

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 556

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FLOOD PROTECTION; AMENDING SECTION 46-1021, IDAHO CODE,
2 TO REVISE THE DEFINITIONS OF "DEVELOPMENT" AND "FLOODWAY"; AND
3 AMENDING SECTION 46-1022, IDAHO CODE, TO PROVIDE THAT FLOODPLAIN
4 ZONING ORDINANCES SHALL NOT REGULATE CERTAIN ACTIVITIES RELATING TO
5 IRRIGATION AND DRAINAGE WORKS THAT ARE PERFORMED OR AUTHORIZED BY THE
6 OWNER PURSUANT TO LAWFUL RIGHTS AND OBLIGATIONS.
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8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 46-1021, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 46-1021. DEFINITIONS. As used in this act:

12 (1) "Development" means any manmade change to improved or unimproved
13 real estate, including, but not limited to, the construction of buildings,
14 structures or accessory structures, or the construction of additions or
15 substantial improvements to buildings, structures or accessory structures;
16 the placement of mobile homes; mining, dredging, filling, grading, paving,
17 excavation or drilling operations; and the deposition or extraction
18 of materials; specifically including the construction of dikes, berms
19 and levees. The term "development" does not include the construction,
20 reconstruction, operation, cleaning, maintenance, repair, replacement or
21 improvement of any ditch, canal, lateral, drain, diversion structure or
22 other irrigation or drainage works that is performed or authorized by the
23 owner thereof pursuant to lawful rights and obligations.

24 (2) "Flood" means a general or temporary condition of partial or
25 complete inundation of normally dry land areas caused by the overflow or rise
26 of river, ocean, streams or lakes, or the unusual and rapid accumulation or
27 runoff of surface waters from any source.

28 (3) "Flood fringe" is that portion of the floodplain outside of the
29 floodway covered by floodwaters during the regulatory flood.

30 (4) "Floodplain" is the land that has been or may be covered by
31 floodwaters, or is surrounded by floodwater and inaccessible, during the
32 occurrence of the regulatory flood. The riverine floodplain includes the
33 floodway and the flood fringe.

34 (5) "Floodplain management" is the analysis and integration of the
35 entire range of measures that can be used to prevent, reduce or mitigate
36 flood damage in a given location, and that can protect and preserve the
37 natural, environmental, historical, and cultural values of the floodplain.

38 (6) "Floodproofing" means the modifications of structures, their
39 sites, building contents and water and sanitary facilities, to keep water
40 out or reduce the effects of water entry.

41 (7) "Flood protection elevation" means an elevation that shall
42 correspond to the elevation of the one percent (1%) chance flood (one

1 hundred (100) year flood) plus any increased flood elevation due to floodway
2 encroachment, plus any required freeboard.

3 (8) "Floodway" is the channel of the river or stream and those portions
4 of the floodplain adjoining the channel required to discharge and store the
5 floodwater or flood flows associated with the regulatory flood. Ditches,
6 canals, laterals and drains that are constructed and used for irrigation or
7 drainage purposes are not "floodways."

8 (9) "Freeboard" represents a factor of safety usually expressed in
9 terms of a certain amount of feet above a calculated flood level. Freeboard
10 shall compensate for the many unknown factors that contribute to flood
11 heights greater than the height calculated. These unknown factors include,
12 but are not limited to, ice jams, debris accumulation, wave action,
13 obstruction of bridge openings and floodways, the effects of urbanization
14 on the hydrology of the watershed, loss of flood storage areas due to
15 development and the sedimentation of a river or stream bed.

16 (10) "Local government," in the context of this chapter, means any
17 county or city having planning and zoning authority to regulate land use
18 within its jurisdiction.

19 (11) "Mitigation" means any action taken which will reduce the impact,
20 damage or cost of the next flood that occurs.

21 (12) "Person" means any individual, group of individuals, corporation,
22 partnership, association, political subdivision, public or private agency
23 or entity.

24 (13) "Regulatory flood" is a flood determined to be representative
25 of large floods known to have occurred in Idaho and which may be expected
26 to occur on a particular stream because of like physical characteristics.
27 The regulatory flood is based upon a statistical analysis of stream flow
28 records available for the watershed or an analysis of rainfall and runoff
29 characteristics in the watershed. In inland areas, the flood frequency of
30 the regulatory flood is once in every one hundred (100) years; this means
31 that in any given year there is a one percent (1%) chance that a regulatory
32 flood may occur or be exceeded.

33 SECTION 2. That Section 46-1022, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 46-1022. LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING
36 ORDINANCES. Subject to the availability of adequate mapping and data to
37 properly identify the floodplains, if any, within their jurisdiction, each
38 local government is encouraged to adopt a floodplain map and floodplain
39 management ordinance which identifies these floodplains and which requires,
40 at a minimum, that any development in a floodplain must be constructed
41 at a flood protection elevation and/or have adequate floodproofing. The
42 local government may regulate all mapped and unmapped floodplains within
43 their jurisdiction. Nothing in this act shall prohibit a local government
44 from adopting more restrictive standards than those contained in this
45 chapter. Floodplain zoning ordinances shall not regulate the construction,
46 reconstruction, operation, cleaning, maintenance, repair, replacement or
47 improvement of any ditch, canal, lateral, drain, diversion structure or
48 other irrigation or drainage works that is performed or authorized by the
49 owner thereof pursuant to lawful rights and obligations.