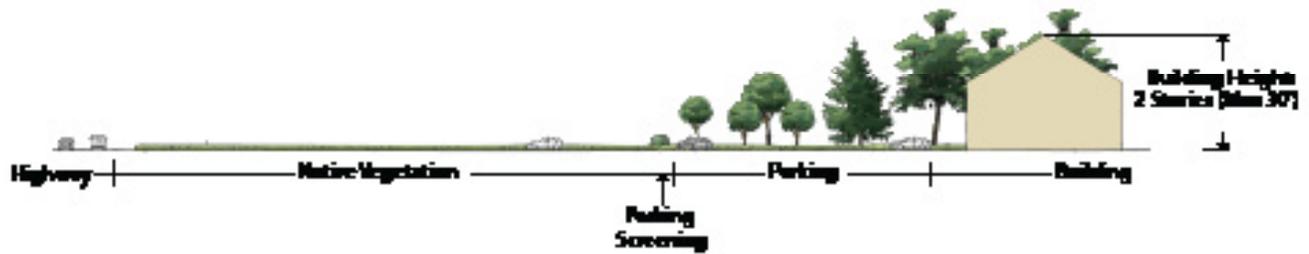
## 9.3.3. Design Standards

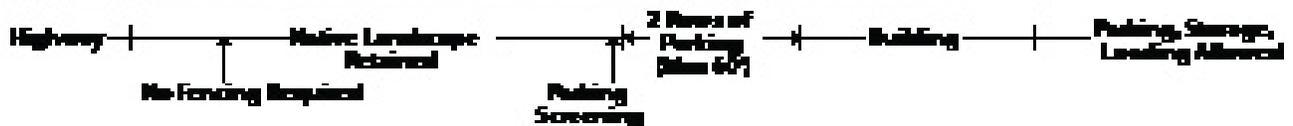
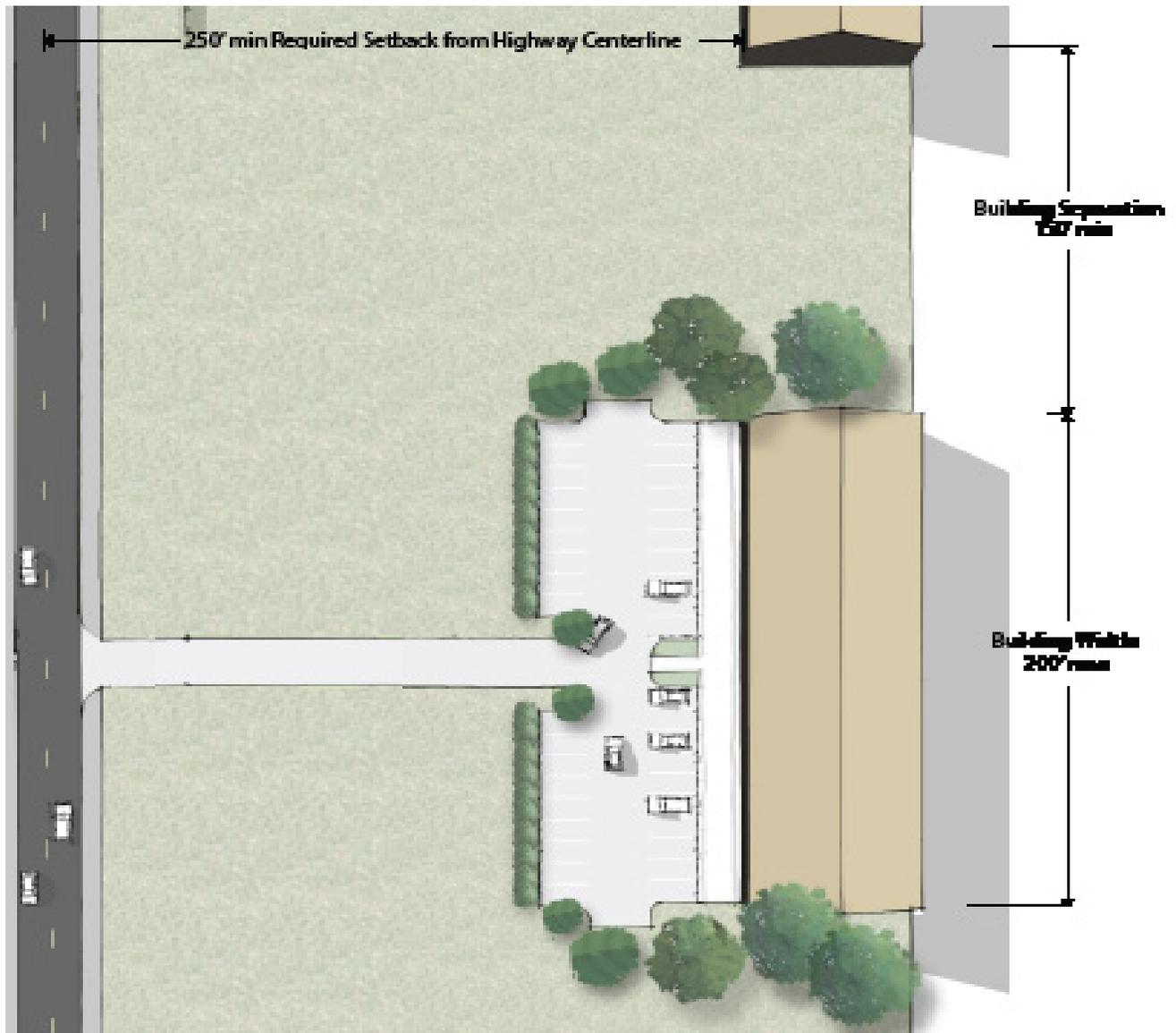
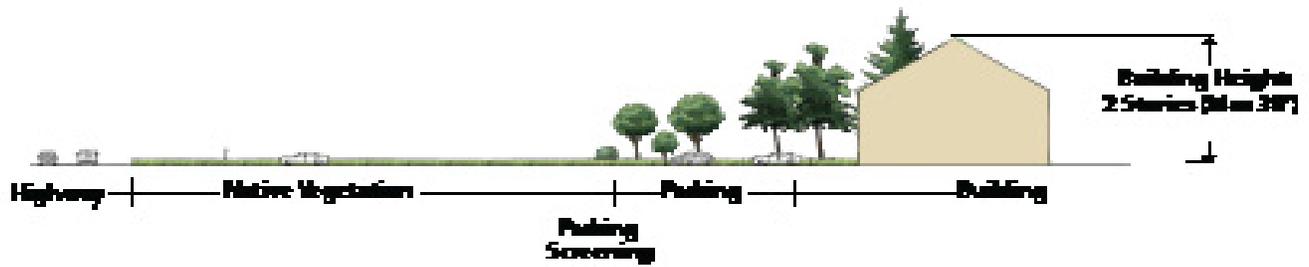
- A. There are five development options within the Scenic Corridor Design Review Overlay. These options range from placing the building back from the centerline of the highway, subject to limited standards, or placing the building closer to the road, with increasing standards as the building is placed closer to the road.
- B. The following table contains standards that are further illustrated on the following pages. Development in the Scenic Corridor must go through the Site Plan Review (Div. 14.6.9) to ensure the required standards have been met.

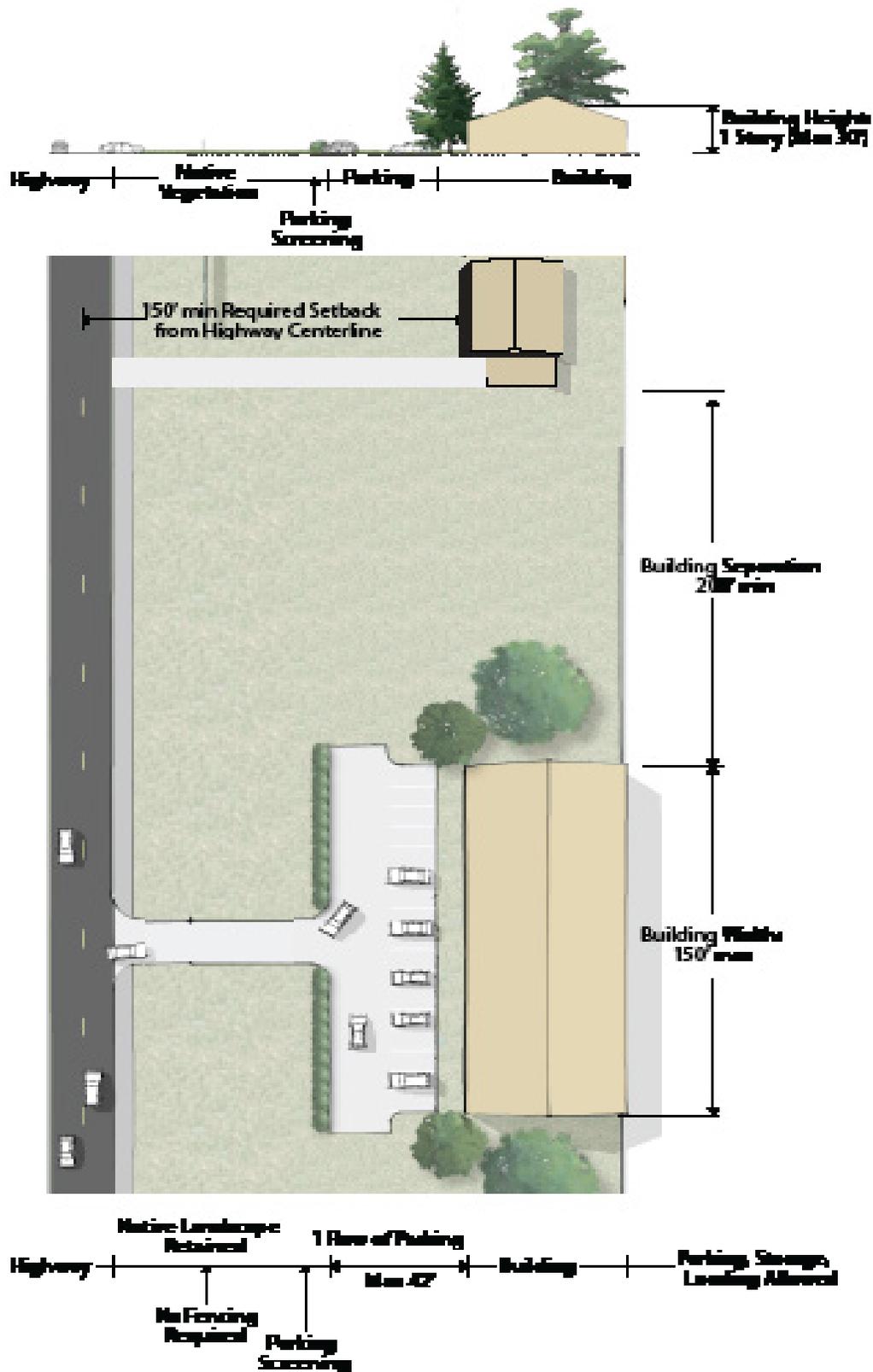
	Option 1	Option 2	Option 3	Option 4	Option 5
<b>Building</b>					
Height (max)	2 stories / 30'	2 stories / 30'	2 stories / 30'	1 story / 30'	30'
Width (max)	300'	250'	200'	150'	100'
Setback (from highway centerline)	450'	350'	250'	150'	100'
Separation	not required	100'	150'	200'	30'
<b>Parking Location</b>					
Front (rows / pavement max)	4 rows / 120'	3 rows / 102'	2 rows, 60'	1 row / 42'	--
Rear	Unlimited behind rear building line	--			
<b>Screening</b>					
Parking lots	not required	required see Div. 11.2.3.E	required see Div. 11.2.3.E	required see Div. 11.2.3.E	not required

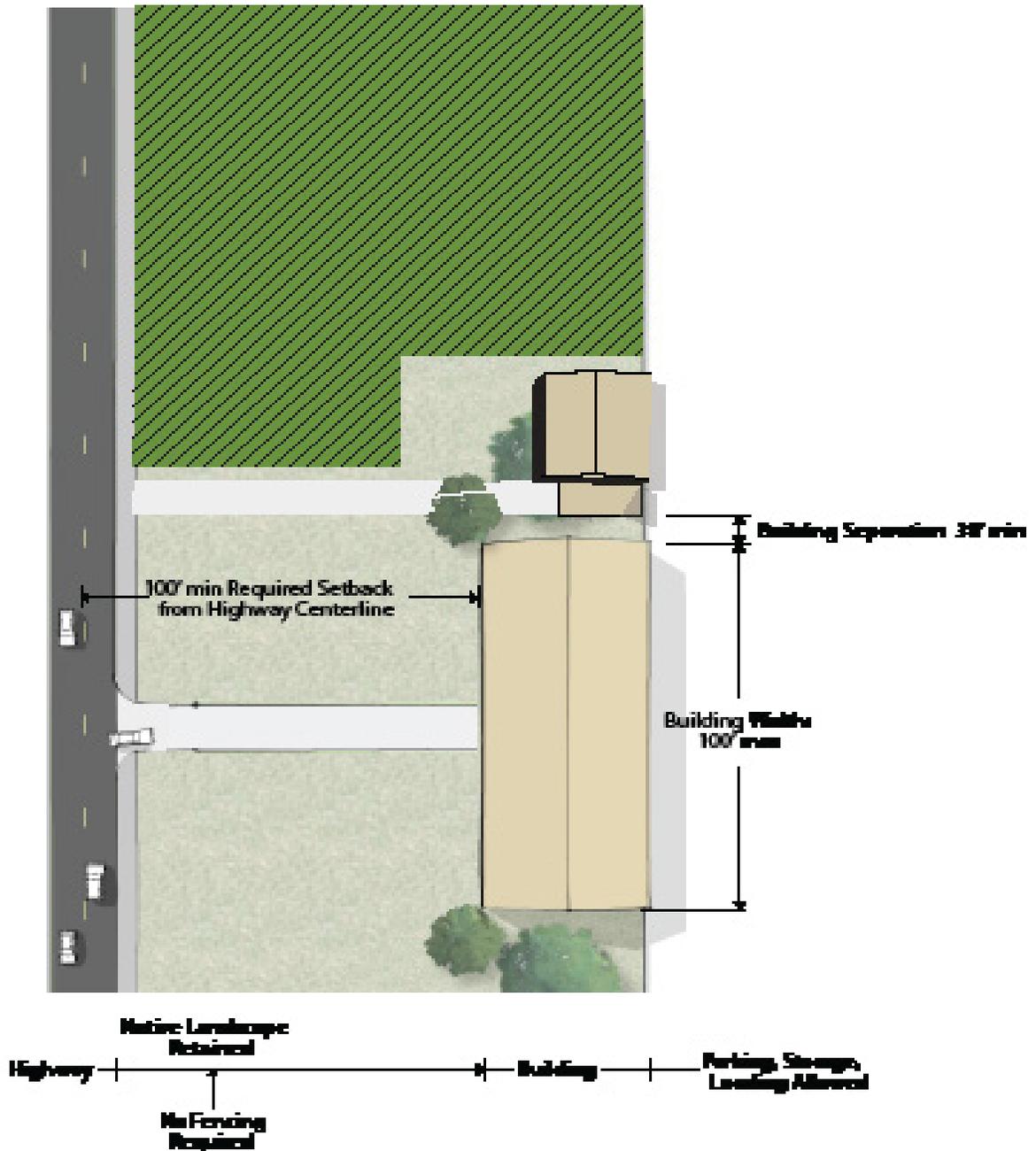
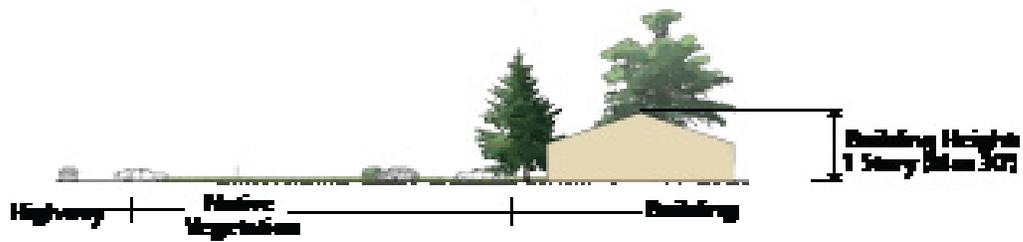
- C. Underlying zoning setbacks must be met.
- D. Option 5 is only available for Agricultural Buildings (Div. 8.16).
- E. Native landscaping or agricultural uses must be retained between the highway right-of-way and the front building line.
- F. Additional parking, storage, and loading may be located behind the rear building line. Roads and driveways shall be designed to eliminate the need to back out onto the State Highways or Ski Hill Road
- G. All outdoor lighting must follow the requirements of Div. 11.4.
- H. All buildings shall not be of highly reflective materials according to ASTM C6007, Light Reflectivity Index.
- I. All signs must follow the requirements of Div. 11.3.
- J. Fences in the scenic corridor should be consistent with rural character, such as split rail, wire, or horse fences. Vinyl, chain-link, six (6) foot privacy, and wrought iron fences are not allowed.











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### 9.4.1. Purpose

The purpose of this overlay is to: 1) provide property owners in Teton County a tool to transfer existing or future development rights for a residential building permit; 2) provide a means to compensate private property owners of previously platted parcels, or large parcels of open space that benefit the community; 3) locate development in more appropriate locations closer to cities and services. This tool is intended to:

- A. Encourage the vacation of distressed subdivisions that have expired approvals, no infrastructure, or partial completions.
- B. Encourage the preservation of agricultural, non-agricultural, and environmentally sensitive lands, including, but not limited to, lands with high water tables, wetland conditions, rural open space, wildlife habitats, critical watersheds, lakes and streams, scenic vistas, critical and sensitive lands, historic areas, trail corridors, and natural hazard areas.
- C. Provide a mechanism for private individuals or entities to purchase open space non-contiguous with their development to meet the requirements found elsewhere in this code (Div. 3.7).
- D. Provide a method for private individuals or other entities to receive the development rights transferred by the owners of land located in the Sending Area, as shown on the Transfer of Development Rights Map in Div. 9.4.5, without creating a vested right, to use those development rights to increase the density of any particular development, but instead to require such individuals or entities to follow the planning and approval process set forth elsewhere in this title to request the approval of additional density.
- E. Provide both quantitative and qualitative economic, tax, social, and environmental benefits, which assist in preserving the health, safety, and general welfare of the community.

### 9.4.2. Scope

The provisions of this Division, in addition to other applicable provisions of this code, apply only to land identified as being in the Receiving Area, as shown on the Transfer of Development Rights Map in Div. 9.4.5.

Development rights may be transferred into an Area of City Impact only after agreed to by both the County and City in accordance with Idaho Code 67-6526. As a condition of obtaining a transfer into an Area of City Impact, an applicant shall show:

- A. That the building site is compatible with the city's expansion plans;
- B. That the building site does not interfere with any projected rights of way;
- C. The receiving property owner shall enter into a written agreement with the city that utilities will be provided to the site;
- D. That when the receiving property becomes an approved subdivision, any improvements shall be made at the owners' expense; and

### 9.4.3. Process of Review

The process for approval of transferring development rights is a four step process. First is the application to ensure the proposal meets the standards identified in Div. 9.4.4. Once the (1) application for transfer is approved, the (2) receiving subdivision must be approved, the (3) sending subdivision must be vacated, if it was a previously approved subdivision, and (4) the sending property must be permanently preserved through a conservation easement or by rezoning to Preservation (PRS). The approval of the proposed subdivision and the vacation of the sending subdivision can be completed at the same time.

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## A. Prior to application the applicant must:

### 1. Obtain an ADCE Letter

An owner of a parcel of property in a Sending Area may ascertain the development credits available for transfer by obtaining an Assessment of Development Credit Eligibility letter (ADCE letter) from the Teton County Planning Department. Obtaining an ADCE letter, by itself, does not affect the owner's property rights nor does it commit the owner to encumber the property or to sell development credits. Credits are calculated by:

#### a. Credits Available For Transfer In a Sending Area:

The total number of development credits available to be transferred from a sending area shall be determined as follows:

- i. Two development credits may be transferred for each previously approved lot that will be vacated.
- ii. One and a half development credits may be transferred for each 20 acres placed in a conservation easement or rezoned to PRS.

### 2. Negotiate The Transfer

After obtaining the ADCE letter, a sending site property owner may negotiate the transfer of development credits with any individual or entity. Or, if preferred, the sending site property owner may prepare appropriate documents to convey the property to Teton County in fee title.

## B. Application for Transfer

If a transfer of development rights is successfully negotiated, the sending site property owner ("transferor") and the receiving property owner ("receiver") will properly fill out and sign the form provided by the Teton County Planning Department

entitled Request to Transfer Development Credits. Together with the request to transfer development credits, the follow items are required to submit:

1. Proof of written notification of the intent to record a deed restriction to all entities which hold a recorded lien or mortgage against the sending site parcel of property;
2. Signed and notarized Transfer Agreement that outlines the willingness of the sending property to vacate previous approvals, restricts the re-application of a building permit on the sending property, and willingness of the receiving parcel to obtain necessary approvals from Teton County;
3. A conceptual plan of the receiving development;
4. Calculation of Development Credits needed:
  - a. If an increase in allowable residential density is desired for a receiving site, the number of development credits required to increase that density shall be equal to the proposed density, less the current base density allowed by the base zone.
  - b. Mathematically, this may be expressed as:  
$$\text{Proposed density} - \text{Base density} = \text{Required Development Credits}$$
5. Information and vicinity map concerning the location and physical characteristics of the sending and receiving property;
6. Information relating the services available from the sending and receiving properties, which describes the availability of access, water, septic, fire protection, etc.;
7. The Planning Administrator shall have the authority to require additional, specific information relevant to the consideration of any application; and

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8. Once a complete application is received, the Administrator shall schedule a DRC meeting and Hearing before the Commission, following the guidelines for quasi-judicial procedures in Div. 14.7.

## C. Approval of the Transfer

The Planning and Zoning Commission shall approve the transfer application. The transfer of a development right shall be discretionary with the Commission. The burden shall be upon an applicant to show that conditions exist which would justify a transfer. The Commission's decision should identify how the transfer meets the following criteria:

1. The Commission shall determine if the receiving area will have the capacity to accommodate the number of development rights which potentially may be generated from the sending areas;
2. Recommendations of the Administrator, including recommendations from internal County departments and external agencies;
3. Compliance with the applicable requirements of the Land Use Development Code; and
4. Substantial conformance with the County's applicable adopted plans and policies.

## D. Approval of the New Subdivision.

The approval of the proposed subdivision must follow the procedures in Div. 14.5.

## E. Vacation of the Old Subdivision.

The approval for the vacation must follow the procedures in Div. 14.10.3

## F. Notify Assessor

The sending site property owner may, after the approval of the transfer, notify the County Assessor of the completed transaction.

## G. Transferred Credits Result In Forfeited Rights

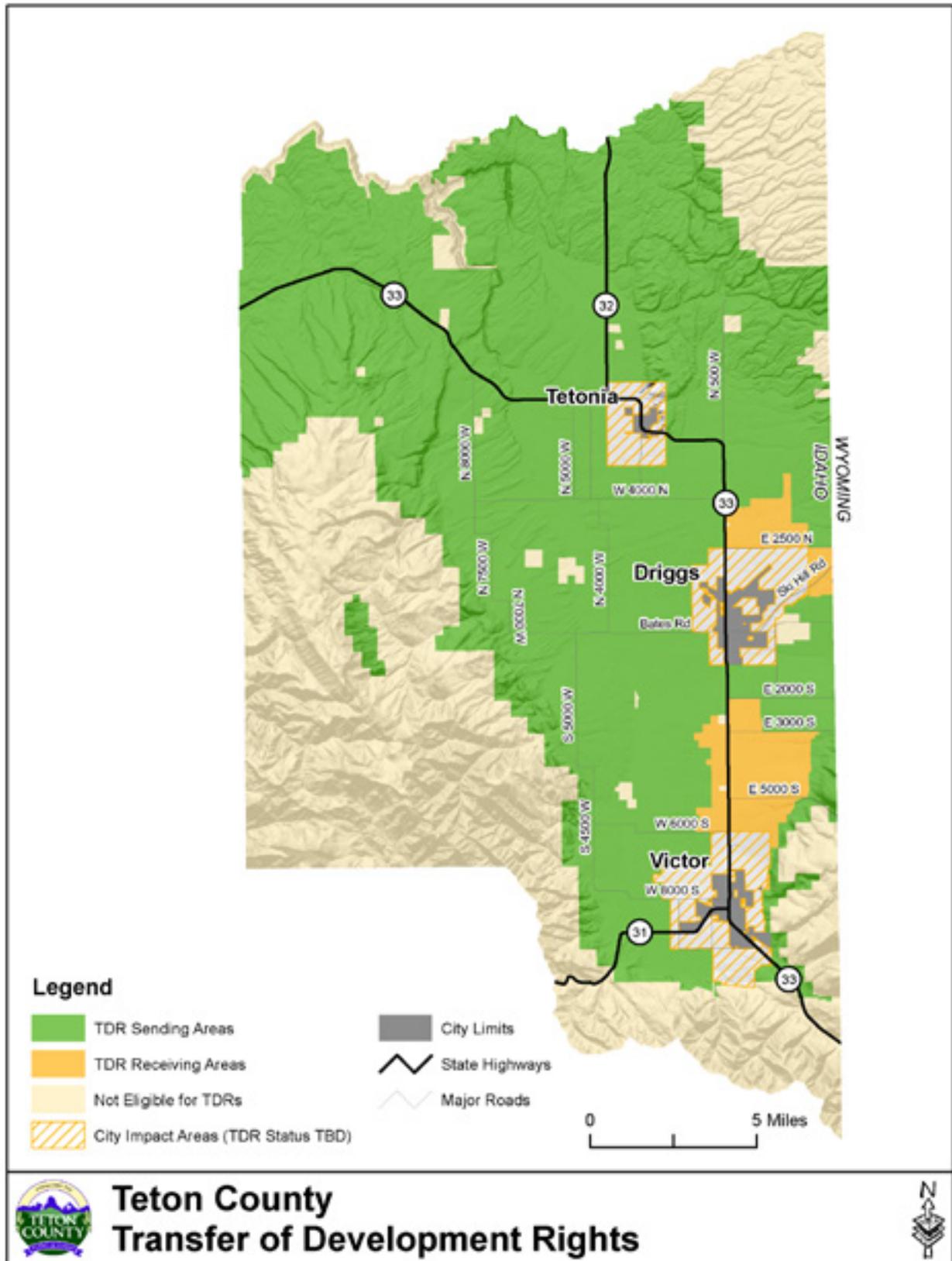
1. If development credits are transferred from a sending site, all development rights shall be considered forfeited, in perpetuity, from the entire sending site parcel.
2. In order for the acquiring parcel to obtain building permit eligibility, a Record of Transfer shall be recorded with the Teton County Recorder. A form for such shall be provided by the Teton County Planning Department. No Record of Transfer shall be recorded without final approval from the Teton County Planning Department.

## 9.4.4. Standards and Applicability

- A. Submittal of a completed application form for the Request to Transfer Development Credits and fee shall be made by the applicant to the Planning Department. Such fee shall be identified in the Teton County Adopted Fee Schedule;
- B. The acquiring parcels cannot be in a previously platted subdivision, unless an application to amend the plat has been submitted;
- C. The conveying parcel must have areas that would enhance or protect the goals of the Comprehensive Plan to preserve the rural character of Teton County, protect the open space priority areas of Article 3, conserve streams, floodplains, wetlands, wooded areas, and other areas of natural significance, open space, protect wildlife habitat, preserve recognized sites and areas with cultural, scenic, or natural significance, to move development away from hazardous areas, enhance contiguity to agricultural lands suitable for long range farming and ranching operations, and/or protect and preserve active farm and forest grounds;
- D. The area of the acquiring parcel where the building site or division is conveyed shall not consist of active farm, ranch, or forest grounds, areas including

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floodplain, wetlands, and natural hazard areas, shall be in locations such as to preserve the rural character of Teton County, and shall be placed in a manner to allow contiguity for farming and other land operations.



**NOTE:** The Workforce Housing Overlay is intended for use in the Areas of City Impact only. Property in an Area of City Impact may be included in the Overlay only after agreed to by both the County and City in accordance with Idaho Code 67-6326.

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## 9.5.1. Purpose

The purpose and intent of this division is to encourage the development of high-quality housing that is affordable by households with annual incomes falling within a prescribed range for prospective purchasers and prospective renters of workforce housing, respectively. Because such households generally, although not uniformly, consist of one (1) or two (2) working members, such housing is termed “workforce housing.” In order to accomplish that goal, this division establishes incentives for the construction of workforce housing in areas of the county in which the Comprehensive Plan recognizes increased density to be appropriate. Equally important, this division also ensures that workforce housing will be well-designed, of high quality, and well-integrated into the overall development of which it is a component.

## 9.5.2. Definitions.

As used in this division, the following terms shall be defined as follows:

### A. Affordable

Housing is considered affordable if no more than approximately thirty (30) percent of the gross household income of the purchaser or renter is spent on direct housing costs. For buyers, such costs include mortgage principal, interest, taxes, homeowners’ insurance, mandatory homeowners’ association dues and condominium fees, but do not include utilities or other related housing costs. For renters, such costs include rent payments and an allowance for tenant-paid utilities other than cable television and telephone service, but do not include other related housing costs.

### B. Affordability Level Statement.

A statement of the number of workforce housing units that are affordable to eligible buyers or to eligible renters at designated percentages of Area Median Income.

### C. Area median income (AMI)

The Area Median Income Teton County, published annually by the U.S. Department of Housing and Urban Development (HUD) and adjusted for household size.

### D. Bonus Density

An increase in the maximum allowable dwelling unit density on a property attributable to the provision of workforce housing on that property.

### E. Eligible Buyer

A person whose workforce housing application has been approved and who meets the home ownership requirements of the workforce housing program. These requirements center on gross annual income, financial assets, and location of where the prospective buyer works and lives.

### F. Eligible Renter

A person whose workforce housing application has been approved and who meets the rental requirements of the workforce housing program. These requirements center on gross annual income, financial assets, and location of where the prospective renter works and lives.

### G. Workforce Housing (WFH)

Housing that is generally affordable to households with working members, who live or work in Teton County. For home ownership, it is housing that is priced to be affordable to households with annual incomes within a range of 75-105% AMI. For rentals, it is housing that is priced to be affordable to households with annual incomes within a range of 75-105% AMI.

### H. Workforce Housing Discount

The difference in sales price between a market rate unit and an equivalent workforce housing unit. This

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amount is calculated to be the reduction in sales price necessary to make a workforce housing unit affordable to a household at a targeted income level.

## I. Workforce Housing Unit (WFH Unit)

A dwelling unit that is reserved for sale or rent by an eligible buyer or eligible renter, as the case may be, at a price incorporating the workforce housing discount. Workforce housing units are constructed as a result of the bonus density provisions that allow the construction of a greater number of dwelling units on a specific parcel of land than is otherwise allowed, in exchange for the provision of workforce housing on the parcel.

### 9.5.3. Scope

Areas of applicability. The Workforce Housing Overlay District shall be limited to property in the area identified in the Workforce Housing Overlay Map.

1. All development within the Workforce Housing Overlay District, including, but not limited to, uses, site layout, building design, open space, parking and other improvements shall conform to the land use plan approved by the Teton County Board of County Commissioners, in accordance with the provisions of this division. The approved land use plan shall supersede any conflicting provisions of the underlying zoning district, but shall conform to all requirements of Article 14.
2. Within the Workforce Housing Overlay District, uses shall be allowed in accordance with the use regulations of the underlying zoning district; provided, however, that where the underlying zoning district is residential, single-family, duplex, semi-detached, attached and multiple-family dwellings shall be allowed notwithstanding any contrary provision of the regulations of the underlying zoning district.

### 9.5.4. Process of Review

Applications for development in the Workforce Housing Overlay District, that seek to utilize the provisions of this division, must accompany a subdivision application or a major plat amendment application. The review of the application will follow the review procedures in Article 14 for those applications.

No substantial modifications of the approved land use plan shall be allowed, except pursuant to an amendment to such plan approved by the Board of County Commissioners in accordance with the procedures set forth in Div. 14.10 of this Code . For purposes of this division, a “substantial modification” shall include any changes to the approved land use plan that, in the judgment of the Planning Administrator, are not clear in keeping with the intent of the Board of County Commissioners’ approval of the plan. The term shall also include any modifications of the number, location, design, or affordability level of workforce housing units.

### 9.5.5. Standards and Applicability

#### A. Workforce Housing Overlay District Land Use Plan.

1. In addition to any other information generally required in an application for rezoning , applications for the Workforce Housing Overlay District shall contain the following information:
  - a. A survey of existing site conditions, including trees, contours, floodway, flood fringe, waters, wetlands, and other natural features;
  - b. A narrative statement of planning objectives for the proposed development;
  - c. A construction schedule, including a schedule of construction of workforce housing units;

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- d. A detailed land use plan, which shall, at a minimum, consist of:
  - i. Architectural elevations for proposed structures, including building materials and colors;
  - ii. A general landscape plan and tree preservation plan;
  - iii. A detailed description of the differences in size, interior layout, and construction materials between workforce housing units and other dwelling units of the same type;
  - iv. An affordability level statement;
  - v. The total area to be included in the Workforce Housing Overlay District, as part of the application;
  - vi. The location of residential uses and total number and type of proposed dwelling units, including the location, number, and type of workforce housing units;
  - vii. Types of nonresidential uses proposed, if any, including the area and gross floor area proposed for such nonresidential development;
  - viii. Gross floor area of all structures;
  - ix. Location of all buildings, streets, alleys, and pedestrian walkways;
  - x. Regulations governing height, setbacks, floor area ratio, lot coverage, impervious surface, accessory structures (sheds, swimming pools, etc.), signs, and fences;
  - xi. Number and location of parking spaces, including parking structures;
  - xii. Proposed improvements to adjacent public streets;
  - xiii. Open space and recreation areas, including areas inside buildings; and
  - xiv. Green development features, such as porous paving or pavers, native plant landscaping, reduced street lengths, reduced pavement width, bioretention islands, shared parking, vegetated swales in lieu of curb and gutter, or other features of development intended to enhance environmental quality.

## 9.5.6. Bonus Density

Workforce housing unit requirements. The dwelling unit density in the Workforce Housing Overlay District may be increased by a maximum of thirty (30) percent over the density allowed in the underlying zoning district, if all of the following conditions are met:

- A. Not less than seventeen (17) percent of the total number of dwelling units are workforce housing units. In the event the maximum allowable density is not increased by thirty (30) percent, the percentage of workforce housing units required shall maintain the same ratio of thirty (30) percent to seventeen (17) percent;
- B. Workforce housing units shall be integrated into the development to the same extent as other dwelling units and shall not be clustered in discrete locations separate from other dwelling units;
- C. The construction of workforce housing units shall reasonably coincide with that of other units; and
- D. Workforce housing shall conform to the following standards:
  - 1. The exterior of workforce housing units shall have the same building materials and finish, and be effectively indistinguishable from non-

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workforce housing units of the same housing type;

2. Workforce housing units shall be comparable in bedroom mix, design, and overall quality of construction to the market rate units in the development, except that workforce housing units shall not be required to exceed three (3) bedrooms per unit; and
3. The square footage and interior features of workforce housing units shall not be required to be the same as other dwelling units in the development, so long as they are reasonably similar in size and quality and are consistent with the current building standards for new housing in Teton County.
4. Workforce Housing units shall meet NAHB Green Standards or a LEED Certification level. All appliances and products including light bulbs shall be Energy Star qualified products to ensure the long term affordability of the unit.
5. Prior to the issuance of a building permit being issued, a Deed Restriction ensuring the provisions of this division shall be recorded. This deed restriction shall ensure the long term affordability of the workforce units.

9.5.7. Workforce Housing Overlay Map

This page is reserved for the Workforce Housing Overlay Map.