

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 425

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO STATE DISASTER PREPAREDNESS; AMENDING SECTION 46-1021, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 46-1022, IDAHO CODE, TO REMOVE A PROVISION REGARDING CERTAIN FLOODPLAIN ZONING ORDINANCES; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

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

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

(1) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures, or accessory structures, or the construction of additions or substantial improvements to buildings, structures, or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. ~~The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.~~

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

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

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

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

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

(7) "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood), plus any increased flood elevation due to floodway encroachment, plus any required freeboard.

1 (8) "Floodway" is the channel of the river or stream and those portions
2 of the floodplain adjoining the channel required to discharge and store the
3 floodwater or flood flows associated with the regulatory flood.

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

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

15 (11) "Mitigation" means any action taken ~~which~~ that will reduce the im-
16 pact, damage or cost of the next flood that occurs.

17 (12) "Person" means any individual, group of individuals, corporation,
18 partnership, association, political subdivision, public or private agency
19 or entity.

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

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

31 46-1022. LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING ORDI-
32 NANCES. Subject to the availability of adequate mapping and data to properly
33 identify the floodplains, if any, within its jurisdiction, each local
34 government is encouraged to adopt a floodplain map and floodplain manage-
35 ment ordinance which identifies these floodplains and which requires, at
36 a minimum, that any development in a floodplain must be constructed at a
37 flood protection elevation and/or have adequate floodproofing. The local
38 government may regulate all mapped and unmapped floodplains within its
39 jurisdiction. Nothing in this act shall prohibit a local government from
40 adopting more restrictive standards than those contained in this chapter.
41 ~~Floodplain zoning ordinances shall not regulate the operation, cleaning,~~
42 ~~maintenance or repair of any ditch, canal, lateral, drain, diversion struc-~~
43 ~~ture or other irrigation or drainage works that is performed or authorized~~
44 ~~by the owner thereof pursuant to lawful rights and obligations.~~ If not oth-
45 erwise exempt from approval, a flood control district's conduct of a "flood
46 fight," as defined in section 42-3103, Idaho Code, shall not require prior
47 local government approval provided all such approvals are obtained within a
48 reasonable time after the imminent flooding event has ended.

1 SECTION 3. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.