

the Mayor are as follows:

- (a) Wastewater having a temperature higher than 150° Fahrenheit (65° Celsius.)
- (b) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
- (c) Wastewater from industrial plants containing floatable oils, fat, or grease.
- (d) Any garbage that has not been properly shredded (see Article 1, Section 13.) Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Superintendent for such materials.
- (f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Mayor.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
- (h) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
- (i) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the Wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (j) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

- Sec. 5 If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgement of the Mayor, may have a deleterious effect up on the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
- (a) Reject the wastes,
 - (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
 - (c) Require control over the quantities and rates of discharge and/or
 - (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 10 of this article.

When considering the above alternative the Mayor shall give consideration to the economic impact of each alternative on the discharger. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent.

- Sec. 6 Grease, oil, and sand interceptors shall be provided when, in the opinion of the Mayor, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 4(c), or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Mayor, and shall be of a type and capacity approved by the accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the Mayor. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.
- Sec. 7 Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- Sec. 8 When required by the Mayor, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Mayor. The structure shall be installed by the owner at his expense, and shall be maintained by him so to be safe and accessible at all times.
- Sec. 9 The Mayor may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
- (1) Wastewaters discharge peak rate and volume over a specified time period.
 - (2) Chemical analyses of wastewaters.
 - (3) Information on raw materials, processes, and products affecting wastewater volume and quality.
 - (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.

(5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location.

(6) Details of wastewater pretreatment facilities.

(7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

Sec. 10 All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Mayor.

Sec. 11 No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment.

ARTICLE VI

Sec. 1 No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

ARTICLE VII

Powers and Authority of Inspectors

Sec. 1 The Mayor and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.

Sec. 2 The Mayor or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

Sec. 3 While performing the necessary work on private properties referred to in Article XII, Section 1, above, the Mayor or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Town employees, and the city shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article V, Section 8.

Sec. 4 The Mayor and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE VIII

Penalties

Sec. 1 Any person found to be violating any provision of this ordinance except Article VI shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Sec. 2 Any person who shall continue any violation beyond the time limit provided for in Article IX, Section 1, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding (500.00) dollars for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Sec. 3 Any person violating any of the provisions of this ordinance shall become liable to the Town for any expense, loss, or damage occasioned the city by reason of such violation.

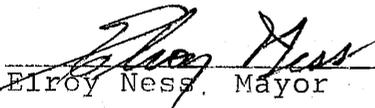
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FLOODPLAIN AND FLOODWAY MANAGEMENT ORDINANCE

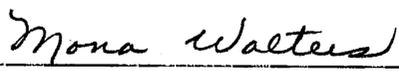
ORDINANCE # 221

Adopted June 4, 1990.

Second Reading July 2, 1990



Elroy Ness, Mayor



Mona Walters, Town Clerk

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Intent

This (Resolution/Ordinance) is passed in order to comply with the Montana Floodplain and Floodway Management Act (Title 76, Chapter 5 MCA) and to ensure compliance with the requirements for the continued participation by Town of Fromberg
(City, Town, or County Name)

in the National Flood Insurance Program. Land-use regulations which are hereby adopted are to be applied to all identified 100-year floodplains within local jurisdiction and are attached as Appendix A.

Statutory Authority

Municipalities have authority to adopt ordinances as provided for in §7-1-4123, MCA to promote the general public health and welfare.

Other authority for municipalities and counties to adopt floodplain management regulations appears in §76-5-101 through 406, MCA.

Adoption

This (Resolution/Ordinance) adopts the set of comprehensive land-use regulations attached as Appendix A for identified 100-year floodplains within Town of Fromberg
(City, Town, or County Name)

Identification of 100-year floodplains is based on the State of Montana Flood Insurance Study, dated September 1988. All other (resolutions/ordinances) are hereby repealed to the extent of any inconsistencies.

APPENDIX A

CHAPTER I TITLE AND PURPOSE

1.01 Title

These regulations shall be known and cited as
TOWN OF FROMBERG Floodplain Regulations.
(City, Town, or County Name)

These regulations are in accordance with exercising the authority of the laws of the State of Montana.

1.02 Purpose

To promote the public health, safety, and general welfare, to minimize flood losses in areas subject to flood hazards, and to promote wise use of the floodplain. These regulations have been established with the following purposes intended:

- A. To guide development of the 100-year floodplain within local jurisdiction consistent with the enumerated findings by:
1. recognizing the right and need of water courses to periodically carry more than the normal flow of water;
 2. participating in coordinated efforts of federal, state, and local management activities for 100-year floodplains; and
 3. ensuring the regulations and minimum standards adopted, insofar as possible, balance the greatest public good with the least private injury.
- B. Specifically it is the purpose of these regulations to:
1. restrict or prohibit uses that are dangerous to health, safety, and property in times of flood, or that cause increased flood heights and velocities;
 2. require that uses vulnerable to floods, including public facilities, be provided with flood protection at the time of initial construction;
 3. identify lands unsuitable for certain development purposes because of flood hazards;
 4. minimize the need for rescue and relief efforts associated with flooding undertaken at the expense of the general public;

5. ensure potential buyers are notified that property is within a 100-year floodplain and subject to the provisions of these regulations; and
6. ensure that those who occupy 100-year floodplains assume responsibility for their actions.

CHAPTER II DEFINITIONS

2.01 Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to give them the meaning they have in common usage and to give these regulations the most reasonable application.

Act -- Montana Floodplain and Floodway Management Act, §76-5-101 through 406, MCA.

Alteration -- Any change or addition to a structure that either increases its external dimensions or increases its potential flood hazard.

Appeal -- A request for a review of the Floodplain Administrator's interpretation of any provisions of these regulations or a request for a variance.

Area of Special Flood Hazard -- The land in the floodplain within the community subject to inundation by a one percent (1%) or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Artificial Obstruction - Development -- Any obstruction which is not natural and includes any dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, fill, or other analogous structure or matter in, along, across, or projecting into any 100-year floodplain which may impede, retard, or alter the pattern of flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of water would carry the same downstream to the damage or detriment of either life or property.

Base Flood -- A flood having a one percent (1%) chance of being equalled or exceeded in any given year. A base flood is the same as a 100-year flood.

Base Flood Elevation -- The elevation above sea level of the

base flood in relation to National Geodetic Vertical Datum of 1929 unless otherwise specified in the flood hazard study.

Channelization Project -- The excavation and/or construction of an artificial channel for the purpose of diverting the entire flow of a stream from its established course.

Establish -- To construct, place, insert, or excavate.

Existing Manufactured Home Park or Subdivision -- A manufactured home park or subdivision where the construction of facilities for servicing the manufactured homes lots is completed before the effective date of the floodplain management regulations. This includes, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

FEMA -- The Federal Emergency Management Agency

Flood or Flooding -- A general and temporary condition of partial or complete inundation of normally dry lands from the overflow of a stream, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map -- The map on which FEMA has delineated both the 100-year floodplains and the risk premium zones.

Flood Insurance Study -- The report in which FEMA has provided flood profiles, as well as the Flood Boundary/Floodway Map and the water surface profiles.

Floodplain -- The areas subject to these regulations, generally adjoining a stream, that would be covered by floodwater of a base flood except for sheetflood areas that receive less than 1 foot of water per occurrence and are considered Zone B by FEMA. The floodplain consists of a floodway and floodway fringe.

Floodway -- The channel of a stream and the adjacent overbank areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than one-half (1/2) foot.

Floodway Fringe -- That portion of the floodplain outside the limits of the floodway.

Levee -- A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

Levee System -- A flood protection system that consists of a levee, or levees, and associated structures, such as drainage and closure devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor -- Any floor used for living purposes, storage, or recreation. This includes any floor that could be converted to such a use.

Manufactured Home -- A structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. This does not include "recreational vehicles."

Manufactured Home Park or Subdivision -- A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level -- The National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations are referenced.

New Construction -- Structures for which construction, substantial improvement, or alteration commences on or after the effective date of these regulations.

Official Floodplain Maps -- The Flood Insurance Rate Maps and Flood Boundary/Floodway Maps provided by FEMA for TOWN OF FROMBERG, dated NOVEMBER 4, 1981.
(City, Town or County Name)

Permit Issuing Authority -- TOWN OF FROMBERG.
(City/Town Council/County Commissioners)

Recreational Vehicle -- A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use and not for use as a permanent dwelling.

Riprap -- Stone, rocks, concrete blocks, or analogous material that is placed along the banks or bed of a stream to alleviate erosion.

Start of Construction -- Commencement of clearing, grading, filling, or excavating to prepare a site for construction.

Structure -- A walled and roofed building, manufactured home, a gas or liquid storage tank, bridge, culvert, dam, diversion, wall, revetment, dike, or other projection that may impede, retard, or alter the pattern of flow of water.

Substantial Damage -- Damage sustained by a structure where the cost of restoring the structure to its condition before damage would equal or exceed 50 percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement -- Any 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:

- (a) before the improvement or repair is started, or
- (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first construction to any wall, ceiling, floor, or other structural part of the building commences. The term does not include:
 - (i) 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
 - (ii) any alteration of a structure listed on the national register of historic places or state inventory of historic places.

Suitable Fill -- Fill material which is stable, compacted, well graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps or other organic material, and is fitting for the purpose of supporting the intended use and/or permanent structure.

Variance -- A grant of relief from the requirements of these regulations that would permit construction in a manner otherwise prohibited by these regulations.

Violation -- The failure of a structure or other development to be fully compliant with these regulations. A structure or other development without elevation certificate, certification by a licensed engineer or architect of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

100-Year Flood -- A flood having a one percent (1%) chance of being equalled or exceeded in any given year. A 100-year flood has nearly a 23 percent chance of occurring in a 25-year period. A 100-year flood is the same as a base flood.

CHAPTER III
GENERAL PROVISIONS

3.01 Jurisdictional Area

these regulations shall apply to all lands within the jurisdiction of TOWN OF FROMBERG, State
(City, Town or County Name)
of Montana, shown on the Official Floodplain Maps as being located within a 100-year floodplain district.

3.02 Floodplain District Establishment

The floodplain districts established are defined by the base flood elevations and 100-year floodplains as delineated in the Flood Insurance Study. The basis for the Flood Insurance Study is a scientific and engineering report entitled, "The Flood Insurance Study for TOWN OF FROMBERG, Montana", dated NOVEMBER 4, 1981, with accompanying Flood Insurance Rate Maps and Flood Boundary/Floodway Maps. The Official Floodplain Maps, together with the Flood Insurance Study are on file in the office of the Floodplain Administrator.

3.03 Floodplain Administrator

The TOWN OF FROMBERG Floodplain Administrator
(City, Town, or County Name)
has been designated to be the FROMBERG TOWN COUNCIL.
(Title of Floodplain Administrator)

The responsibilities of this position are outlined in Chapter IV of these regulations.

3.04 Rules for Interpretation of Floodplain District Boundaries

The boundaries of the 100-year floodway shall be determined by scaling distances on the official floodplain maps and using the floodway data table contained in the flood insurance study report. The maps may be used as a guide for determining the 100-year floodplain boundary, but the exact location of the floodplain boundary shall be determined where the base flood elevation intersects the natural ground. For unnumbered A Zones and AO Zone floodplains, where there is a conflict between a mapped floodplain boundary and actual field conditions, the Floodplain Administrator may interpret the location of the 100-year floodplain boundary based on field conditions or available historical flood information.

3.05 Compliance

No structure or land use shall be located, extended, converted, or structurally altered without full compliance with the provisions of these regulations and other applicable regulations. These regulations meet the minimum floodplain development requirements as set forth by the Montana Board of Natural Resources and Conservation and the National Flood Insurance Program.

3.06 Abrogation and Greater Responsibility

It is not intended by these regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or underlying zoning. However, where these regulations impose greater restrictions, the provisions of these regulations shall prevail.

3.07 Regulation Interpretation

The interpretation and application of the provisions of these regulations shall be considered minimum requirements and liberally construed in favor of the governing body and not deemed a limitation or repeal of any other powers granted by State statute.

3.08 Warning and Disclaimer of Liability

These regulations do not imply that areas outside the delineated floodplain boundaries or permitted land uses will always be totally free from flooding or flood damages. these regulations shall not create a liability or cause of action against TOWN OF FROMBERG,
(City, Town, or County Name)
or any officer or employee thereof for flood damages that may result from reliance upon these regulations.

3.09 Severability

If any section, clause, provision, or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

3.10 Disclosure Provision

All owners of property in an identified 100-year floodplain as indicated on the Official Floodplain Maps must notify potential buyers or their agents that such property is subject to the provisions of these regulations.

CHAPTER IV
ADMINISTRATION

4.01 Administration

- A. As provided in Section 3.03 of these regulations, the Floodplain Administrator has been designated by the TOWN OF FROMBERG, and has the (City/Town Council/County Commissioner) responsibility of such position as outlined in these regulations.
- B. The Floodplain Administrator is hereby appointed with the authority to review floodplain development permit applications, proposed uses, and construction to determine compliance with these regulations. The Floodplain Administrator is required to ensure that all necessary permits have been received from those governmental agencies from which approval is required by federal and state law and local codes, including Section 404 of the Federal Water Pollution Control Act of 1972, 33 USC 1334, and under the provisions of the Natural Streambed and Land Preservation Act.
1. Additional Factors -- Floodplain development permits shall be granted or denied by the Floodplain Administrator on the basis of whether the proposed establishment, alteration, or substantial improvement of an artificial obstruction meets the requirements of these regulations. Additional factors that shall be considered for every permit application are:
 - a. the danger to life and property due to increased flood heights, increased flood water velocities, or alterations in the pattern of flood flow caused by encroachments;
 - b. the danger that materials may be swept onto other lands or downstream to the injury of others;
 - c. the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
 - d. the susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
 - e. the importance of the services provided by the facility to the community;

- f. the requirement of the facility for a waterfront location;
- g. the availability of alternative locations not subject to flooding for the proposed use;
- h. the compatibility of the proposed use with existing development and anticipated development in the foreseeable future;
- i. the relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
- j. the safety of access to property in times of flooding for ordinary and emergency services; and
- k. such other factors as are in harmony with the purposes of these regulations, the Montana Floodplain and Floodway Management Act, and the National Flood Insurance Program.

C. A floodplain development permit application is considered to have been automatically granted 60 days after the date of receipt of the application by the Floodplain Administrator unless the applicant has been notified that the permit is denied, conditionally approved, or additional information pertinent to the permit review process is required.

D. The Floodplain Administrator shall adopt such administrative procedures as may be necessary to efficiently administer the provision of these regulations.

E. The Floodplain Administrator shall maintain such files and records as may be necessary to document nonconforming uses, base flood elevations, floodproofing and elevation certifications, fee receipts, the issuance of permits, agenda, minutes, records of public meetings, and any other matters related to floodplain management in TOWN OF FROMBERG (City, Town, or County). Such files and records shall be open for public inspection. In matters of litigation, the TOWN OF FROMBERG attorney may restrict access to (City, Town, or County) specific records.

F. The floodplain administrator may require whatever additional information is necessary to determine whether the proposed activity meets the requirements of these regulations. Additional information may include hydraulic calculations

assessing the impact on base flood elevations or velocities; level survey; or certification by a registered land surveyor, professional engineer, or licensed architect that the requirements of these regulations are satisfied.

- G. Upon receipt of an application for a permit or a variance, the Floodplain Administrator shall prepare a notice containing the facts pertinent to the application and shall publish the notice at least once in a newspaper of general circulation in the area. Notice shall also be served by first-class mail upon adjacent property owners and the DNRC Floodplain Management Section. The notice shall provide a reasonable period of time, not less than 15 days, for interested parties to submit comments on the proposed activity.
- H. Copies of all permits granted must be sent to the Department of Natural Resources and Conservation in Helena, Montana.
- I. In riverine situations, notification by the Floodplain Administrator must be made to adjacent communities, the Floodplain Management Section (DNRC), and FEMA prior to any alteration or relocation of a stream. The flood-carrying capacity within the altered or relocated portion of any stream must be maintained. Erosion control measures shall be incorporated to ensure stability of altered channels and stream banks.

4.02 Permit Applications

- A. Activities or uses that require the issuance of a permit, including the expansion or alteration of such uses, shall not be initiated, established, or undertaken until a permit has been issued by the Floodplain Administrator.
- B. Permit applicants shall be required to furnish the following information as deemed necessary by the Floodplain Administrator for determining the suitability of the particular site for the proposed use.
 - 1. Plans in duplicate drawn to scale (including dimensions) showing the nature, location, and elevation of the lot; existing and proposed structure locations; fill, storage, or materials site; flood-proofing measures; mean sea level elevation of the first floor of proposed structures; and location of the channel.
 - 2. A plan view of the proposed development indicating external dimensions of structures, street or road finished grade elevations, well locations, individual sewage treatment and disposal sites, excavation and/or fill quantity estimates, and site plan and/or

construction plans.

3. Specifications for flood-proofing, filling, excavating, grading, riprapping, storage of materials, and location of utilities.
4. A professional engineer's or registered architect's design calculations and certification that the proposed activity has been designed to be in compliance with these regulations.
5. Certification of flood-proofing and/or elevation shall be provided on a standard form available from the floodplain administrator.

C. To determine that the permit specifications and conditions have been completed, applicants who have received permits are required to furnish the following at the time of an on-site conformance inspection.

1. Certification by a registered professional engineer or licensed land surveyor of the actual mean sea level elevation of the lowest floor (including basement) of all new, altered, or substantially improved buildings.
2. If flood-proofing techniques were used for buildings, the mean sea level elevation to which the flood proofing was accomplished must be certified by a structural engineer or licensed architect in the same manner.
3. Certification shall also be required, for artificial obstructions other than buildings, verifying that the activity was accomplished in accordance with these regulations and the design plans submitted with the application for the permit activity. This certification may be waived by the floodplain administrator if it can be clearly ascertained by a site inspection that the activity was accomplished in accordance with these regulations.
4. Certification of flood-proofing and/or elevation shall be provided on a standard form available from the floodplain administrator.

4.03 Emergency Waiver

- A. Emergency repair and replacement of severely damaged public transportation facilities, public water and sewer facilities, and flood control works may be authorized. Floodplain development permit requirements may be waived if:

1. Upon notification and prior to the emergency repair and/or replacement, the Floodplain Administrator determines that an emergency condition exists warranting immediate action; and
 2. The Floodplain Administrator agrees upon the nature and type of proposed emergency repair and/or replacement.
- B. Authorization to undertake emergency repair and replacement work may be given verbally if the Floodplain Administrator feels that such a written authorization would unduly delay the emergency works. Such verbal authorization must be followed by a written authorization describing the emergency condition, and the type of emergency work agreed upon, and stating that a verbal authorization had been previously given.

4.04 Review-Variances-Appeals

- A. There is hereby created a local Floodplain Management Board of Adjustment, the membership, administration, and rules of procedure of which are identical to a zoning board of adjustment.
- B. The Board of Adjustment may, by variance, grant a permit that is not in compliance with the minimum standards contained in these regulations according to the following procedures:
1. Variances shall not be issued for areas within a floodway if any additional increase in flood elevations or velocities after allowable encroachments into the floodway fringe would result.
 2. Variances shall only be issued upon:
 - a. a showing of good and sufficient cause;
 - b. a determination that refusal of a permit due to exceptional circumstances would cause a unique or undue hardship on the applicant or community involved;
 - c. a determination that the granting of a variance will not result in increased flood hazards, present additional threats to public safety, be an extraordinary public expense, create nuisances, cause fraud, victimize the public, or conflict with existing state and local laws;
 - d. a determination that the proposed use would be

adequately flood-proofed;

- e. a determination that a reasonable alternate location outside the floodplain is not available;
- f. a determination that the variance requested is the minimum necessary to afford relief, considering the flood hazard; and
- g. approval of the Montana Department of Natural Resources and Conservation, upon request from the Permit Issuing Authority, prior to formally approving any permit application that is in variance to these regulations.

3. Variances shall be issued in writing from the Permit Issuing Authority and shall notify the applicant that:

- a. a specific variance is granted, and certain conditions may be attached;
- b. the issuance of a variance to construct a building below the 100-year floodplain elevation will result in increased premium rates; and
- c. such construction below the 100-year flood elevation increases risks to life and property. The Floodplain Administrator shall maintain records of the variance notification and actions, including justification for their issuance, and forward copies of all variance actions to the Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency.

C. Appeal of any decision of the Permit Issuing Authority, its officers, or agencies may be taken by an aggrieved person or persons, jointly or separately, to a court of record.

4.05 Fees

A processing fee of \$35.00 shall be submitted with each permit application.

4.06 Violation Notice

The Floodplain Administrator shall bring any violation of these regulations to the attention of the local governing body; its legal council; and and the Montana Department of Natural Resources and Conservation.

4.07 Compliance

Any use, arrangement, or construction not in compliance as

authorized by permit, shall be deemed a violation of these regulations and punishable as provided in Section 4.08. An applicant is required to submit certification by a registered professional engineer, architect, land surveyor, or other qualified person designated by the Floodplain Administrator that finished fill and lowest building floor elevations, flood proofing, hydraulic design, or other flood protection measures were accomplished in compliance with these regulations.

4.08 Penalties

Violation of the provisions of these regulations or failure to comply with any of the requirements, including permit approval prior to development of flood prone lands and conditions and safeguards established shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction, be fined not more than \$100 or imprisoned in jail for not more than 10 days or both. Each day's continuance of a violation shall be deemed a separate and distinct offense.

4.09 Emergency Preparedness Planning

In formulating community development goals, the community shall consider the development of a plan for evacuating residents of all manufactured home parks or subdivisions located within flood prone areas. This plan should be developed, filed with, and approved by appropriate community emergency management authorities.

CHAPTER V SPECIFIC STANDARDS

5.01 Applications

The minimum floodplain development standards listed in this chapter apply to the floodway and floodway fringe portions of the 100-year floodplain as delineated on the Flood Boundary/Floodway Maps, and also correspond to the numbered A or AE zones depicted on the Flood Insurance Rate Maps. *delete*

5.02 Floodway

- A. Uses Allowed Without Permits. The following open-space uses shall be allowed without a permit within the floodway, provided that such uses conform to the provisions of Chapter VII of these regulations; are not prohibited by any other ordinance, resolution, or statute; and do not require fill, excavation, permanent storage of materials, or equipment or structures other than portable structures: