

TITLE 12
FLOOD CONTROL

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Flood Damage Prevention	1

CHAPTER 1

FLOOD DAMAGE PREVENTION¹

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12-1-1: **STATUTORY AUTHORIZATION:** The legislature of the state of Montana in Montana Code Annotated subsection 76-5-102(e), "encourages local governmental units to manage flood prone lands, including the adoption, enforcement, and administration of land use regulations". Said land use regulations must be designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council does ordain as follows. (Ord. 97-4, 5-12-1997)

12-1-2: **FINDINGS OF FACT:**

- A. **Loss:** 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. **Cause:** These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood

1. See also section 11-10-1 of this code.

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. 97-4, 5-12-1997)

12-1-3: **STATEMENT OF 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:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. 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;
- F. 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;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 97-4, 5-12-1997)

12-1-4: **METHODS OF REDUCING FLOOD LOSSES:** In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. 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;

- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 97-4, 5-12-1997)

12-1-5: **DEFINITIONS:** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

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 areas of special flood hazard.

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

A. The overflow of waters; and/or

B. The unusual and rapid accumulation or runoff of surface waters from any source.

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.

STRUCTURE:

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

SUBSTANTIAL IMPROVEMENT:

A. Includes: Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed.

B. Does Not Include: The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure; provided, that the alteration will not preclude the structure's continued designation as a historic structure. (Ord. 97-4, 5-12-1997)

12-1-6: APPLICATION AND INTERPRETATION OF PROVISIONS:

- A. **Lands To Which Chapter Applies:** This chapter shall apply to all areas within the jurisdiction of the city.
- B. **Compliance:** No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of this chapter and other applicable regulations.
- C. **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 ordi-

nance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

- D. Interpretation: In the interpretation 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 statute. (Ord. 97-4, 5-12-1997)

12-1-7: ADMINISTRATION:

- A. Floodplain Administrator: The city manager or his/her designated agent 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 manager or designated agent shall include, but not be limited to:
1. Permit Review:
 - a. Review all building/land use permits to determine that the permit requirements of this chapter have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding.
 - b. Review all building/land use permits to determine that permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - c. Review all building/land use permits to determine if the proposed development adversely affects the flood carrying capacity of the flood prone area. For the purposes of this chapter, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (1) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

(2) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.

(3) If the proposed development is a building, then the provisions of this chapter shall apply. (Ord. 97-4, 5-12-1997)

12-1-8: DEVELOPMENT PERMIT:

- A. Permit Required: A building/land use permit shall be obtained before construction or development begins within the city.
- B. Application; Forms: Application for a development permit shall be made on forms furnished by the city 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. (Ord. 97-4, 5-12-1997)

12-1-9: PROVISIONS FOR FLOOD HAZARD REDUCTION: If a proposed building site is located in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall conform to the following standards:

- A. Anchoring: All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.
- B. Construction Materials And Methods:
 - 1. Materials And Utility Equipment: All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - 2. Methods And Practices: All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - 3. Service Facilities: 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.

C. Utilities:

1. Water Supply: All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

2. Sanitary Sewage: 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

3. Waste Disposal: On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals:

1. Consistent With Need To Minimize Damage: All subdivision proposals shall be consistent with the need to minimize flood damage;

2. Public Utilities And Facilities: All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3. Drainage: All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. (Ord. 97-4, 5-12-1997)

12-1-10: **WARNING AND DISCLAIMER OF LIABILITY:** 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. 97-4, 5-12-1997)

