



**AN AMENDMENT TO TITLE 12: Teton County, Idaho  
Flood Damage Prevention Ordinance**

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Public Hearing of February 16, 2012

**APPLICANT:** Teton County Planning Department

**APPLICABLE CODE:** Title 12: Teton County, Idaho Flood Damage Prevention Ordinance

**REQUESTS:** Amend the current Title 12 so that it meets the requirements of the National Flood Insurance Program (NFIP), protects life and structures in special flood hazard areas from flooding.

**APPLICABILITY:** County wide, all Special Flood Hazard Areas (SFHA)

**BACKGROUND:** At present, Title 12 does *not* meet the minimum requirements for compliance with the National Flood Insurance Program (NFIP). This deficiency was discovered during a Community Assistance Visit (CAV) from FEMA in August. In order for Teton County to participate in the NFIP and to close our CAV, we need to have adopted an ordinance that meets minimum requirements. This proposed amendment meets or exceeds all minimum requirements.

The proposed amendment is based on the Idaho Model Ordinance produced by the Idaho Department of Water Resources and adds some provisions of the Model Ordinance that was written with endangered species protection as an emphasis.

**GENERAL PROVISIONS:**

All red type is a deviation from the Idaho State Model Ordinance. All highlighted text is added provisions to (i.e. more restrictive than) the Model Ordinance.

Deviations from the Model Ordinance:

I. C.(6) Added protections for the functions of floodplains and stream channels.

II. II. Definitions

1. Added:

- a. Adversely affect/ Adverse effect- define an adverse effect as it relates to development in the SFHA.
- b. Compensatory Storage- Add a definition to maintain storage for floodwaters during a flood event.
- c. Riparian and Riparian Habitat Zone- to provide provisions for protection of riparian habitat, which is vital to stream health and stability.

- d. Subdivision- This definition includes one-time-only lot splits or other future division procedures that might fall outside of the Teton County standard definition of subdivision.
2. Altered:
  - a. Development- removal of vegetation was added to the definition of development.
  - b. Flood Protection Elevation- this will provide two feet of “freeboard” above base flood elevation for all livable space instead of the one foot that is the minimum requirement.

#### **IV. Administration**

1. A. This allows a designee of the planning administrator to be the floodplain administrator if the planning administrator chooses.
2. B(1)(c)&(d). Add all available data to an application for a more thorough review. If other flood elevations are available, those should be submitted with an application. We do not regulate to anything other than the 100-year flood level, but additional provisions might be necessary to protect against risks from a 10-year flood.
3. B (1)(h). Require a floodplain permit if greater than 35% of the vegetation is removed and require assurances that said removal will not destabilize the banks.
4. B(1)(i) All additional permits required by other agencies must be submitted with the permit application
5. C. The floodplain administrator shall require the BFEs to be determined (but not determine them him/herself).
6. C(9)&(10). Ensure that the permit process is followed and the project inspected for compliance.

#### **V. Provisions for Flood Hazard Reduction**

1. A. Subdivision Standards. (4) Requiring the at least one subdivision road that will be available during a 100-year flood event.
2. A. Subdivision Standards. (5) For new subdivisions, keep building envelopes out of the floodplain.
3. A. Subdivision Standards (8) Include a notice on the plat that some of the subdivision is in the SFHA- this will allow potential buyers to have a notice that they can choose to investigate.
5. B. Construction Standards. (1&2) If possible, keep building out of the regulatory floodplain and if not possible, decrease the impacts and provide as much flood damage protection as much as possible.
6. B. Construction Standards. (11) Minimizing bank destabilization in the event of vegetation removal.
7. D. Accessory Structures. Non-residential buildings under 200 square feet have relief from the regulations.
8. F. Hazardous Materials. Protects the public from hazardous materials in floodplains.
9. G. Critical Facilities. Requires higher standards for critical facilities (i.e. hospitals) so that there will be very little chance of damage in the event of flooding.
10. I. Compensatory Storage. This provides adequate “water storage area” in the event of a flood. In other words, if you take away area where water can go during a flood (i.e. fill), you will need to replace that area in a meaningful way.

11. K. Standards for Zones without BFEs (3) Allow restoration projects which provide benefit to the stream system to have fewer hurdles to getting done. This is only in areas without BFEs established.
12. L. Alteration of a Watercourse (1) Ensure that any alteration to the watercourse does not decrease its ability to convey water.
13. L. Alteration of a Watercourse (5) Allow restoration projects to have fewer hurdles to getting done.

## V. Variance and Appeal Procedures

1. B. Criteria for Variances (6), (7), (8) & (9): Added provisions of variances to match Teton County Title 8. A variance cannot be granted because of the result of the applicant's actions, they are not precedence-setting, and they shall not nullify any other County documents.

### **RATIONALE:**

**Flood Protection Elevation:** By increasing the protection elevation standard to two feet above BFE instead of one foot, it almost completely eliminates the chances of flood damage during a 100-year flood. Additionally, it decreases flood insurance premiums for the home owner.

**Vegetation Removal:** Much of a stream's stability comes from its banks. Intact bank vegetation stabilizes the banks and prevents erosion.

**Base Flood Elevations:** Generally speaking, it takes an engineer to establish base flood elevations (BFE). The floodplain administrator needs BFEs to determine "reasonably safe from flooding." So the floodplain administrator will need to require that BFEs be established for structures built in the floodplain.

**Building Envelopes:** Whenever possible, it is wise to keep structures out of the floodplain. This proposed ordinance pushes this common sense idea and outlines the requirements if it can't be met.

**Hazardous Materials:** This is a life safety issue. No threats to general safety will be allowed in the floodplain.

**Critical Facilities:** Critical facilities include facilities that will likely be needed in the event of a disaster and/or are so critical to the function of our community that their destruction during a disaster would be disproportionately damaging. For this reason, added protection provisions have been added to these facilities if they are to be built in the floodplain. Emergency Coordinator Greg Adams is working on developing a list of critical facilities in our community. When this list is established, we will likely propose to include it in the definition.

**Compensatory Storage:** This provision protects the ecological function of a floodplain by allowing water conveyance and storage during flooding. The provision, effectively, encourages raised foundations with flow-through crawl spaces rather than slab on grade foundations in the floodplain.

**Decreased Requirements for Restoration Projects:** All projects that alter the watercourse have to have an Army Corp./IDWR permit. There might be some projects that are restoration projects whose intent is to improve the health of the river system. In these instances, it might not be appropriate to engineer a detailed study of the stream and the effects of the restoration project if a few general indicators can be shown to be improved (i.e. stream capacity, bank stabilization, no rise in BFEs etc.). For this reason, the administrator may relax the requirements for additional studies in these instances.

#### **AGENCY REVIEW:**

**Building Department:** Tom Davis, Building Official, is supportive of these changes.

**FEMA Region X:** Bryan Weber from FEMA Region X is supportive of these changes.

**Idaho Department of Water Resources:** Mary McGown from IDWR is supportive of these changes.

#### **COMPLIANCE WITH THE COMPREHENSIVE PLAN:**

##### **Chapter 2: Purpose of the plan.**

1. To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks. *This ordinance is not intended to encroach upon individual property rights, but rather protect life and structures in the event of a flood.*
2. To ensure that the important environmental features of the state and localities are protected. *This ordinance protects streams and riverine systems for the benefit of all County inhabitants.*
3. To ensure that the development on land is commensurate with the physical characteristics of the land. *This ordinance will allow building in areas near streams in a way that protects the stream systems and also protects structures from flooding.*
4. To protect life and property in areas subject to natural hazards and disasters. *Floodplains are subject to natural hazards (flooding) and this ordinance aims to protect life and property in these areas by reducing the risk to structures and life in the event of a flood.*
5. To protect fish, wildlife, and recreation resources. *This ordinance will protect both in stream habitat and riparian habitat surrounding stream channels.*
6. To avoid undue water and air pollution. *Increased sediment caused by human activity can be considered pollution in streams. This ordinance would reduce undue erosion.*

##### **Chapter 10: Natural Resources.**

1. Policy 2: Protect the County's surface and ground waters, wetlands and riparian areas through responsible development and incentives to help landowners conserve important water resources. *The intent of this ordinance is to protect surface waters and somewhat riparian areas through development standards.*
2. Policy 5: Encourage the conservation and protection of important plant, fish and wildlife habitats. *Riparian and riverine habitat is some of the most valuable habitat in our County. This ordinance would provide additional protection of these areas.*
3. Implementation 5: Ensure that development respects the integrity of the streams, stream channels and riparian areas. *This ordinance adds protections for stream channels, riparian areas and the general integrity of the stream system.*

##### **Chapter 11: Hazardous Areas**

1. Policy 2: Encourage incentives that work to reduce the threat of personal injury, loss of life, and or damage to private property from flooding. *Compliance with this ordinance will keep Teton County in the NFIP and therefore, provide the option of flood insurance for all members of our county who elect coverage.*
2. Implementation 3: Amend appropriate ordinances so that development within areas identified as hazardous areas are carefully designed and regulated so as to minimize the potential for human injury, damage to personal property and natural resources. *This ordinance would protect life and property from potential flooding and would protect natural resources by allowing streams to continue with their ecosystem functions.*

#### **Chapter 14: Recreation**

1. Policy 4: Encourage the preservation of the serene environment of the Teton River and other streams and access to them. *This ordinance would reduce the amount of stream stabilization and alterations that potentially might be needed in the future, thus preserving the “wildness” of the river. It would also preserve the stream bank habitat which provides a buffer from other uses as viewed from the river.*
2. Implementation 3: Require setbacks large enough and population density low enough along the Teton River and its tributaries to maintain their pristine character. *This ordinance would provide de facto setbacks based on channel migration zone data. The setbacks would not be arbitrary, but rather based on real hazards of erosion and stream migration.*

#### **PLANNING AND ZONING RECOMMENDATION:**

The Planning & Zoning Commission continued the hearing of this ordinance three times to ensure that it met their standards. The Commission did not feel it was appropriate to include habitat or ecological protections in this ordinance. They worked to keep this ordinance related to the hydraulic and hydrologic aspect of river systems and wished to keep the ecological protections in Title 8 and 9. The commission voted to recommend APPROVAL of the ordinance as presented in the staff report.

#### **POTENTIAL BOCC ACTIONS:**

- A. APPROVE the text amendment to Title 12 as presented in the application, having provided the reasons and justifications for the approval.
- B. APPROVE the text amendment WITH MODIFICATIONS, having provided the reasons and justifications for the approval and for any modifications or conditions.
- C. DENY the text amendment request and provide the reasons and justifications for the denial.
- D. CONTINUE to a future BOCC Public Hearing with reasons given as to the continuation or need for additional information.

#### **Staff suggests the following motion:**

Having found that Title 12: Flood Damage Prevention Ordinance is consistent with the purposes and goals of the Comprehensive Plan, move to approve the proposed Title 12, as presented by Planning Staff in the attachment Title 12: Teton County, Idaho Flood Damage Prevention Ordinance [with the following changes].