

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3159

**AN ORDINANCE REGULATING DEVELOPMENT IN FLOODPLAIN
BY AMENDING CHAPTER 14 OF TITLE 3 OF THE HELENA CITY CODE**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE
CITY OF HELENA, MONTANA:**

That Title 3, Building Regulations, of the Helena City Code is hereby amended by repealing Chapter 14, Floodplain Regulations, in its entirety and adopting this new Chapter 14.

CHAPTER 14

FLOODPLAIN REGULATIONS

SECTION:

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3-14-1: TITLE: This chapter is known and cited as the CITY OF HELENA, MONTANA, FLOODPLAIN ORDINANCE. This ordinance is in accordance with and exercising the authority of the laws of the state of Montana, chapter 5, Floodplain and Floodway Management, 76-5-101 through 76-5-406, Montana Code Annotated 2009.

3-14-2: INTENT: This chapter is passed in order to comply with state law and to ensure compliance with the requirements for the continued participation by the city in the national flood insurance program. Land use regulations which are hereby adopted are to be applied to all identified floodplains within the city.

3-14-3: PURPOSE:

A. The purpose of this chapter is to promote the public health, safety and general welfare, and to minimize losses due to flood conditions in the floodplain. These regulations have been established with the following purposes intended:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public infrastructure and utilities located in floodplain;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

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7. Ensure compliance with the minimum standards for the continued participation in the national flood insurance program for the benefit of the residents of Helena.

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 developed and constructed to minimize flood damage;

3. Regulate the alteration of natural floodplains, stream channels, and natural protective barriers which are needed to accommodate floodwaters;

4. Regulate filling, grading, dredging, and other development which may increase flood damage;

5. Regulate the construction of flood barriers which will impact other property, flood water depth, or velocity of floodwaters;

6. Distinguish between the regulations applicable to the floodway within the floodplain and those applicable to the floodway fringe;

7. Apply more restrictive regulations within the floodway; and

8. Ensure that regulations and minimum standards balance the greatest public good with the least private injury.

3-14-4: DEFINITIONS: Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

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- 100-YEAR FLOOD: A flood having a one percent (1%) chance of occurring in any given year and is the same as a base flood. A 100 year flood has nearly a twenty three percent (23%) chance of occurring in a twenty five (25) year period.
- ALTERATION: Any change or addition to a structure that increases its external dimensions or increases its potential flood hazard.
- ARTIFICIAL OBSTRUCTION: Any obstruction that 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 floodplain.
- BASE FLOOD: A flood having a one percent (1%) chance of being equaled or exceeded in any given year. A base flood is the same as a 100-year flood and the terms are used interchangeably.
- BASE FLOOD ELEVATION: The elevation above sea level of the base flood in relation to the North American Vertical Datum of 1988 (NAVD 88) unless otherwise specified.
- BASEMENT: Any area of a building having its floor sub-grade on all sides.

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CHANNEL: The geographical area within either the natural or artificial banks of a watercourse or drain way.

CHANNELIZATION PROJECT: The excavation or construction of an artificial channel for the purpose of diverting the entire flow of a stream from its established course.

DEPARTMENT: Community Development Department.

DEVELOPMENT: A man-made change to real property, including but not limited to construction of structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DWELLING: A permanent structure for human habitation, a place for living purposes.

DRAIN WAY: A depression 2 feet or more below the surrounding land serving to give direction to a current of water less than 9 months of the year and having a bed and well-defined banks.

EROSION: The process of the gradual wearing away.

EXISTING STRUCTURES: Structures which the start of construction commenced on or before the effective date of this chapter.

FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA"): The agency that manages compliance with the National Flood Insurance Program.

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- FLOOD: The water of any watercourse or drain way that is above the bank or outside the channel and banks of the watercourse or drain way.
- FLOOD INSURANCE RATE MAP: The map on which FEMA has delineated the 100-year floodplain, the Base Flood Elevations, 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 channel of a river or stream and the area adjoining a river or stream that would be covered by floodwater of a base flood. The floodplain consists of a floodway and floodway fringe.
- FLOODPROOFING: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real and personal property.
- FLOODWAY: The channel of a stream, the limits of which have been designated pursuant to Part 2, Chapter 5 of Title 76, MCA, and the adjoining areas that are reasonably required to carry the discharge of the base flood without cumulatively increasing the water surface by more than one-half foot (1/2').

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- FLOODWAY FRINGE: That portion of the floodplain outside the limits of the floodway.
- LEVEE: A manmade structure, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- LEVEE SYSTEM: A flood protection system which 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 suitable for human habitation 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.
- MEAN SEA LEVEL: The North American Vertical Datum of 1988 (NAVD 88) or other datum to which base flood elevations are referenced.
- NEW CONSTRUCTION: Structures for which the start of construction, substantial improvement or alteration commences on or

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after the effective date of this chapter.

RECREATIONAL VEHICLE:

A vehicle which is: a) built on a single chassis; b) four hundred (400) square feet or less when measured at its largest horizontal projections; c) designed to be self-propelled or permanently towable by a light duty truck; and d) designed primarily for use as temporary living quarters for recreation, camping, travel or seasonal use and not for use as a permanent dwelling.

RIVERINE:

Relating to, formed by, or resembling a river (including tributaries), stream, or brook.

RIPRAP:

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

STRUCTURE:

A walled and roofed building, 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 the damage would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

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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 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:

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 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

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stumps or other organic material,
and is fitting for the purpose of

supporting the intended use or
structure.

3-14-5: JURISDICTIONAL AREA: These regulations shall apply to all floodplains within the jurisdiction of the city as identified on the Flood Insurance Study and the Federal Emergency Management Agency flood insurance rate map dated September 19, 2012.

3-14-6: RULES FOR INTERPRETATION OF FLOODPLAIN BOUNDARIES: The flood insurance rate map may be used as a guide for determining the floodplain boundary, but the exact location of the floodplain boundary is where the base flood elevation intersects the natural ground. The boundaries of the floodplain are determined by scaling distances on the flood insurance rate maps and using the floodplain data table contained in the flood insurance study.

3-14-7: COMPLIANCE: Development, new construction, alteration, or substantial improvement may not commence without full compliance with the provisions of this chapter and other applicable regulations.

3-14-8: ABROGATION AND GREATER RESPONSIBILITY: It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or underlying zoning. However, where this chapter imposes greater restrictions, the provisions of this chapter prevail.

3-14-9: WARNING AND DISCLAIMER OF LIABILITY: This chapter does not imply that areas outside the regulated flood hazard areas or permitted land uses within such areas will be free from

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flooding or flood damages. This chapter does not create a liability or cause of action against the city, or any officer or

employee thereof, for any flood damage that may result from reliance upon this chapter.

3-14-10: SEVERABILITY: If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

3-14-11: DISCLOSURE PROVISION: All owners of property in an identified floodplain as indicated on the flood insurance rate maps must notify potential buyers or their agents that such property is subject to the provisions of this chapter.

3-14-12: REQUIRED BASE FLOOD ELEVATION DATA: Base flood elevation data for developments greater than fifty (50) lots or five (5) acres is required to be provided by the applicant before development may begin.

3-14-13: PERMIT APPLICATION AND REVIEW:

A. When a floodplain development permit is required by this chapter, applicants are required to furnish the following information:

1. Plans in duplicate drawn to scale (including dimensions) showing the location and elevation of the lot, existing and proposed structure locations, external dimension of structures, floodproofing measures, mean sea level elevation of the lowest floor of proposed structures and location of the channel, street, or road finished grade elevations, well locations, and excavation or fill quantity estimates;

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2. Specifications for floodproofing, filling, excavating, grading, riprapping, storage of materials and location of utilities;
 3. 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; and
 4. Certification of floodproofing or elevation shall be provided on a standard form available from the department.
- B. 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 floodproofing techniques were used for buildings, the mean sea level elevation to which the floodproofing was accomplished must be certified by a structural engineer or licensed architect in the same manner;
 3. Certification for artificial obstructions other than buildings, verifying that the activity was accomplished in accordance with this chapter and the design plans submitted with the application for the permit activity; and
 4. Certification of floodproofing or elevation on a standard form available from the department.
- C. Floodplain development permits may be granted or denied by the department on the basis of whether the proposal meets the requirements of this chapter. Factors that must be considered are:

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1. The danger to life and property due to increased flood heights, increased floodwater velocities or alterations in the pattern of flood flow caused by encroachments;
 2. The danger that materials may be swept onto other lands or downstream to the injury of others;
 3. The proposed water supply and wastewater systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
 4. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
 5. The importance of the services provided by the facility to the community;
 6. The requirement of the facility for a waterfront location;
 7. The availability of alternative locations not subject to flooding for the proposed use;
 8. The compatibility of the proposed use with existing development and anticipated development in the foreseeable future;
 9. The relationship of the proposed use to the growth policy and floodplain management program for the area; and
 10. The safety of access to property in times of flooding for ordinary and emergency services.
- D. A floodplain development permit application is considered to have been automatically granted sixty (60) days after the date of receipt of a complete application as determined by the department unless the applicant has been notified that the permit is denied, conditionally approved or additional information pertinent to the permit review process is required.

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- E. The department may require additional information if necessary to determine whether the proposal meets the requirements of this chapter.
- F. Upon receipt of a complete application for a floodplain development permit or a variance, the department must prepare a notice containing the facts pertinent to the application and must publish the notice at least once in a newspaper of general circulation in the area. Notice must also be sent by first class mail upon adjacent property owners and by the most efficient method to the DNRC floodplain management section. The notice must provide at least fifteen (15) days, for interested parties to submit comments on the proposed activity.
- G. Copies of all permits granted must be sent, by the most efficient method, to the DNRC floodplain management section.
- H. In riverine situations notification by the department must be made to adjacent communities, the DNRC floodplain management section, and the federal emergency management agency prior to any alteration or relocation of a watercourse.

3-14-14: DEVELOPMENT STANDARDS IN THE FLOODWAY:

- A. The minimum floodplain development standards listed in this section apply to the floodway portions of the floodplain as delineated on the flood insurance rate maps as the numbered A1-30 or AE zones.
- B. The following open space uses are allowed without a permit within the floodway, provided that such uses conform to the floodproofing provisions of this chapter, are not prohibited by any other ordinance, resolution or statute,

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and do not require fill, excavation, permanent storage of materials or equipment or structures other than portable structures:

1. Agricultural uses;
 2. Accessory uses such as loading and parking areas, or emergency landing strips associated with industrial commercial facilities;
 3. Private and public recreational uses such as golf courses, driving ranges, archery ranges, picnic grounds, boat launching ramps, parks, wildlife management and natural areas, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking or horseback riding trails;
 4. Forestry, including processing of forest products with portable equipment;
 5. Residential uses, such as lawns, gardens, parking areas and play areas;
 6. Irrigation and livestock supply wells, provided that they are located at least five hundred feet (500') from domestic water supply wells;
 7. Fences, except permanent fences crossing channels; and
 8. Recreational vehicles provided that they are on the site for fewer than one hundred eighty (180) consecutive days or be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system with wheels intact, is attached to the site only by quick disconnect type utilities and securing devices and has no permanently attached additions.
- C. The following may be permitted in the floodway subject to the issuance of a permit by the department:

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1. Excavation of material from pits and pools provided that:

a. A buffer strip of undisturbed land is left between the edge of the channel and the edge of the excavation. This buffer strip must be of sufficient width to prevent flood flows from channeling into the excavation;

b. The excavation meets all applicable laws and regulations of other local and state agencies; and

c. Excavated material is stockpiled outside the floodway.

2. Railroad, highway and street stream crossings provided the crossings are designed to offer minimal obstruction to flood flow. Stream crossings may not increase the elevation of the 100-year flood more than one-half foot (1/2') nor cause a significant increase in flood velocities.

3. Limited filling for highway, street and railroad embankments not associated with stream crossings, provided that:

a. Reasonable alternative transportation routes outside the floodway are not available; and

b. Such floodway encroachment is located as far from the stream channel as possible and shall not result in a cumulative increase in base flood elevations, after allowable encroachments into the floodway fringe, exceeding one-half foot (1/2').

4. Buried or suspended utility transmission lines, provided that:

a. Suspended utility transmission lines are designed so the lowest point of the suspended line is at least six feet (6') higher than the base flood elevation;

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b. Towers and other appurtenant structures are designed and placed to withstand and minimally obstruct flood flows; and

c. Utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum depth of scour for 100-year flood. The maximum depth of scour may be determined by hydraulic engineering methods acceptable to the department.

5. Storage of materials and equipment, provided that:

a. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent flotation or downstream movement; or

b. The material or equipment is readily movable within the limited time available after flood warning.

6. Domestic water supply wells, provided that:

a. They are driven or drilled wells located on ground higher than the surrounding ground to assure positive drainage from the well;

b. Well casings are watertight to a distance of at least twenty five feet (25') below the ground surface;

c. Water supply and electrical lines have watertight seals where the lines enter the casing;

d. All pumps, electrical lines and equipment are either submersible or adequately floodproofed; and

e. Check valves are installed on main water lines at wells and all building entry locations.

7. Buried and sealed vaults for sewage disposal in recreational areas provided that they meet applicable state law.

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8. Public or private campgrounds provided that:

a. Access roads require only limited fill and do not obstruct or divert floodwaters; and

b. Recreational vehicles and travel trailers are licensed and ready for highway use. They are ready for highway use if on wheels or jacking system with wheels intact, are attached to the site with only quick disconnect type utilities and securing devices and have no permanently attached additions.

9. Structures accessory to the uses permitted in this section such as boat docks, marinas, sheds, picnic shelters, tables and toilets provided that:

a. The structures are not intended for human habitation;

b. The structures will have a low flood damage potential;

c. The structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible;

d. The floodproofing standards of this chapter are met; and

e. The structures will be constructed and placed so as to offer minimal obstruction to flood flows and also are anchored to prevent flotation.

10. Substantial improvements to a structure or alterations to a structure or artificial obstructions provided that the alteration or substantial improvement will not raise flood

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heights and that the structure will be floodproofed or elevated on a permanent foundation rather than on fill.

11. All other artificial obstructions or development not specifically listed or prohibited by this section.

C. Flood control works are allowed by permit within floodways subject with the following conditions:

1. Levees and floodwalls are permitted if:

a. The proposed levee or floodwall is designed and constructed to safely convey a 100-year flood; and

b. The cumulative effect of the levee or floodwall combined with allowable floodway fringe encroachments does not increase the unobstructed base flood elevation more than one-half foot (1/2'). The department may establish either a lower or higher permissible increase in the base flood elevation for individual levee projects only with concurrence from the DNRC and the federal emergency management agency based upon consideration of the following criteria:

(1) The estimated cumulative effect of any anticipated future permissible uses; and

(2) The type and amount of existing flood prone development in the affected area.

c. The proposed levee or floodwall, except those to protect agricultural land, is constructed at least three feet (3') higher than the base flood elevation.

2. Riprap, except that which is hand placed, if:

a. The riprap is designed to withstand a 100-year flood;

b. The riprap does not increase the base flood elevation;

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and

c. The riprap will not increase erosion upstream, downstream or adjacent to the riprap site.

3. Channelization projects if they do not significantly increase the magnitude, velocity or base flood elevation in the proximity of the project and that the flood carrying capacity is maintained.

4. Dams, provided that:

a. They are designed and constructed in accordance with the Montana dam safety act and applicable safety standards; and

b. They will not increase flood hazards downstream, either through operational procedures or improper hydrologic design.

D. Permits for the establishment of a water diversion or change in place of diversion may not be issued if, in the judgment of the department:

1. The proposed diversion will significantly increase the upstream base flood elevation to the detriment of neighboring property;

2. The proposed diversion is not designed and constructed to minimize potential erosion from a 100-year flood; and

3. Any permanent diversion structure crossing the full width of the stream channel is not designed and constructed to safely withstand up to a 100-year flood.

E. The following are prohibited within the floodway:

1. New construction of any structure or placement of any manufactured home;

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2. Development that would result in erosion of the embankment, obstruction of the natural flow of waters, or increase in flood levels within the community during the occurrence of a 100-year flood;

3. Solid and hazardous waste disposal and wastewater treatment and disposal systems; and

4. Storage of toxic, flammable, hazardous, or explosive materials.

3-14-15: DEVELOPMENT STANDARDS IN THE FLOODWAY FRINGE:

A. All uses allowed in the floodway without a permit, are allowed without a permit in the floodway fringe.

B. All uses allowed in the floodway that require a permit, are allowed by permit within the floodway fringe. In addition, new construction, substantial improvements and alterations to structures are allowed by permit. This includes, but is not limited to, residential, commercial and industrial construction, and suitable fill to be allowed by permit from the department subject to the following conditions:

1. Structures or fill must not be prohibited by any other statute, regulation, ordinance or resolution;

2. All structures must be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Additionally all structures must be constructed with materials that are resistant to flood damage, constructed with methods and practices that minimize flooding damages.

3. New construction, alterations and substantial improvements of residential structures must be constructed such that:

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a. the lowest floor elevation including basement; and electrical, heating, duct work, ventilation, plumbing, and air conditioning equipment is two feet (2') or more above the base flood elevation by elevating with a permanent foundation; and

b. any crawl space must be designed so that the crawl space floor is at or above the base flood elevation.

4. New construction, alterations and substantial improvements of non-residential structures must be constructed such that the lowest floor elevation including basement; and electrical, heating, duct work, ventilation, plumbing, and air conditioning equipment is two feet (2') or more above the base flood elevation by elevating with a permanent foundation. If not elevated two feet (2') or more above the base flood elevation then the non-residential structure must be adequately floodproofed to an elevation no lower than two feet (2') above the base flood elevation. Floodproofing must be certified by a registered professional engineer or architect that the floodproofing methods are adequate to withstand the flood depths, hydrodynamic and hydrostatic pressures, velocities, impact, buoyancy, and uplift forces associated with the 100-year flood:

a. If the structure is designed to allow internal flooding of the areas below the lowest floor, use of the space shall be limited to parking, loading areas, building access and storage of equipment or materials not appreciably affected by floodwaters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than two feet (2') above the base flood elevation. Walls must be designed to automatically equalize hydrostatic forces by allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvers, valves, other coverings, or devices which permit the automatic entry and exit of floodwaters;

b. Structures whose lowest floors are used for a purpose other than parking, loading, or storage of

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materials resistant to flooding shall be floodproofed to an elevation no lower than two feet (2') above the base flood elevation. Floodproofing must include impermeable membranes or materials for floors and walls and watertight enclosures for all windows, doors and other openings. These structures must be designed to withstand the hydrostatic, hydrodynamic and buoyancy effects of a 100-yearflood; and

c. Floodproofing of electrical, heating and plumbing systems must also be accomplished in accordance with section 3-14-16 of this chapter.

5. Fill material placed in the floodway fringe must be 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 appropriate for the purpose of supporting the intended use or permanent structure;

6. Roads, streets, highways and rail lines must be designed to minimize increase in flood heights. Where failure or interruption of transportation facilities would result in danger to the public health or safety, the facility must be located two feet (2') above the base flood elevation;

7. Agricultural structures that have a low damage potential, such as sheds, barns, shelters, and hay or grain storage structures must be adequately anchored to prevent flotation or collapse and all electrical facilities must be placed above the base flood elevation; and

8. Recreational vehicles, if they are on the site for more than one hundred eighty (180) consecutive days or are not ready for highway use, must meet the elevating requirements of subsection B2 of this section and securely anchored.

C. The following are prohibited within the floodway fringe:

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1. Solid and hazardous waste disposal; and
2. Storage of highly toxic, flammable, hazardous, or explosive materials. Storage of petroleum products may be allowed by permit if stored on compacted fill at least two feet (2') above the base flood elevation and anchored to a permanent foundation to prevent downstream movement.

3-14-16: FLOODPROOFING REQUIREMENTS:

- A. When floodproofing is required by this chapter the methods used must be certified as adequate by a registered professional engineer or architect.
- B. Permitted floodproofing systems must conform to the conditions listed below and the floodproofing standards listed in subsection 3-14-15(B)(4) of this chapter for commercial and industrial structures:
 1. Electrical Systems:
 - a. All incoming power service equipment, including all metering equipment, control centers, transformers, distribution and lighting panels, and all other stationary equipment must be located at least two feet (2') above the base flood elevation;
 - b. Portable or movable electrical equipment may be placed below the base flood elevation if the equipment can be disconnected by a single submersible plug and socket assembly;
 - c. The main power service line shall have automatic or manually operated electrical disconnect equipment located at an accessible location outside the floodplain or above the base flood elevation; and
 - d. All electrical wiring systems installed at or below the base flood elevation must be suitable for

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continuous submergence and may not contain fibrous components.

2. Heating Systems:

a. Float operated automatic control valves must be installed in gas furnace supply lines so that the fuel supply is automatically shut off when floodwaters reach the floor level where the furnace is located;

b. Manually operated gate valves must be installed in gas supply lines. The gate valves must be operable from a location above the base flood elevation; and

c. Electric heating systems must be installed in accordance with the provisions of subsection A of this section.

3. Plumbing Systems:

a. Wastewater service lines, except those to be buried and sealed in vaults, must have check valves installed to prevent sewage backup into permitted structures; and

b. All toilet stools, sinks, urinals, and drains must be located so the lowest point of possible water entry is at least two feet (2') above the base flood elevation.

3-14-17: POST-CONSTRUCTION CERTIFICATION: An applicant is required to submit certification by a registered professional engineer, architect, land surveyor, or other qualified person designated by the department that finished fill and building floor elevations, floodproofing, hydraulic design, or other flood protection measures were constructed and installed in compliance with this chapter.

3-14-18: EMERGENCY WAIVER:

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- A. Emergency repair or replacement of severely damaged public transportation facilities, public water and wastewater facilities and flood control works may be authorized and the floodplain development permit requirements may be waived if:
 - 1. Upon notification and prior to the emergency repair or replacement, the department determines that an emergency condition exists warranting immediate action; and
 - 2. The department agrees upon the nature and type of proposed emergency repair or replacement.
- B. Authorization to undertake emergency repair or replacement work may be given verbally if the department feels that such a written authorization would unduly delay the emergency work. Such verbal authorization must be followed by a written authorization describing the emergency condition, the type of emergency work agreed upon and stating that a verbal authorization had been previously given.

3-14-19: VARIANCES:

- A. The city commission may, by variance, grant a permit that is not in compliance with the minimum standards contained in these regulations according to this section.
- B. An applicant desiring to obtain a variance from the requirements of this chapter must present a completed flood plain application and required supporting material must be submitted, and a completed variance application specific to the variance request including facts and information addressing the criteria in this section.
- C. The city commission must hold a public hearing on the variance and development permit application. Public notice must be given by publication in a newspaper of general circulation in Lewis and Clark County not less than fifteen (15) days prior to the date of hearing as required by law.

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The notice must include a summary of the application, including the location and size of the development, and specify where additional information can be obtained.

- D. The city commission may, by variance, grant a floodplain development permit that is not in compliance with the minimum standards contained in this chapter according to the following procedures:

1. Variances may not be issued for areas within a floodway if any increase in flood elevations or velocities, after allowable encroachments into the floodway fringe, would result;

2. Variances may only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that the granting of a variance will not result in increased flood heights to existing insurable buildings, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with existing state and local laws;

c. A determination that a proposed use would be adequately floodproofed;

d. A determination that a reasonable alternate location outside the floodplain is not available; and

e. A determination that the variance requested is the minimum necessary to afford relief, considering the flood hazard.

3. Variances granted must be issued in writing from the city commission and must notify the applicant that:

a. A specific variance is granted, and certain conditions are attached;

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b. The issuance of a variance to construct a structure below the floodplain elevation will result in increased premium rates; and

c. Such construction below the base flood elevation increases risks to life and property. The department shall maintain records of the variance notification and actions, including justification for their issuance, and forward copies of all variance actions to the DNRC and the federal emergency management agency.

3-14-20: VIOLATION AND NOTICE: Any development, new construction, substantial improvement, or alteration that is not in compliance with this chapter is a violation and punishable as provided in this chapter. The department must bring any violation of these regulations to the attention of the city attorney and the DNRC.

3-14-21: PENALTIES: Violation of the provisions of this chapter or failure to comply with any of the requirements, including permit approval prior to development in the floodplain is a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements must, upon conviction, be fined not more than one hundred dollars (\$100.00) or imprisoned in jail for not more than ten (10) days or both. Each day's continuance of a violation is a separate and distinct offense.

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FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 23rd DAY OF JULY, 2012.

/S/ James E. Smith
MAYOR

ATTEST:

/S/ Debbie Havens
CITY CLERK

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 20th DAY OF AUGUST, 2012.

/S/ James E. Smith
MAYOR

ATTEST:

/S/ Debbie Havens
CITY CLERK