DAWSON COUNTY

FLOODPLAIN AND FLOODWAY MANAGEMENT REGULATIONS

RESOLUTION NO. 650

ADOPTED - April 16, 1998

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Intent

This Resolution 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 Dawson county 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 adopts the set of comprehensive land-use regulations attached as Appendix A for identified 100-year floodplains within Dawson County. Identification of 100-year floodplains is based on Flood Hazard Boundary maps, dated April 11, 1978. All other resolutions are hereby repealed to the extent of any inconsistencies.

DATED this 16 day of April, 1998

BOARD OF COUNTY COMMISSIONERS
DAWSON COUNTY, MONTANA

_____
HAROLD SKARTVED, CHAIRMAN

_____
DOUGLAS E. BARONE, MEMBER

ATTEST:

_____
KATHLEEN A. ALLEY, MEMBER

Maurine Lenhardt
Clerk of the Board & Clerk
and Recorder of Dawson County

APPENDIX A

CHAPTER I
TITLE AND PURPOSE

1.01 **Title**

These regulations shall be known and cited as Dawson County Floodplain Regulations. These regulation 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 greater 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 flood plain 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 flood plain 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 flood plain 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 equaled 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 other wise 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 report in 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 flood water of a base flood except for designated shallow flooding areas that receive less than one foot of water per occurrence. 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 (½) 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 no 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 Dawson County, dated April 11, 1978.

Permit Issuing Authority -- Dawson 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, 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 this condition before damage would equal or exceeds 50 percent 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 equal or exceed 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 regulation 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 or 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 equaled 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 PROVISION

3.01 **Jurisdictional Area**

These regulations shall apply to all lands within the jurisdiction of Dawson County, State 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 baseflood 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 Dawson County, Montana, dated April 11, 1978, with accompanying Flood Insurance Rate Maps and Flood Boundary/Floodway Maps. The Official Floodplain Maps and Study are on file in the office of the Floodplain Administrator.

3.03 **Floodplain Administrator**

The Dawson County Floodplain Administrator has been designated to be the West Glendive Public Works Director. 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 if the floodplain boundary shall be determined where the base flood elevation intersects the natural ground. For unnumbered A Zones and AO Zone 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 if 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 repel, abrogate, or impair any exiting easements, covenants, deed restrictions, or underlying zoning. However, where these regulations impose greater restrictions, the provisions of these regulations shall prevail.

3.07 **Regulations 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 regulation 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 Dawson County 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 adjusted 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 Dawson County Commissioners, and has the 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 assure all necessary permits have been received from these 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 U.S.C. 1334, and under the provisions of the Natural Stream bed and Land Preservation Act.

1. Additional Factors-- Floodplain development permits shall be granted or denied by the Floodplain Administration 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 alteration 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 if 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 if receipt of the application by the Floodplain Administrator unless the applicant has been notified that the permit is denied, conditionally approved, or additional informational 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, flood proofing and elevation certifications, fee receipts, the issuance of permits, agenda, minutes, records of public meetings, and any other matters related to floodplain management in Dawson County.

Such files and records shall be open for public inspection. In matters of litigation, the Dawson County Attorney may restrict access to 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 of 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 riverain situations, notifications 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 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 quality estimates, and site plan and/or construction plans.

3. Specifications for flood-proofing, filling, excavation, 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 are used for the 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 then buildings, that the activity was accomplished in accordance with these regulations and the design plans submitted with the application for the permit activity. This certification my 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 in 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. Variance 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. Variance 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 Administration shall maintain records of the variance notifications and action, including justification for their issuance, and forward copies of all variance actions to the Montana Department of Natural Resources and Conservation and Federal Emergency Management Agency.

C. Appeal of any decisions 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 $100.00 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 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 if 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 formulation 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 Hazard Area Maps.

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 if 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:

1. Agricultural uses;

2. Accessory uses such as loading and parking areas, or emergency landing strips associated with industrial and 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 500 feet from domestic water supply wells;

7. Fences, except permanent fences crossing channels; and

8. Recreational vehicles provided that they be on the site for fewer than 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 security devices, and has no permanently attached additions.

B. Uses Requiring Permits. The following artificial obstructions may be permitted in the floodway subject to the issuance of a permit by the Floodplain Administrator:

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 disposed of or stockpiled outside the floodway.

2. Railroad, highway, and street stream crossing provided the crossing is designed to offer minimal obstruction to flood flow. Stream crossing shall not increase the elevation if the 100-year flood more than one-half foot nor cause a significant increase in flood velocities.

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

   a. reasonable alternate transportation routes outside the designated 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.

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 6 feet higher than the base flood elevation;

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 a 100-year flood. The maximum depth of scour shall be determined by hydraulic engineering methods acceptable to the Floodplain Administrator.

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 floatation or downstream movement; or

b. the material or equipment is readily moveable within the limited time available after flood warning . Storage of flammable, toxic, hazardous, or explosive materials shall not be permitted.

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 casing are water tight to a distance of at least 25 feet below the ground surface;

c. water supply and electrical lines have a watertight seal where the lines enter the casting;

d. all pumps, electrical lines, and equipment are either submersible or adequately flood-proofed; and

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

7. Buried and sealed vaults for sewage disposed in recreational areas, provided they meet applicable laws and standard administered by the Montana Department of Health and Environmental Science.

8. Public or private campgrounds, provided that:

a. access roads require only limited fill and do not obstruct or divert flood waters; 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 addictions.

9. Structures accessory to the uses permitted in this section such as boat docks, marinas, shed, 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 that the surrounding ground and as far from the channel as possible;

d. the flood-proofing standards of Chapter VII are met; and

e. the structures will be constructed and placed so as to offer minimal obstruction to flood flows and are anchored to prevent floatation.

10. Substantial improvements to any structure provided that the provisions of Section 5.03-B.3, 5.03-B.4, or 5.03-B.5 of these regulations are met. In the floodway the structure must be flood proofed or elevated on a permanent foundation rather than on fill.

11. All other artificial obstructed, substantial improvements, or non-conforming uses not specifically listed or prohibited by these regulations.

C. Permits for Flood Control Works. Flood control works shall be allowed within floodways subject to the issuance of a permit by the Floodplain Administrator 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 floodway combined with allowable floodway fringe encroachments does not increase the unobstructed base flood elevation more than 0.5 foot. The Floodplain Administrator may establish either a lower or higher permissible increase in the base flood

elevation for individual levee projects only with concurrence from the Montana Department of Natural Resources and Conservation 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 floodwalls, except those to protect agricultural land, are constructed at least 3 feet higher than the base flood elevation.

2. Riprap, except that which is hand-place, if:

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

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

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

3. Channelization projects if the do not significantly increase the magnitude, velocity, or base flood elevation in the proximity of the project.

4. Dams, provided that:

a. they are designed and constructed in accordance's 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/hydraulic design.

D. Permits for Water Diversions. Permits for the establishment of a water diversion or change in place of diversion shall not be issued if, in the judgment of the Floodplain Administrator:

1. the proposed division 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 a 100-year flood.

E. Prohibited Uses. The following artificial obstructions and non-conforming uses are prohibited within the floodway:

1. New construction of any residential, commercial, or industrial structure;

2. Encroachments including fill, new construction, alterations, substantial improvements, and other development within the adopted regulatory floodway 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 the 100-year flood;

3. The construction of permanent storage of an object subject to floatation or movement during flooding;

4. Solid and hazardous waste disposal, sewage treatment, and sewage disposal systems;

5. Storage of toxic, flammable, hazardous, or explosive materials; and

6. Alterations of structures unless it can be shown the alterations won't raise flood heights;

7. Manufactured homes.

5.03 **Floodway Fringe**

A. Uses Allowed Without Permits. All uses allowed in the floodway, according to the provisions of Section 5.02 A of these regulation, shall also be allowed without a permit in the floodway fringe. In addition, individual or multiple family subsurface sewage disposal systems are allowed only when they are reviewed and approved under laws and regulations administered by the Department of Health and Environmental Sciences or the local health board.

B. Uses Requiring Permits. All uses allowed in the floodway subject to the issuance of a permit, according to the provisions of Section 5.02 B, C, and D of these regulations, shall also be 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 Floodplain Administrator, subject to the following conditions:

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

2. Such structures or fill must be compatible with local comprehensive plans;

3. The new construction, alterations, and substantial improvements of residential structures including manufactured homes must be constructed on suitable fill such that the lowest floor elevation (including basement) is two feet or more above the base flood elevation. The suitable fill shall be at an elevation no lower than the base flood elevation and shall extend for at least fifteen feet, at that elevation, beyond the structure(s) in all directions;

4. The new construction, alteration, and substantial improvement of commercial and industrial structures can be constructed on suitable fill as specified in Section 5.03-B.3 of these regulation. If not constructed on fill, commercial and industrial structures must be adequately flood-proofed to an elevation no lower than two feet above the base flood elevation. Flood-proofing must be certified by a registered professional engineer or architect that the flood proofing methods are adequate to withstand the flood depths, hydrodynamics 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 areas below the lowest floor, use of this space shall be limited to parking, loading area, building access, and storage of equipment or materials not appreciably affected by flood waters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than two feet above the base flood elevation. Walls shall be designed to automatically equalize hydrostatic forces by allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvres, 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 materials resistant to flooding shall be flood-proofed to an elevation no lower than two feet above the base flood elevation. Flood-proofing shall include impermeable membranes or materials or floors and walls and watertight enclosures for all windows, doors, and other openings. These structures shall also be designed to withstand the hydrostatic, hydrodynamic, and buoyancy effects of a 100-year flood.

   c. Flood-proofing of electrical, heating, and plumbing systems shall be accomplished in accordance with Chapter VII of these regulations.

5. All manufactured homes placed in the floodway fringe must have the chassis securely anchored to a foundation system that will resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, over-the-top or frame ties to ground anchors. The following conditions also apply;

   a. When a manufactured homes is 1) altered, 2) replaced because of substantial damage as a result of a flood, or 3) replaced on an individual site, the lowest floor must be elevated two feet above the base flood elevation. The home can be elevated on filled or raised on a permanent foundation of reinforced concrete, reinforced mortared block, reinforced piers or other equivalent strength.

   b. Replacement or substantial improvement of manufactured homes in an existing manufactured home park or subdivision must be raised on a permanent foundation. The lowest floor must be two feet above the base flood elevation. The foundation must consist of reinforced concrete, reinforced mortared block, reinforced piers, or other foundation elements of at least equivalent strength.

   c. Manufactured homes proposed for use as commercial or industrial structures must be elevated and anchored, rather than flood-proofed;

6. 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 and/or permanent structure.

7. Roads, streets, highways, and rail lines shall 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 shall be located two feet above the base flood elevation;

8. 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 float or collapse and all electrical facilities shall be placed above the base flood elevation; and

9. Recreational vehicles, if they are on the site for more than 180 consecutive days or are not ready for highway use, must meet the elevating requirements of Section 5.03-B.3.

C. Prohibited Uses. The following artificial obstructions and non-conforming uses are prohibited within the floodway fringe: