

Chapter 1

FLOOD DAMAGE PREVENTION

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12-1-1: STATUTORY AUTHORIZATION:

The Legislature of the State of Montana has delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. (Ord. 219, 8-7-1990)

12-1-2: FINDINGS OF FACT:

- A. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. (Ord. 219, 8-7-1990)

12-1-3: PURPOSE AND OBJECTIVES:

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

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

B. Methods Of Reducing Flood Losses: In order to accomplish its purposes, this Chapter includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, to be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
4. Controlling filling, grading, dredging and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 219, 8-7-1990)

12-1-4: DEFINITIONS:

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application:

APPEAL: A request for a review of the city of Three Forks floodplain administrator's interpretation of any provisions of this chapter or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads) is completed before September 5, 1990.

EXPANSION TO EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the federal emergency management agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the federal emergency management agency that includes flood profiles, the flood boundary floodway map and the water surface elevation of the base flood.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters, and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-half foot (0.5').

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

NEW CONSTRUCTION: Structures for which the "start of construction" commenced on or after September 5, 1990.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the City of Three Forks.

RECREATIONAL VEHICLE: A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION: Includes substantial improvement and means the date the zoning permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure.

STRUCTURE: A walled and roofed building or manufactured home that is principally aboveground.

SUBSTANTIAL IMPROVEMENT: A. A repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- 1. Before the improvement or repair is started; or
 - 2. If the structure has been damaged and is being restored, before the damage occurred.
- B. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE: A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. 219, 8-7-1990; amd. Ord. 266-(2002-2003), 10-8-2002)

12-1-5: GENERAL PROVISIONS:

A. Applicable Lands: This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

B. Basis For Establishing The Areas: The areas of special flood hazard identified by the federal emergency management agency is a scientific and engineering report entitled, "The Flood Insurance Study for the City of Three Forks, Montana, Gallatin County, dated November 19, 1980", with an accompanying flood insurance rate map (FIRM), is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and FIRM are on file with the national flood insurance program, community panel number 300029 0001 B, federal emergency management agency, federal insurance administration.

C. Compliance: No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

D. Abrogation And Greater Restrictions: This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation: In the interpretation and application of this chapter, 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.

F. Warning And Disclaimer Of Liability: The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the federal emergency management agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 219, 8-7-1990)

12-1-6: FLOODPLAIN ADMINISTRATOR:

A. Appointment: The city floodplain administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

B. Duties And Responsibilities: Duties of the city floodplain administrator shall include, but not be limited to:

1. Permit Review:

- a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- b. Review all development permits to determine that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required.
- c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection [12-1-9C](#) of this chapter are met.

2. Use Of Other Base Flood Data: When base flood elevation data has not been provided in accordance with subsection [12-1-5B](#) of this chapter, the city floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with subsection [12-1-9B](#) of this Chapter.

3. Information Obtained And Maintained:

- a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether the structure includes a basement.
- b. For all new or substantially improved floodproofed structures:
 - (1) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (2) Maintain the floodproofing certifications required in subsection [12-1-7B3](#) of this Chapter.

c. Maintain for public inspection all records pertaining to the provisions of this Chapter.

4. Alteration Of Watercourses:

- a. Notify adjacent communities and the State of Montana Department of Natural Resources and Conservation Floodplain Administrator prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

5. Interpretation Of FIRM Boundaries: Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section [12-1-8](#) of this Chapter. (Ord. 219, 8-7-1990)

12-1-7: DEVELOPMENT PERMIT:

A. Permit Required: A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection [12-1-5B](#) of this Chapter.

B. Application For Permit; Contents: Application for a development permit shall be made on forms furnished by the City Flood Plain Administrator and may include, but not be limited to, plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection [12-1-9B2](#) of this Chapter; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 219, 8-7-1990)

12-1-8: VARIANCE PROCEDURE:

A. Variance/Appeal Board:

1. The Variance/Appeal Board, as established by the City, shall hear and decide appeals and requests for variances from the requirements of this Chapter.
2. The Variance/Appeal Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Flood Plain Administrator in the enforcement or administration of this Chapter.
3. Those aggrieved by the decision of the Variance/Appeal Board, or any taxpayer, may appeal such decision to a court of competent jurisdiction, as provided in State law.
4. In passing upon such applications, the Variance/Appeal Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, 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 owners;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with the existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;
 - 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 flood waters 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, streets and bridges.
5. Upon consideration of the factors of subsection A4 of this Section and the purposes of this Chapter, the Variance/ Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
 6. The City Flood Plain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

B. Conditions For Variances:

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($1/2$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections A4a through A4k of this Section have been fully considered. As the lot size increases beyond the one-half ($1/2$) acre, the technical justifications required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State inventory of historic places without regard to the procedures set forth in the remainder of this Section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in subsection A4 of this Section, or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (Ord. 219, 8-7-1990)

12-1-9: FLOOD HAZARD REDUCTION:

A. General Standards: In all areas of special flood hazard, the following standards are required:

1. Anchoring:
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads. (Ord. 219, 8-7-1990)

b. All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

- (1) Manufactured homes that are replaced on a perimeter foundation must be attached to the foundation in such a manner as to prevent flotation;
- (2) Manufactured homes that are placed on runners or slabs with blocks and/or jacks must have frame ties provided at each end of the home and at least every fifteen feet (15') along the length of the home. Frame ties should be constructed with a minimum of one-fourth inch ($\frac{1}{4}$ ") steel cable wrapped around the frame and connected to one-fourth inch ($\frac{1}{4}$ ") eye bolts on each side that are embedded in concrete runners. Concrete runners must be at least four inches (4") thick and whatever width and length that would allow for one yard of concrete (27 cubic feet) for each runner. Each runner should have two (2) $\frac{1}{4}$ -inch rebar strands running horizontally the length of each runner with short pieces of rebar at ninety degrees (90°) to these strands and tying them together every foot. An alternative for the rebar is welded wire fabric mesh throughout;
- (3) Other designs are possible as long as all components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
- (4) Any additions to the manufactured home be similarly anchored. (Ord. 266-(2002-2003), 10-8-2002)

2. Construction Materials And Methods:

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities:

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- c. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals:

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

B. Specific Standards: In all areas of special flood hazard where base flood elevation data has been provided as set forth in subsection [12-1-5B](#) or [12-1-6B2](#) of this chapter, the following provisions are required: (Ord. 219, 8-7-1990)

1. Residential Construction:

a. New construction and substantial improvement of any residential structure shall have the lowest floor of all living space elevated to or above the base flood elevation.

b. New construction and substantial improvement of any below grade crawl space shall:

(1) Have the interior grade elevation that is below base flood elevation no lower than two feet (2') below the lowest adjacent grade;

(2) Have the height of the below grade crawl space measured from the interior grade of the crawl space to the top of the foundation wall, not to exceed four feet (4') at any point;

(3) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawl space following a flood;

(4) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;

(5) Be constructed with materials resistant to flood damage;

(6) Be constructed using methods and practices that minimize flood damage;

(7) Be constructed with electrical, heating (including all ducts), ventilation, plumbing and air conditioning equipment and other service facilities located at or above base flood elevation. These items may be located below the base flood elevation only if they are floodproofed and certified as such or located in a certified floodproofed enclosure;

(8) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Design for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(A) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(B) The bottom of all openings shall be no higher than one foot (1') above exterior grade;

(C) Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 266-(2002-2003), 10-8-2002)

2. Nonresidential Construction: New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection B2. Such certifications shall be provided to the official as set forth in subsection [12-1-6B3b](#) of this chapter.

3. Manufactured Homes:

a. Manufactured homes shall be anchored in accordance with subsection A1b of this section.

b. All manufactured homes or those to be substantially improved shall conform to the following requirements:

(1) Require that manufactured homes that are placed or substantially improved on a site:

(A) Outside of a manufactured home park or subdivision;

(B) In an expansion to an existing manufactured home park or subdivision; or

(C) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in subsection B3b(1) of this section, be elevated so that either:

(A) The lowest floor of the manufactured home is at or above the base flood elevation; or

(B) The manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

C. Floodways: Located within areas of special flood hazard established in subsection [12-1-5B](#) of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. (Ord. 219, 8-7-1990)