

GALLATIN COUNTY ORDINANCE NO. 2023-⁰⁰⁴
**ORDINANCE ADOPTING UPDATED GALLATIN COUNTY
FLOODPLAIN HAZARD MANAGEMENT REGULATIONS**

1. Legislative Findings and Purpose.

A. Recurrent flooding of land resources in Gallatin County can cause loss of life, damage to property, disruption of commerce and governmental services, and unsanitary conditions; all of which are detrimental to the health, safety, welfare, and property of occupants of flooded lands and the people of Gallatin County.

B. The public interest necessitates management and regulation of flood-prone land and waters in a manner consistent with sound land and water use management practices which will prevent and alleviate flooding threats to life and health and reduce private and public economic losses.

C. The Gallatin County Floodplain Hazard Management Regulations (“Regulation(s)”) have been established to promote public health, safety, and general welfare by guiding development within the floodplain areas of Gallatin County, outside incorporated areas through: (1) restricting or prohibit uses that are dangerous to health, safety or property in times of flooding or that may cause excessive increases in flood heights or velocities; (2) requiring that uses of land vulnerable to floods, including public facilities, be developed or constructed to at least minimum standards or to otherwise minimize flood damage; (3) regulating the alteration of natural floodplains, stream channels, and natural protective barriers which are needed to accommodate floodwaters; (4) regulating filling, grading, dredging and other development which may increase flood damage; (5) preventing or regulating the construction of flood barriers which will impact other land, flood water depth or velocity of floodwaters; (6) identifying lands unsuitable for certain development purposes because of flood hazards; (7) distinguishing between the land use regulations applicable to different portions of the Regulated Flood Hazard Area; (8) applying more restrictive land use regulations within the floodway of the Regulated Flood Hazard Area; and (9) ensuring that regulations and minimum standards balance the greatest public good with the least private injury.

D. It is the specific purpose of the Regulations to promote public health, safety and general welfare of the residents and minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. These Regulations are intended to: (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 and public service interruptions; (5) minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges; (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 disruptions; and (7) ensure compliance with the minimum standards for the continued participation in the National Flood Insurance Program for the benefit of the residents of Gallatin County.

E. This Ordinance adopts a set of comprehensive floodplain management regulations for the “Regulated Flood Hazard Area” within Gallatin County, Montana. The Regulated Flood Hazard Areas are the Floodplains of the 100-year Flood illustrated and referenced in the April 21, 2021 FEMA Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for Gallatin County, Montana, and those Letters of Map Change set forth in Appendix A of the Floodplain Regulations.

F. Previous versions of the Gallatin County Floodplain Regulations were adopted on July 31, 1984 in Ordinance #84-02 and amended in May, 1987, April 9, 1991, May 3, 1994, July 12, 1994, December 7, 1999, February 3, 2004, October 13, 2009, Ordinance #2011-005 adopted August 2, 2011, Ordinance #2017-011 adopted November 14, 2017, Ordinance #2020-001 adopted April 7, 2020, and Ordinance 2021-001 adopted March 16, 2021.

G. The purpose of the updates to the Regulations is to: make minor edits to clarify standards and procedures, and update Appendix A of the Ordinance to reference Letters of Map Revision approved by FEMA and recognized by Gallatin County.

2. Authority. The Board of Gallatin County Commissioners are authorized to adopt this Ordinance in accordance with the Montana Floodplain and Floodway Management Act (Title 76, Chapter 5, MCA) and §76-5-302, MCA and §§7-5-102 and 109, MCA, inter alia, to comply with the requirements for the continued participation by Gallatin County, Montana in the National Flood Insurance Program. The land-use regulations adopted by this Ordinance are to be applied to all identified 100-year floodplains and lands within Gallatin County, Montana.

3. Penalty & Enforcement. Any person who violates this Ordinance or the Regulations adopted herein shall, upon conviction, be fined not more than \$100.00 or imprisoned for not more than 10 days or both the fine and imprisonment as set forth in the Regulations. Each days' continuance of a violation shall be deemed a separate and distinct offense. This Ordinance may be enforced by any law enforcement officer with jurisdiction.

4. Severability. If any part of this Ordinance is unenforceable then the remainder shall be enforceable.

5. Effective Date. The Gallatin County Clerk and Recorder shall post a copy of this Ordinance and make copies available to the public upon first reading and approval. This Ordinance shall take effect thirty (30) days after its second reading and approval (which shall be not less than 12 days apart from the first reading as required by § 7-5-103, MCA) and after it has been filed with the Clerk & Recorder as required by §7-5-105, MCA.

6. Gallatin County Floodplain Regulations Adopted. This Ordinance hereby supersedes and replaces Ordinance #2021-001 and adopts the Gallatin County Floodplain Hazard Management Regulations attached hereto. The Regulations are hereby incorporated into this Ordinance by reference.

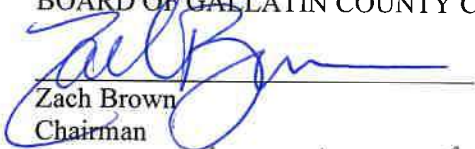
7. Absolute Liability Finding. This Ordinance has the legislative purpose to impose absolute liability for any conduct described. Pursuant to §45-2-104, MCA any violation of this Ordinance or Regulations adopted thereunder is subject to absolute liability. A person may be guilty of an offense without having, as to each element of the offense, one of the mental states of knowingly, negligently or purposely.

8. Ratification. All valid permits issued and action taken pursuant to previous ordinances, resolutions and regulations are, for the purposes of this ordinance, ratified, confirmed, and adopted in lieu of any requirement for an additional permit or additional action for the same purpose.


FIRST READING & APPROVAL

DATED this 21 day of March, 2023

BOARD OF GALLATIN COUNTY COMMISSIONERS


Zach Brown
Chairman


ATTEST


Eric Semerad, Clerk and Recorder


SECOND READING & APPROVAL

DATED this 4th day of April, 2023

BOARD OF GALLATIN COUNTY COMMISSIONERS


Zach Brown
Chairman

ATTEST


Eric Semerad, Clerk and Recorder

GALLATIN COUNTY MONTANA



FLOODPLAIN HAZARD MANAGEMENT REGULATIONS

ORDINANCE # 2023-004

EFFECTIVE DATE: May 4, 2023

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SECTION 1. TITLE, PURPOSE, AUTHORITY AND GENERAL PROVISIONS

1.1 FLOODPLAIN HAZARD MANAGEMENT REGULATIONS

These regulations are known and may be cited as the “Floodplain Hazard Management Regulations;” hereinafter referred to as “these Regulations.”

1.2 STATUTORY AND REGULATORY AUTHORITY

1. Floodplain and Floodway Management is codified at Montana Code Annotated (MCA) Title 76, Chapter 5 and describes the authority, procedures and minimum standards for local regulations. Regulation for Floodplain Management established by the Montana Department of Natural Resources and Conservation (DNRC) are located in Administrative Rules of Montana (ARM) Chapter 36.15.
2. Pursuant to §76-5-301, MCA, Gallatin County is authorized to adopt land use regulations that meet or exceed the minimum standards adopted by the DNRC.

1.3 FINDINGS OF FACT

1. The flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas have been delineated and designated by order or determination of the DNRC pursuant to § 76-5-201, MCA, et seq.
2. These Regulations have been reviewed by DNRC and the Federal Emergency Management Agency (FEMA). The DNRC has found these Regulations acceptable in meeting the minimum standards established by the State of Montana. FEMA finds that these Regulations are adequate and consistent with the comprehensive criteria for land management and use pursuant to the standards established in 44 CFR 60.3.

1.4 PURPOSE

The purpose of these Regulations is to promote public health, safety and general welfare of the residents and minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. These Regulations are intended to:

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 and public service interruptions;

5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
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 disruptions; and
7. Ensure compliance with the minimum standards for the continued participation in the National Flood Insurance Program for the benefit of the residents of Gallatin County.

1.5 **METHODS TO REDUCE LOSSES**

In accordance with §76-5-102, MCA, these Regulations are intended to reduce flood losses through the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flooding or that may cause excessive increases in flood heights or velocities;
2. Require that uses of land vulnerable to floods, including public facilities, be developed or constructed to at least minimum standards or to otherwise 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. Prevent or regulate the construction of flood barriers which will impact other land, flood water depth or velocity of floodwaters;
6. Identify lands unsuitable for certain Development purposes because of flood hazards;
7. Distinguish between the land use regulations applicable to different portions of the Regulated Flood Hazard Area;
8. Apply more restrictive land use regulations within the Floodway of the Regulated Flood Hazard Area; and
9. Ensure that regulations and minimum standards balance the greatest public good with the least private injury.

1.6 **REGULATED AREA**

These Regulations apply only to the areas specifically adopted herein as Regulated Flood Hazard Areas as described in [Section 3](#) of these Regulations.

The Regulated Flood Hazard Area includes areas specifically identified, labeled and illustrated on maps such as Floodplain, Floodway, or Flood Fringe that have differing uses allowed and minimum Development requirements that apply.

The Regulated Flood Hazard Area supporting study and maps illustrating the regulatory area are based on studies and maps that have been specifically adopted pursuant to §76-5-201 et. seq. MCA. The original source of studies and data may be from a Flood Insurance Study by FEMA, or other studies by Corps of Engineers, Soil Conservation, United States Geological Service or other federal or state agency. See [Section 3.1](#) for additional information.

1.7 FLOODPLAIN ADMINISTRATOR AND CODE COMPLIANCE OFFICER

1. The Gallatin County Commission (“County Commission) hereby assigns and delegates Floodplain management responsibilities to the Department of Planning and Community Development. The Director of the Department of Planning & Community Development and their designee(s) are appointed as the Floodplain Administrator and are delegated the authority to administer, interpret, implement and enforce these Regulations for Gallatin County.
2. The County Commission also hereby assigns and delegates authority to the Code Compliance Officer to assist the Floodplain Administrator with the enforcement of these Regulations.
3. Decisions of the Floodplain Administrator and Code Compliance Officer may be appealed pursuant to [Section 13](#) of these Regulations.
4. The Floodplain Administrator is responsible for documenting and maintaining Gallatin County’s commitments pursuant to 44 CFR 59.22(a) to ensure the community remains eligible for participation in the National Flood Insurance Program. The Floodplain Administrator is also responsible for performing those disaster recovery responsibilities outlined in [Section 1.17](#) of these Regulations.
5. The Floodplain Administrator may represent Gallatin County for any necessary applications, approvals or endorsements (e.g. the FEMA Community Acknowledgment Form) to FEMA affecting the FEMA Special Flood Hazard Area. The Floodplain Administrator has discretion and is not obligated to sign the FEMA Community Acknowledgment Form if a proposed project is not compliant with the requirements of these Regulations, or is inconsistent with the County’s Floodplain management or land use goals.

1.8 COMPLIANCE

Development, New Construction, and the Alteration or Substantial Improvement of an Artificial Obstruction within the Regulated Flood Hazard Area may not commence without full compliance with the provisions of these Regulations.

1.9 ABROGATION AND GREATER RESPONSIBILITY

It is not intended by these Regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, zoning or other regulations in effect. However, where these Regulations impose greater restrictions, the provision of these Regulations must prevail.

1.10 REGULATION INTERPRETATION

In the interpretation and application of these Regulations, 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 or regulation.

1.11 WARNING AND DISCLAIMER OF LIABILITY

These Regulations do not imply that land outside the Regulated Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. These Regulations shall not create liability on the part of Gallatin County or any official or employee thereof for any flood damages that result from reliance on these Regulations or any decision made hereunder.

1.12 SEVERABILITY

If any section, clause, sentence, or phrase of these Regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding will in no way affect the validity of the remaining portions of these Regulations.

1.13 DISCLOSURE PROVISION

All property owners or their agents in the Regulated Flood Hazard Areas shall notify potential buyers or their agents that such property, is located within the Regulated Flood Hazard Area and is subject to the requirements of these Regulations. Information regarding Regulated Flood Hazard Area is available in the Department of Planning and Community Development.

1.14 AMENDMENT OF REGULATIONS

These Regulations may be amended by the County Commission whenever the public necessity and convenience and general welfare require such amendment. Prior to County Commission approval of any amendments, such amendments must be deemed acceptable by DNRC and FEMA and should be submitted to those agencies for review at least 30 days prior to official adoption. The County Commission shall consider amendments to these Regulations in a public hearing.

1.15 PUBLIC RECORDS

Records, including permits and applications, elevation and Floodproofing certificates, certificates of compliance, fee receipts, and other matters relating to these Regulations must be maintained by the Floodplain Administrator as public records and must be made available for inspection and for copies in compliance with Montana's public record requirements (Title 2, Chapter 6, MCA) and County policy.

1.16 SUBDIVISION REVIEW

The requirements of the Gallatin County Subdivision Regulations, in addition to those established in these Regulations, apply to subdivisions within the Regulated Flood Hazard Area, including but not limited to new or expansion of Existing Manufactured Home Parks.

1. The Base Flood Elevations and boundary of the Regulated Flood Hazard Area must be determined and considered during lot layout and Building location design;
2. Locations for future Structures and Development must be reasonably safe from flooding;
3. Adequate surface water drainage must be provided to reduce exposure to flood hazards;
4. Public utilities and facilities such as sewer, gas, electrical and water systems must be located and constructed to minimize or eliminate flood damage; and
5. Floodplain Permits must be obtained according to these Regulations before Development occurs that is within the Regulated Flood Hazard Area.

1.17 DISASTER RECOVERY

In the event of a natural or man-made disaster, the Floodplain Administrator should participate in the coordination of assistance and provide information to Structure owners concerning Hazard Mitigation and Recovery measures with the Federal Emergency Management Agency, Montana Disaster Emergency Services, Montana Department of Natural Resources and Conservation, and other state, local and private emergency service organizations.

Upon completion of a cursory street view Structure condition survey of the Regulated Flood Hazard Area, the Floodplain Administrator shall notify property owners that a permit is required for an Alteration or Substantial Improvement before repair or reconstruction commences on damaged Structures. These permitting requirements apply even when Structures are damaged by natural or man-made disasters other than floods (e.g. fire, wind, landslides, earthquakes).

Owners should be advised that Structures that have suffered Substantial Damage and will undergo Substantial Improvements require a Floodplain application and permit and must be upgraded to meet the minimum Development standards herein during repair or reconstruction.

1.18 PERMISSION TO ENTER

Submission of a Floodplain Permit application constitutes a grant of permission by the property owner or applicant for the Floodplain Administrator and Code Compliance Officer to enter the subject property to evaluate the site of the proposed project and to verify information contained in the application materials. Unless written consent is obtained for the entry, the Floodplain Administrator or Code Compliance Officer shall provide notice of entry by personal delivery to the property owner, owner's agent, lessee, or lessee's agent on whose lands entry is requested.

SECTION 2. DEFINITIONS

Unless specifically defined below, words or phrases used in these Regulations shall be interpreted as to give them the meaning they have in common usage and the most reasonable application. Additional definitions for terms commonly used for Floodplain management purposes are provided by FEMA and DNRC. Such terms and definitions may be utilized by the Floodplain Administrator for the purposes of administering these Regulations where the term is defined by FEMA or DNRC and is not in conflict with a definition included in these Regulations. For the purpose of these Regulations, the following definitions are adopted:

100-year Flood – One percent (1%) annual chance flood. See Base Flood

Alteration – (1) Any change or addition to an Artificial Obstruction that either increases its external dimensions or increases its potential flood hazard; or (2) Modification of a Regulated Flood Hazard Area by DNRC in accordance with the requirements of ARM 36.15.505.

Appurtenant Structure – A Structure in which the use is incidental or accessory to the use of a principal Structure.

Artificial Obstruction – Any obstruction which is not natural and includes any Development, dam, diversion, wall, Riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, Channel rectification, road, bridge, conduit, culvert, Building, refuse, automobile body, fill or other analogous Structure or matter in, along, across, or projecting into any Regulated Flood Hazard Area that may impede, retard, or change the direction of the 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 the water would carry the same downstream to the damage or detriment of either life or property. See also Development.

Base Flood (Flood of 100 Year Frequency) – A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) – The elevation above sea level of the Base Flood in relation to the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988 or unless otherwise specified.

Basement – Any area of a Building, except a Crawlspace, as having its Lowest Floor below ground level on all sides.

Building – A walled and roofed Structure, including a gas or liquid storage tank that is principally above ground, as well as a Manufactured Home.

Building, Elevated – A Building that has no Basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns. A Building on a Crawlspace is considered an Elevated Building.

Building, Non-Residential– Any Building that is not a Residential Building. See **Building, Residential**.

Building, Residential – A Building used for domestic house, designed for people to live in, providing accommodations in addition to other services mixed use of residential and non-residential use. All other Buildings are **Non-Residential Buildings**.

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

Code Compliance Officer - The director of the Gallatin County Code Compliance Department who investigates potential Violations and enforces the provisions of these Regulations.

Crawlspace – An Enclosure that has its interior floor area no more than 5 feet below the top of the next highest floor. See Enclosure and Sub grade Crawlspace.

Crawlspace, Sub-grade – A Crawlspace foundation Enclosure that has its interior floor no more than 5 feet below the top of the next higher floor and no more than 2 feet below the lowest adjacent grade on all sides. A foundation exceeding either dimension is a Basement.

Decision – A final affirmative act of the Floodplain Administrator or Code Compliance Officer evidenced in writing, giving an interpretation or determination, or granting or denying any permit, permission, or approval.

DNRC – Montana Department of Natural Resources and Conservation

Development –Any man-made change to improved or unimproved real estate, including but not limited to Artificial Obstructions, Buildings or other Structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. See also Artificial Obstruction.

Enclosure – That portion below the lowest elevated floor of an Elevated Building that is either partially or fully shut in by rigid walls including a Crawlspace, Sub grade Crawlspace, stairwell, elevator or a garage below or attached.

Encroachment – Activities or construction within the Regulated Flood Hazard Area including fill, New Construction, Substantial Improvements, and other Development.

Encroachment Analysis – A hydrologic and hydraulic analysis performed by a registered professional engineer to assess the effects of the proposed Artificial Obstruction or nonconforming use on Base Flood Elevation, flood flows and flood velocities.

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

Existing Artificial Obstruction or Nonconforming Use – An Artificial Obstruction or nonconforming use that was Established before land use regulations were adopted pursuant to Section 76-5-301(1), MCA.

FEMA – Federal Emergency Management Agency

Flood Fringe – The identified portion of the Floodplain of the Regulated Flood Hazard Area outside the limits of the Floodway.

Flood Insurance Rate Map (FIRM) - Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs), and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) - A compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. When a flood study is completed for the NFIP, the information and maps are assembled into an FIS. The FIS report contains detailed flood elevation data in flood profiles and data tables.

Flood of 100 Year Frequency (Base Flood) – A flood magnitude expected to recur on the average of once every 100-years or a flood magnitude that has a 1% chance of occurring in any given year.

Floodplain – The area of the Regulated Flood Hazard Area including and adjoining the watercourse or drainway that would be covered by the floodwater of a Base Flood. The area is partitioned into a Flood Fringe and Floodway where specifically designated. See Regulated Flood Hazard Area.

Floodplain Permit – The permit issued by the Floodplain Administrator that confirms a proposed Development, New Construction, Alteration or Substantial Improvement in the Regulated Flood Hazard Area is designed to comply with the requirements of these Regulations.

Floodway – The identified portion of the Floodplain of the Regulated Flood Hazard Area that is the Channel and the area adjoining the Channel that is reasonably

required to carry the discharge of the Base Flood without cumulatively increasing the water surface by more than one half foot

Floodplain Administrator –The Director of the Department of Planning & Community Development and their designee(s) who administer, interpret, implement, and enforce these Regulations..

Floodproofing – Any combination of structural and non-structural additions, changes, or adjustments to Structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, electrical, plumbing, HVAC systems, Structures and their contents. The term includes wet Floodproofing, dry Floodproofing and elevation of Structures.

Historic Structure - Any structure that is: (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (a) By an approved state program as determined by the Secretary of the Interior or (b) Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC) – An official response from FEMA that amends or revises the FEMA Special Flood Hazard Area and FEMA Flood Insurance Study for flood insurance purposes and/or flood risk hazard. FEMA Letters of Map Change specific to an amendment or revision include:

Letter of Map Amendment (LOMA) – A letter of determination from FEMA issued in response to a request that a property or Structure is not subject to the mandatory flood insurance requirement because it was inadvertently located in the effective FEMA Special Flood Hazard Area.

Letter of Map Revision Based on Fill (LOMR-F) – A letter of approval from FEMA removing the mandatory requirement for flood insurance on property based on placement of fill or an addition. Placement of fill or an addition must be preceded by a permit pursuant to these Regulations. Placement of fill does not remove the Development from the Regulated Flood Hazard Area or these Regulations.

Letter of Map Revision Floodway (LOMR-FW) – A letter of determination from FEMA issued in response to a request that a property or Structure mapped as being within the Floodway is not subject to the mandatory flood

insurance requirement because it was inadvertently located in the effective FEMA Special Flood Hazard Area.

Letter of Map Revision (LOMR) – An official FEMA amendment to the currently effective FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map based on a physical change to the Floodplain of the Special Flood Hazard Area. It is issued by FEMA and changes flood zones, delineations, and elevations on the FEMA Flood Insurance Rate Map and may amend the FEMA Flood Insurance Study. It must be preceded by an approved Alteration of the designated Floodplain from DNRC and subsequently an amendment to the Regulated Flood Hazard Area described in these Regulations.

Conditional Letter of Map Revision (CLOMR) – A FEMA letter of approval for a proposed physical change that when completed would propose to change the flood zones, delineation or elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study through a subsequent LOMR,. The CLOMR may be considered in an evaluation by DNRC and the Floodplain Administrator during consideration of a proposed Alteration to the Regulated Flood Hazard Area.

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

Maintenance - Customary and historical cleaning and removal of silt, branches, trees, sticks and other debris as well as minor repair or restoration of an Existing Structure or Artificial Obstruction to the size, shape, position and height it had immediately prior to its deterioration or destruction. Maintenance does not include changing the use of a property or Artificial Obstruction.

Manufactured Home Park or Subdivision – Means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale. Includes the construction of facilities for servicing the Manufactured Home lots and at a minimum includes the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Manufactured Home Park or Subdivision, Existing - A manufactured (mobile) home park or subdivision for which the construction of facilities for servicing the lots on which the Manufactured (Mobile) Homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or before December 31, 1974, or before the effective date of the community's initial Flood Insurance Rate Map (FIRM), whichever is later.

Manufactured Home Park or Subdivision, Expansion - The preparation of additional sites by the construction of facilities for servicing the lots on which manufactured (mobile) homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Manufactured Home Park Or Subdivision, New – A Manufactured Home Park or Subdivision for which the construction of facilities for servicing the lots on which the Manufactured Homes are to be affixed includes at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads and is completed on or after an area has been mapped as Regulated Flood Hazard Area..

Manufactured or Mobile Home – A Building that may be residential or non-residential, 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 and includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Natural Grade – The grade unaffected by construction techniques such as fill, landscaping or berming, occurring on or after an area has been mapped as Regulated Flood Hazard Area.

New Construction – Structures for which the commencement of clearing, grading, filling, or excavating to prepare a site for construction occurs on or after the effective date of these Regulations and includes any subsequent improvements to such Structures.

Non-Conforming Use - Development, use, or improvements that were lawful prior to the adoption, revision, or amendment to these Regulations, but that fails by reason of such adoption, revision or amendment to conform to the present requirements of these Regulations.

Notice of Decision – A document prepared by the Floodplain Administrator and recorded by the property owner in the land records of the Gallatin County Clerk and Recorder’s Office providing successors in interest with notice that the subject property is located within a Regulated Flood Hazard Area and evidence of a Decision made pursuant to these Regulations.

Owner – Any Person who has dominion over, control of, or title to an Artificial Obstruction.

Person – Includes any individual, or group of individuals, corporation, partnership, association or any other entity, including State and local governments and agencies.

Recreational Vehicle – A park trailer, travel trailer, or other similar vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a motorized vehicle; and (d) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use, not for use as a permanent dwelling.

Regulated Flood Hazard Area – A Floodplain whose limits have been designated pursuant to Part 2, Chapter 5 of Title 76, MCA, and is determined to be the area adjoining the watercourse that would be covered by the floodwater of a Base Flood. The Regulated Flood Hazard Area consists of the Floodway and Flood Fringe where specifically designated

Riprap – Stone, rocks, concrete blocks, or analogous materials that are placed along the bed or banks of a watercourse or drainway for the purpose of preventing or alleviating erosion.

Scour Depth – The maximum depth of streambed scour caused by erosive forces of the Base Flood.

Special Flood Hazard Area – Land area which has been specifically identified by the Federal Emergency Management Agency as the Floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is useful for the purposes of identifying flood hazards by local subdivisions of government for regulatory purposes as well as use by the National Flood Insurance Program for establishing risk zones and is used in helping to establish flood insurance premium rates. The FEMA flood hazard area zone designation or flood risk potential is as illustrated on FEMA’s Flood Hazard Boundary Map or Flood Insurance Rate Map and is further described as follows:

Zone A	No BFEs determined.
Zone AE	BFEs determined.
Zone AH	Flood depths of 1 to 3 feet (example areas of ponding); BFE determined
Zone AO	Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
Zone A99	Area to be protected from 1% annual chance flood by a Federal flood protection system under construction. No BFEs determined.
Zone C	See Zone X

Shaded Zone X	Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
Zone X	Areas determined to be outside the 0.2% annual chance floodplain.
Zone D	Areas in which flood hazards are undetermined, but possible.

Start of Construction - This is the date when the Floodplain Permit was issued, provided that the actual Start of Construction, repair, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a Building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For purposes of projects not involving Structures, the Start of Construction means the commencement of clearing, grading, filling or excavation for the purposes of preparing a site for construction. For a Substantial Improvement, actual Start of Construction means the first alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that alteration affects the external dimensions of the Building.

Structure – Any Building or Artificial Obstruction.

Substantial Damage – Damage of any origin sustained by a Structure whereby the cost of restoring the Structure to its before-damaged condition would equal or exceed 50 percent of the market value of the Structure before the damage occurred.

Substantial Improvement – 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 either before the start of construction of the improvement, including substantially damaged structures, regardless of the actual repair work performed;

1. Substantial Improvement is considered to occur when the first construction of any wall, ceiling, floor or other structural part of the Building commences;
2. The term does not include:
 - a. 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
 - b. 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, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter,

tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent Structure.

Variance – Means a grant or relief from the Development requirements of these Regulations which would permit construction in a manner that would be otherwise prohibited by these Regulations.

Violation – The failure of a Structure or other Development to be fully compliant with these Regulations.

SECTION 3. REGULATED FLOOD HAZARD AREA

3.1 REGULATED FLOOD HAZARD AREAS

1. The Regulated Flood Hazard Areas are the Floodplains of the 100-year Flood illustrated and referenced in the April 21, 2021 FEMA Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for Gallatin County, Montana, and those Letters of Map Change set forth in [Appendix A](#) of these Regulations.
2. The Regulated Flood Hazard Areas specifically described above have been delineated, designated and established pursuant to 76-5-201 et. seq., MCA.
3. The Floodplain Administrator may obtain, review, and reasonably use any Base Flood Elevation or Floodway data available from a Federal, State, or other reliable source to administer and enforce these Regulations when such data is not available from the Federal Emergency Management Agency, as may be the case with areas designated as Zone A on the FIRMs. Some such sources of information are listed in Table 4 of [Appendix A](#). Applicants are encouraged to consult with the Floodplain Administrator before proceeding with use of such data.
4. Sections [4](#), [5](#), [6](#), and [7](#) of these Regulations establish allowable uses and requirements for projects depending on the specific location within the Regulated Flood Hazard Area (e.g. Floodway, Flood Fringe, etc.).

3.2 INTERPRETATION OF REGULATED FLOOD HAZARD AREA BOUNDARIES

1. The mapped boundaries of the Floodplain illustrated in the referenced studies and maps in this Section are a guide for determining whether property is within the Regulated Flood Hazard Area. Base Flood Elevations and other supporting documentation in the flood study, if such documentation exists, take precedence over any map illustrations. Requirements for determining the exact boundaries of the Regulated Flood Hazard Area and Floodway are provided below. Protocol for using the supporting documentation in the flood study to determine the Base Flood Elevation at a specific location is provided in [Appendix B](#).
2. The Floodway boundary, where identified within the Regulated Flood Hazard Area, is as illustrated on the referenced maps and studies. The location of the Floodway boundary may be physically located by surveying in the boundary from coordinates, or other methodology acceptable to the Floodplain Administrator.
3. The boundary of the non-Floodway portion of the Regulated Flood Hazard Area is delineated according to where the Base Flood Elevation from the

applicable flood study intersects Natural Grade adjacent to the flooding source that is equal in elevation to the Base Flood Elevation.

4. The Floodplain Administrator may require an applicant to provide additional information described below to determine whether or not the proposed Artificial Obstruction or Development is within the Regulated Flood Hazard Area:
 - a. Where Base Flood Elevations exist, the applicant may be required to provide additional information such as elevation information certified by a registered professional engineer or land surveyor in order to determine if the proposed Artificial Obstruction or Development is subject to these Regulations.
 - b. Where Base Flood Elevations do not exist, the applicant may be required to provide additional information, including but not limited to a Base Flood Elevation certified by a registered professional engineer, to determine the location of the regulatory boundary, or to be used for documenting compliance with the specific requirements of these Regulations.
5. Any individual who believes their property has been inadvertently included in the Regulated Flood Hazard Area may submit scientific and/or technical information to FEMA in the form of an application for a Letter of Map Change. Scientific or technical information submitted to FEMA may be considered by the Floodplain Administrator, although the Floodplain Administrator's determination whether a property is located within the Regulated Flood Hazard Area and subject to the requirements of these Regulations is independent of any determination made by FEMA.

3.3 ALTERATION OF REGULATED FLOOD HAZARD AREA

1. The Regulated Flood Hazard Area may be altered pursuant to the Section 76-5-201 et. seq. MCA and the requirements of these Regulations.
2. Any change to the Regulated Flood Hazard Area shall only become effective upon amendment of [Section 3.1](#) of these Regulations;
3. Substantial natural physical change or new technical or scientific flood data showing that the Base Flood Elevation has or may be changed or was erroneously established shall be brought to the attention of DNRC and FEMA;
4. Any Floodplain Permit application for a proposed Development or Artificial Obstruction that will result in an increase of 0.5 feet or more to the Base Flood Elevation of a Regulated Flood Hazard Area without a Floodway, or an increase of more than 0.00 feet to the Base Flood Elevation of a

Floodway, shall not be approved by the Floodplain Administrator until a Conditional Letter of Map Change is approved by FEMA;

5. A determination by the Floodplain Administrator that land areas located within the non-Floodway portion of the Regulated Flood Hazard Area are naturally above the Base Flood Elevation as proven by an elevation survey certified by a registered engineer or licensed land surveyor does not constitute or require an Alteration or an amendment of the Regulated Flood Hazard Area. Elevation documentation related to such areas shall be maintained as a public record that more explicitly defines the Regulated Flood Hazard Area boundary; and
6. Elevating with Suitable Fill as permitted does not alter the Regulated Flood Hazard Area or remove the elevated area from the Regulated Flood Hazard Area.

SECTION 4. USES ALLOWED WITHOUT A PERMIT WITHIN THE REGULATED FLOOD HAZARD AREA

4.1 GENERAL

Within the Regulated Flood Hazard Area established by these Regulations, there are Existing Artificial Obstructions and uses that were lawful prior to the adoption or amendment of these Regulations, but no longer conform to the present requirements of these Regulations. It is the intent of these Regulations to allow such Artificial Obstructions and nonconforming uses to remain in the state and location to which they existed at the time of adoption or amendment of these Regulations without need for a permit. However, Alteration or Substantial Improvement of an Existing Artificial Obstruction or Nonconforming Use requires a Floodplain Permit. Maintenance of an Existing Artificial Obstruction or Nonconforming Use does not require a Floodplain Permit if it does not cause an Alteration or Substantial Improvement.

4.2 OPEN SPACE USES

The following open space uses shall be allowed without a permit in the Regulated Flood Hazard Area, provided that such uses are not prohibited by any other regulation or statute, do not require Structures, and do not require fill, grading, excavation or storage of materials or equipment:

1. Agricultural uses, not including related Structures, such as tilling, farming, irrigation, ranching, harvesting, grazing, etc;
2. Accessory uses, not including Structures, such as loading and parking areas, or emergency landing strips associated with industrial or commercial facilities;
3. Forestry, including processing of forest products with portable equipment;
4. Recreational Vehicles and travel trailers, provided that the vehicle(s) are onsite for less than 180 days in any calendar year, ready for highway use with wheels intact, connected with only quick disconnect type utilities and securing devices, and have no permanently attached additions. After 180 days in any calendar year, and for the balance of the calendar year, the Recreational Vehicles must be moved to either a location outside of the Regulated Flood Hazard Area on the property or moved off the property entirely;
5. Residential uses such as lawns, gardens, parking areas, and play areas;
6. Maintenance of the existing state of an existing open space uses including preventive Maintenance activities such as bridge deck rehabilitation and

roadway pavement preservation activities. Maintenance cannot increase the external size or increase the hazard potential of the existing open space use;

7. Public or private recreational uses not requiring Structures such as picnic grounds, swimming areas, boat ramps, parks, campgrounds, driving ranges, archery ranges, wildlife management and natural areas, alternative livestock ranches (game farms), fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails;
8. Fences that have a low impact to the flow of water such as barbed wire fences and wood rail fences, and not including permanent fences crossing Channels. Fences that have the potential to stop or impede flow or debris such as a chain link or privacy fence requires a Floodplain Permit and meet the requirements of [Section 6.11](#);
9. Addition of highway guard rail, signing that have a low impact to the flow of water along an existing roadway; and
10. Irrigation and livestock supply wells, provided that they are located at least 500 feet from domestic water supply wells and with the top of casing 18” above the Base Flood Elevation.

SECTION 5. PROHIBITED USES, ACTIVITIES AND STRUCTURES WITHIN THE REGULATED FLOOD HAZARD AREA

5.1 FLOODWAY

The following Artificial Obstructions and uses are prohibited in the Floodway of the Regulated Flood Hazard Area, except for those Established before land use regulations pursuant to Section 76-5-301, MCA have been adopted:

1. Residential Buildings and Non-Residential Buildings, except for those authorized under [Section 6.11](#) of the Regulations;
2. An Artificial Obstruction (e.g. Structure, fill, etc.), or excavation that would cause water to be diverted from the Floodway, cause erosion, obstruct the natural flow of waters or reduce the carrying capacity of the Floodway. Notwithstanding these requirements, excavation or fill may be allowed subject to Floodplain Permit approval when it is a component to a permitted use allowed in these Regulations and complies with all applicable requirements of these Regulations;
3. The construction or storage of an object (Artificial Obstruction) subject to flotation or movement during flood level periods;
4. Solid waste disposal, hazardous waste disposal, water supply and wastewater treatment and disposal systems, unless the systems meet the local health and sanitation regulations and when permitted pursuant to these Regulations and are designed to minimize or eliminate infiltration of flood waters and avoid impairment or contamination;
5. Storage of toxic, flammable, hazardous or explosive materials; and
6. Cemeteries, mausoleums, or any other burial grounds.

5.2 FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITHOUT A FLOODWAY

The following Artificial Obstructions and nonconforming uses are prohibited in the Flood Fringe or Regulated Flood Hazard Area without a Floodway, except for those established before land use regulations have been adopted:

1. Solid waste disposal, hazardous waste disposal, water supply and wastewater treatment and disposal systems unless the systems meet the local health and sanitation regulations and when permitted pursuant to these Regulations and are designed to minimize or eliminate infiltration of flood waters and avoid impairment or contamination;

2. Storage of toxic, flammable, hazardous or explosive materials;
3. The construction or storage of an Artificial Obstruction subject to flotation or movement during flood level periods;
4. Expansion of a Manufactured Home Park or Subdivision
5. New Manufactured Home Park or Subdivision;
6. Cemeteries, mausoleums, or any other burial grounds;
7. Critical facilities, including Buildings and associated Structures that provide essential community care and emergency operation functions such as schools, hospitals, nursing home facilities, fire stations, police stations, utility substations, and public water and wastewater treatment facilities; and
8. Excavation or fill that is not a component to a permitted use allowed in these Regulations.

SECTION 6. DEVELOPMENT REQUIREMENTS IN THE FLOODWAY

6.1 USES REQUIRING PERMITS

Artificial Obstructions including Alterations and Substantial Improvements specifically listed in Sections [6.3](#) through [6.15](#) may be allowed within the Floodway only with an approved Floodplain Permit. A Floodplain Permit may be issued by the Floodplain Administrator if the General Requirements in Section 6.2 and the applicable requirements in Sections [6.3](#) to [6.15](#) are met.

6.2 GENERAL REQUIREMENTS

An application for a Floodplain Permit shall meet the following requirements:

1. All projects shall be designed and constructed to ensure that they do not adversely affect the flood hazard on other properties and are reasonably safe from flooding;
2. All projects shall assure that the carrying capacity of the Floodway is not reduced. All projects in the Floodway shall meet the following:
 1. Provide certification from a registered professional engineer in the form of an Encroachment Analysis demonstrating that the project does not increase the Base Flood Elevation or significantly increase the velocity or flow of the watercourse. The Floodplain Administrator may accept a minimal or qualitative Encroachment Analysis from a registered professional engineer when the project or Development does not include a Structure, Alteration of the Floodway, fill, or storage of materials or equipment; and
 2. Any project that proposes an increase to the Base Flood Elevation of more than 0.00 feet, or that significantly increases the velocity or flow of the watercourse requires approval of an Alteration of the Regulated Flood Hazard Area pursuant to [Section 3.3](#) and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance.
3. Clearing of riparian vegetation within 50 feet of the mean annual high water mark shall be the minimum necessary to conduct the proposed project. No large-scale clearing of riparian vegetation within 50 feet of the mean annual high water mark shall be allowed.

6.3 MINING OF MATERIAL REQUIRING EXCAVATION FROM PITS OR POOLS

Mining of material requiring excavation from pits or pools may be permitted provided, in addition to the requirements of [Section 6.2](#), that:

1. A buffer strip of undisturbed land of sufficient width as determined by a registered professional engineer to prevent flood flows from channeling into the excavation is left between the edge of the Channel and the edge of the excavation;
2. The excavation meets all applicable laws and regulations of other local and state agencies; and
3. Excavated material may be processed on site but shall be stockpiled outside the Floodway, and if practicable, outside the Regulated Flood Hazard Area. If material will be stockpiled within the Regulated Flood Hazard Area, it must meet the requirements of [Section 6.7](#) of these Regulations.

6.4 TRANSPORTATION-RELATED STREAM CROSSINGS

Transportation-related stream crossing may be permitted provided, in addition to the requirements of [Section 6.2](#) and the requirements of the Gallatin County Transportation Design and Construction Standards, that:

1. Crossings are designed to offer minimal obstructions to the flood flow;
2. Where failure or interruption of public transportation facilities would result in danger to public health or safety and where practicable and in consideration of FHWA Federal-Aid Policy Guide 23CFR650A:
 1. Bridge low chords shall have freeboard of at least two (2) feet above the Base Flood Elevation to help pass ice flows, the Base Flood discharge and any debris associated with the discharge; and
 2. Culverts shall be designed to pass the Base Flood discharge and maintain at least two (2) feet freeboard on the crossing surface;
3. Normal overflow Channels, if possible are preserved to allow passage of sediments to prevent aggradations; and
4. Mid-stream supports for bridges, if necessary, have footings buried below the maximum Scour Depth.

6.5 LIMITED FILLING FOR TRANSPORTATION-RELATED EMBANKMENTS NOT ASSOCIATED WITH STREAM CROSSINGS

Limited filling for transportation-related embankments not associated with stream crossings may be permitted provided, in addition to the requirements of [Section 6.2](#), that:

1. The fill is Suitable Fill;
2. Reasonable alternate transportation routes outside the Floodway are not available; and
3. The Encroachment is located as far from the stream Channel as possible.

6.6 BURIED OR SUSPENDED UTILITY TRANSMISSION LINES

Buried or suspended utility transmission lines may be permitted provided, in addition to the requirements of [Section 6.2](#), that:

1. Suspended utility transmission lines are designed such that the lowest point of the suspended line is at least six (6) feet higher than the Base Flood Elevation;
2. Towers and other Appurtenant Structures are designed and placed to withstand and offer minimal obstruction to flood flows;
3. Alternatives such as alternative routes, directional drilling, and aerial crossings are considered when technically feasible; and
4. Utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum Scour Depth determined by a registered professional engineer for the Base Flood.

6.7 STORAGE OF MATERIALS AND EQUIPMENT

Storage of materials and equipment may be permitted provided, in addition to the requirements of [Section 6.2](#), that:

1. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent flotation or downstream movement; or
2. The material or equipment is readily removable within the limited time available after flood warning. Storage of flammable, toxic or explosive materials shall not be permitted.

6.8 DOMESTIC WATER SUPPLY WELLS

Domestic water supply wells may be permitted provided, in addition to the requirements of [Section 6.2](#), and any applicable requirements of the Montana Department of Environmental Quality or the Gallatin City-County Health Department that:

1. They are driven or drilled wells located on ground higher than surrounding ground to assure positive drainage from the well;
2. They require no other Structures (e.g. a well house);
3. Well casings are water tight to a distance of at least twenty five (25) feet below the ground surface and the well casing height is a minimum of two (2) feet above the Base Flood Elevation or capped with a watertight seal and vented two (2) feet above the Base Flood Elevation;
4. Water supply lines have a watertight seal where the lines enter the casing;
5. All pumps and electrical lines and equipment are either of the submersible type or are adequately floodproofed; and
6. Check valves are installed on main water lines at wells and at all Building entry locations.

6.9 BURIED AND SEALED VAULTS FOR SEWAGE DISPOSAL IN CAMPGROUNDS AND RECREATIONAL AREAS

Buried and sealed vaults for sewage disposal in campgrounds and recreational areas may be permitted provided, in addition to the requirements of [Section 6.2](#), demonstrate approval by Montana Department of Environmental Quality and the Gallatin City-County Health Department.

6.10 PUBLIC AND PRIVATE CAMPGROUNDS

Public and private campgrounds may be permitted provided, in addition to the requirements of [Section 6.2](#), that:

1. Access roads require only limited fill and do not obstruct or divert flood waters;
2. The project meets the accessory Structures requirements of [Section 6.11](#) of these Regulations;
3. No new dwellings or permanent Mobile Homes are allowed; and

4. Recreational Vehicles are onsite for less than 180 days, in any calendar year, ready for highway use with wheels intact, connected with only quick disconnect type utilities and securing devices, and have no permanently attached additions. After 180 days in any calendar year, and for balance of the calendar year, the Recreational Vehicles must be moved to either a location outside of the Regulated Flood Hazard Area on the property or moved off the property entirely, and no other Recreational Vehicle may occupy the same location within the Regulated Flood Hazard Area for the balance of the calendar year.

6.11 STRUCTURES ACCESSORY OR APPURTENANT

Structures accessory or appurtenant to permitted uses such as boat docks, loading and parking areas, marinas, sheds, emergency airstrips, permanent fences crossing Channels that may impede or stop flows or debris, picnic shelters and tables and lavatories, that are incidental to a principal Structure or use, provided in addition to the requirements of [Section 6.2](#), that:

1. The Structures are not intended for human habitation or supportive of human habitation;
2. The Structures will have low flood damage potential;
3. The Structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the Channel as possible;
4. The Structures will be constructed and placed so as to offer a minimal obstruction to flood flows;
5. Only those wastewater disposal systems that are approved in accordance with the applicable requirements of the Montana Department of Environmental Quality and the Gallatin City/County Health Department may be permitted;
6. Service facilities within these Structures such as electrical, heating and plumbing are floodproofed according to the requirements in [Section 7](#);
7. The Structures are firmly anchored to prevent flotation;
8. The Structures do not require fill and/or substantial excavation; and
9. No Alteration or change of use of the Structures shall occur unless such Alteration or change of use complies with the requirements of these Regulations.

6.12 CONSTRUCTION OF OR CHANGE TO SURFACE WATER DIVERSIONS UNDER § 85-2-302 - 402, MCA;-

Construction of or change to surface water diversions under Section 85-2-302 – 402 MCA may be permitted provided, in addition to the requirements of [Section](#)

[6.2](#), that Applicant has the design is certified by a registered professional engineer and the design includes:

1. Measures to minimize potential erosion from a Base Flood; and
2. Designs and plans that demonstrate any permanent Structure in the stream is designed to safely withstand the forces associated with hydrodynamic and hydrostatic pressures including flood depths, velocities, impact, ice buoyancy, and uplift forces associated with the Base Flood.
3. For any new surface water diversion or change in the place of a surface water diversion, information sufficient to evaluate how the new diversion or change in place of diversion affects flood flows.

6.13 FLOOD CONTROL AND STREAM BANK STABILIZATION MEASURES

Flood Control and stream bank stabilization measures may be permitted provided, in addition to the requirements of [Section 6.2](#), that the design is certified by a registered professional engineer and constructed to substantially resist or withstand the forces associated with hydrodynamic and hydrostatic pressures, including flood depths, velocities, impact, ice, buoyancy, and uplift associated with the Base Flood. The design must also show compliance with the following applicable criteria:

1. **LEVEE AND FLOODWALL** construction or Alteration must meet the following standards; however, construction in accordance with these standards does not guarantee the levee or floodwall will be recognized by FEMA:
 1. Must be designed and constructed with Suitable Fill and be designed to safely convey a Base Flood;
 2. Must be constructed at least 3 feet higher than the elevation of the Base Flood unless the levee or floodwall protects agricultural land only; and
 3. Must meet state and federal levee engineering and construction standards and be publically owned and maintained if it protects Structures of more than one landowner.
2. **STREAM BANK STABILIZATION, PIER AND ABUTMENT PROTECTION PROJECTS:**
 1. Must be designed and constructed using methods and materials that are the least environmentally damaging yet practicable, and should be designed to withstand a Base Flood once the project's vegetative components, if any, are mature, or within 5 years of installation, or other time required by the Floodplain Administrator. Once vegetation is

mature and established it should not require substantial yearly Maintenance;

2. Materials for the project may be designed to erode over time but not fail catastrophically and impact others. Erosion, sedimentation, and transport of the materials may be designed to be similar in amount and rate experienced by existing stable natural stream banks during the Base Flood;
 3. Shall not increase erosion upstream, downstream, across from or adjacent to the site in excess of the existing stable natural stream bank during the Base Flood; and
 4. Materials for the project may include but are not limited to Riprap, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials.
- 3. CHANNELIZATION PROJECTS** where the excavation and/or construction of a Channel is for the purpose of diverting the entire or a portion of the flow of a stream from its established course, the project must:
1. Not increase the magnitude, velocity, or elevation of the Base Flood; and
 2. Meet the requirements of [Section 6.13.2](#).
- 4. DAMS:**
1. The design and construction shall be in accordance with the Montana Dam Safety Act and applicable safety standards; and
 2. The project shall not increase flood hazards downstream either through operational procedures or improper hydrologic/hydraulic design.

6.14 STREAM AND BANK RESTORATION

Stream and bank restoration projects intended to reestablish the terrestrial and aquatic attributes of a natural stream and not for protection of a Structure or Development may be permitted provided, in addition to the requirements of [Section 6.2](#), that:

1. Materials may include but are not limited to boulders, rock cobble, gravel, native stream bed materials, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials and that reasonably replicates the bed and bank of the natural stream;
2. The project will not increase velocity or erosion upstream, downstream, across from or adjacent to the site;

3. Erosion, sedimentation, and transport of the materials are not more than the amount and rate of existing natural stream banks during the Base Flood; and
4. The project may be designed to allow vegetative materials to mature within a period up to 5 years from the time of installation or other time required by the Floodplain Administrator. Once vegetation is mature and established it should not require substantial yearly Maintenance.

6.15 EXISTING RESIDENTIAL AND NON-RESIDENTIAL BUILDINGS IN THE FLOODWAY

An Alteration or Substantial Improvement to an existing Building may be permitted provided, the requirements of [Section 6.2](#) and the applicable requirements in [Section 7](#) for residential or Non-Residential Buildings are met. If an existing Building is required to be elevated to meet the applicable requirements it shall not be elevated on a fill pad.

6.16 OTHER USES NOT SPECIFICALLY AUTHORIZED IN THE FLOODWAY

A Floodplain Permit is required for Artificial Obstructions, Developments, and uses in the Floodway not specifically authorized in [Section 6](#), except as allowed without a permit in [Section 4](#), or as prohibited in [Section 5](#). Such Artificial Obstructions, Developments, and uses shall demonstrate compliance with the requirements of [Section 6.2](#) and any other applicable provisions of these Regulations. In reviewing applications for uses not specifically authorized in the Floodway, the Floodplain Administrator may apply relevant standards from these Regulations for similar uses.

SECTION 7. DEVELOPMENT REQUIREMENTS IN THE FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITH NO FLOODWAY

7.1 USES REQUIRING PERMITS

All uses allowed by permit in the Floodway shall also be allowed by permit within the Flood Fringe or Regulated Flood Hazard Area with no Floodway. Such uses are subject to the requirements in [Section 6](#), with the exception of the Encroachment limit of [Section 6.2.2](#). Instead, such uses are subject to the Encroachment limits of this [Section 7.2.10](#).

Except for those Artificial Obstructions prohibited pursuant to [Section 5.2](#), all other Artificial Obstructions, including but not limited to New Construction, Substantial Improvements, Alterations to residential, nonresidential Structures, Manufactured Homes, and related Suitable Fill or excavation may be allowed only with an approved Floodplain Permit. A Floodplain Permit may be issued by the Floodplain Administrator if the General Requirements in [Section 6.2](#) and the applicable requirements in Sections [7.2](#) through [7.4](#) are met.

7.2 GENERAL REQUIREMENTS

An application for a Floodplain Permit must demonstrate or meet the following requirements, as applicable:

1. **Base Flood Elevation** Where necessary to meet the appropriate elevation requirement in these Regulations, the Base Flood Elevation(s), from the reference materials listed in [Section 3.1](#), must be determined ([see Appendix B](#)) by a registered professional engineer and utilized in the design and layout of the project to demonstrate the design and construction criteria herein are met. For Regulated Flood Hazard Areas that do not have computed and published Base Flood Elevations in the adopted flood hazard study referenced in [Section 3](#), a Base Flood Elevation must be determined by a registered professional engineer or obtained from a reliable source, utilizing appropriate engineering methods and analyses. Documentation of how the Base Flood Elevation was computed shall be submitted with the permit application. Please check with the Floodplain Administrator to learn whether a Base Flood Elevation from a reliable source is already available for a project area.
2. **Flood Damage** Structures must be constructed by methods and practices that minimize flood damage and Structures must be reasonably safe from flooding.
3. **Surface Drainage** Adequate surface drainage must be provided around Structures to direct water away from the Structure.

4. **Materials** Structures must be constructed with materials resistant to flood damage to an elevation of at least two (2) feet above the Base Flood Elevation.
5. **Artificial Obstructions** Structures, excavation or fill must not be prohibited by any other statute, regulation, ordinance, or resolution; and must be compatible with subdivision, zoning and any other land use regulations, if any.
6. **Anchoring** All construction and Substantial Improvements 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.
7. **Certification** Written certification by a registered professional engineer, land surveyor, or other qualified Person must accompany the application where required by these Regulations, including but not limited to an Encroachment Analysis, adequacy of structural elevations, Base Flood Elevation determinations, Floodproofing, Enclosure flood openings, and design and construction to withstand the hydrodynamic forces and hydrostatic pressures of flood depths, velocities, impact, buoyancy, uplift forces associated with the Base Flood and surface drainage. A certification is not intended to constitute a warranty or guarantee of performance, expressed or implied.
8. **Access** New Structures within the Regulated Flood Hazard Area must demonstrate safe access during times of flooding for ordinary and emergency services by demonstrating that the access road is not located along a route where it is likely to be eroded by a watercourse, and that the road is safely passible by a standard passenger vehicle under Base Flood conditions.
9. **Location of Structures**
A Floodplain Permit may only be issued for a Structure(s) in the Regulated Flood Hazard Area if it is demonstrated that there are no reasonable alternate locations on the property for the Structure(s) outside the Regulated Flood Hazard Area.
10. **Encroachment Analysis**
 1. All applications in the Regulated Flood Hazard Area without a Floodway must be supported by an Encroachment Analysis prepared by a registered professional engineer to demonstrate the effect of the Artificial Obstruction on flood flows, velocities and the Base Flood Elevation;

- a. Although all other Development standards herein apply, a minimal or qualitative Encroachment Analysis may be accepted when the project or Development does not require a Structure, Alteration of the Floodplain, involve a net increase in fill, grading that could reduce conveyance, excavation or storage of materials or equipment.
 2. The maximum allowable Encroachment is certified by a registered professional engineer to be at or less than 0.5 feet increase to the Base Flood Elevation unless approval of an Alteration of the Regulated Flood Hazard Area pursuant to [Section 3](#) and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance.
- 11. Electrical Systems Floodproofing** All electrical service materials, equipment and installation for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:
1. 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 above the Base Flood Elevation;
 2. Portable and movable electrical equipment may be placed below the Base Flood Elevation, provided that the equipment can be disconnected by a single plug and socket assembly of the submersible type;
 3. The main power service lines must have automatically operated electrical disconnect equipment or manually operated electrical disconnect equipment located at an accessible remote location outside the Regulated Flood Hazard Area or two feet above the Base Flood Elevation; and
 4. All electrical wiring systems installed below the Base Flood Elevation must be suitable for continuous submergence and may not contain fibrous components.
- 12. Heating and Cooling Systems Floodproofing** Heating and cooling systems for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:
1. Float operated automatic control valves must be installed so that fuel supply is automatically shut off when flood waters reach the floor level where the heating and cooling systems are located;

2. 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;
 3. Electrical Systems Floodproofing must be met; and
 4. Furnaces, cooling units, and ductwork must be installed at least two (2) feet above the Base Flood Elevation.
- 13. Plumbing Systems Floodproofing** Plumbing systems for uses in the Regulated Flood Hazard Area must be certified to meet the following requirements:
1. Sewer lines, except those to a buried and sealed vault, must have a backwater prevention valve installed to prevent sewage backup into permitted Structures; and
 2. All toilets, stools, sinks, urinals, vaults, and drains must be located so the lowest point of possible flood water entry is at least two (2) feet above the Base Flood Elevation.
- 14. Structural Fill Floodproofing** Fill used to elevate Structures, including but not limited to residential and Non-Residential Buildings, must be certified by a registered professional engineer to meet the following requirements:
1. The filled area must be a minimum of 0.5 feet above the Base Flood Elevation and extend at least fifteen (15) feet beyond the Structure in all directions.
 - a. Where existing streets, utilities, lot dimensions, or additions onto existing Structures, make strict compliance with this provision impossible, the permit issuing authority may authorize a lesser amount of fill;
 2. Fill material must be Suitable Fill, that is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent Structure;
 3. The fill must be compacted to minimize settlement and compacted to 95 percent of the maximum density. Compaction of earthen fill must be certified by an engineer;
 4. No portion of the fill is allowed within the Floodway; and

5. The fill slope must not be steeper than 1 ½ horizontal to 1 vertical unless substantiating data justifying a steeper slope is provided and adequate erosion protection is provided for fill slopes exposed to floodwaters.

15. Wet Floodproofing Buildings or portions of Buildings to be wet floodproofed according to these Regulations must be certified by a registered professional engineer to meet the following:

1. Materials used for walls and floors are resistant to flooding to an elevation two (2) feet or more above the Base Flood Elevation;
2. The Building or Enclosure must be designed to equalize hydrostatic forces on walls by allowing for entry and exit of floodwaters. Opening designs must be certified by a registered professional engineer to meet or exceed the requirements of following:
 1. Automatically allow entry and exit of floodwaters through screens, louvers, valves, and other coverings or devices;
 2. Have two (2) or more openings with a total net/rated area of not less than one (1) square inch for every one (1) square foot of enclosed area below the Lowest Floor;
 3. Openings shall be located on a minimum of two walls, except if the Enclosure is partially subgrade, a minimum of 2 openings may be provided on a single wall if certified by a registered professional engineer; and
 4. Have the bottom of all openings no higher than one (1) foot above the higher of the exterior or interior adjacent grade or floor immediately below the openings.

16. Dry Floodproofing Building designs that do not allow internal flooding must be certified by a registered professional engineer according to these Regulations to meet the following:

1. Building use must be for non-residential use only and does not include mixed residential and non-residential use;
2. Be Floodproofed to an elevation no lower than two (2) feet above the Base Flood Elevation;

3. Be constructed of impermeable membranes or materials for floors and walls and have water tight Enclosures for all windows, doors and other openings; and
 4. Be designed to withstand the hydrostatic pressures and hydrodynamic forces resulting from the Base Flood and the effects of buoyancy.
17. **Elevation of the Lowest Floor** Elevating the Lowest Floor may be by either Suitable Fill, foundation wall Enclosure, stem walls, pilings, posts, piers, columns or other acceptable means.
18. **Crawlspaces** Crawlspace foundation Enclosures, including Sub-grade Crawlspace Enclosures below the Lowest Floor, must meet the wet Floodproofing requirements and be designed so that the Crawlspace floor is at or above the Base Flood Elevation. Where practicable, the lowest interior elevation within a Crawlspace shall be higher than the lowest adjacent exterior grade. Crawlspace foundations must have an inside dimension of not more than five (5) feet from the ground to the top of the living floor level and a Sub-grade Crawlspace must also have the interior ground surface no more than two (2) feet below the exterior lowest adjacent ground surface on all sides. A sub grade foundation exceeding either dimension is a Basement.
19. **Manufactured Home Anchors** For new placement, Substantial Improvement or replacement of Manufactured Homes for residential or nonresidential use including additions, the chassis must be secure and must resist flotation, collapse or lateral movement by anchoring with anchoring components capable of carrying a force of 4,800 pounds and as follows:
1. For Manufactured Homes less than fifty (50) feet long, over-the-top ties to ground anchors are required at each of the four (4) corners of the home, with two additional ties per side at intermediate locations; or
 2. For Manufactured Homes more than fifty (50) feet long, frame ties to ground anchors are required at each corner of the home with five (5) additional ties per side at intermediate points.

7.3 **RESIDENTIAL BUILDING REQUIREMENTS**

New Construction, Alterations, and Substantial Improvements of residential dwellings, Manufactured Homes, including replacement of Manufactured Homes, must be constructed such that:

1. **Elevation of the Lowest Floor** The Lowest Floor of the Building including an attached garage or Basement must be two (2) feet or more above the Base Flood Elevation;

2. **Enclosure** Enclosures, such as Crawlspace, in elevated Residential Buildings shall be wet floodproofed and the lowest elevation within the Enclosure must be at or above the Base Flood Elevation. Use of such Enclosures is limited to facilitating Building component access. An attached garage floor must be two (2) or more feet above the Base Flood Elevation and does not have to be wet floodproofed; and
3. **Recreational Vehicles** Recreational Vehicles on site for more than 180 days or not ready for highway use must meet the requirements for Manufactured Homes for residential use.

7.4 **NON-RESIDENTIAL BUILDING REQUIREMENTS**

New Construction, Alterations, and Substantial Improvements of Non-Residential Buildings must be constructed such that:

1. **Elevation of the Lowest Floor** The Lowest Floor of the Building must be elevated two (2) feet above the Base Flood Elevation or adequately dry floodproofed according to this Section. The Lowest Floor may be wet floodproofed provided the use is limited to only parking, loading and storage of equipment or materials not appreciably affected by floodwater;
2. **Enclosure** Enclosures below the Lowest Floor on Elevated Buildings must be wet floodproofed and the use must be limited to parking, access or storage, or must be adequately dry floodproofed according to this Section;
3. **Manufactured Buildings** Manufactured Buildings proposed for use as Non-Residential Buildings cannot be dry floodproofed; and
4. **Agricultural Structures** The following additional requirements and exceptions from the requirements of [Section 7.4](#) apply to agricultural Structures not intended to be insurable, used solely for agricultural purposes, having low flood damage potential, used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including raising of livestock and animal confinement facilities, and not intended for human habitation:
 1. Such Structures may be exempted by the Floodplain Administrator from the Lowest Floor Elevation requirements established in [Section 7.4.1](#) provided the Lowest Floor of the Structure is elevated to at least the Base Flood Elevation or adequately dry floodproofed in conformance with the requirements of [Section 7.2.16](#); and
 2. Such Structures shall comply with the requirements of [Section 6.11](#).

7.5 OTHER USES NOT SPECIFICALLY AUTHORIZED IN THE FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITH NO FLOODWAY

A Floodplain Permit is required for Artificial Obstructions, Developments, and uses in the Flood Fringe or Regulated Flood Hazard Area with no Floodway not specifically authorized in [Section 7](#), except as allowed without a permit in [Section 4](#), or as prohibited in [Section 5](#). Such Artificial Obstructions, Developments, and uses shall demonstrate compliance with the requirements of [Section 7.2](#) and any other applicable provisions of these Regulations. In reviewing applications for uses not specifically authorized in the Flood Fringe, the Floodplain Administrator may apply relevant standards from these Regulations for similar uses.

SECTION 8. FORMS AND FEES

8.1 FORMS.

The Floodplain Administrator may develop and require such forms as needed to implement these Regulations, including the following:

1. **Floodplain Permit Application Form** –The form developed by the Gallatin County Floodplain Administrator outlining minimum submittal requirements and other information that must be included with an application for a project within the Regulated Flood Hazard Area.
2. **Floodplain Permit Compliance Report** – A report developed by the Applicant that is required to be submitted to the Floodplain Administrator once the permitted project in the Regulated Flood Hazard Area is completed or within the designated time stipulated on the Floodplain Permit. A compliance report including an Elevation Certificate and or Floodproofing Certificate may be required where specified for the purpose of documenting compliance with the requirements of the permit.
3. **Floodplain Variance Application Form** – An application submitted to the Floodplain Administrator by the Applicant to request a Variance from the requirements of these Regulations as described in [Section 12](#).
4. **Floodplain Appeal Notice Form**– A form submitted by the Applicant or an aggrieved party to initiate the appeal process described in [Section 13](#).
5. **Floodplain Emergency Notification Form**– A written notification form required pursuant to [Section 11](#) of these Regulations.
6. **Official Complaint Form** – A form that may be used by any Person to notify the Floodplain Administrator or Code Compliance Officer of an activity taking place that appears to be noncompliant with the requirements of these Regulations.

8.2 FEES

A reasonable application fee for processing of permit applications may be imposed. Fees may be established by the County Commission for costs of permit applications, notices, Variances, appeals, inspections, certifications or other administrative actions required by these Regulations.

SECTION 9. FLOODPLAIN PERMIT APPLICATION REQUIREMENTS

9.1 GENERAL

1. A Floodplain Permit is required for a Person to Establish, alter or substantially improve an Artificial Obstruction, nonconforming use or Development within the Regulated Flood Hazard Area except for uses that are exempt from the permitting requirements pursuant to [Section 4](#) of these Regulations ;
2. All Artificial Obstructions in a Regulated Flood Hazard Area that do not have a Floodplain Permit where one is required are hereby declared to be public nuisances;
3. A Floodplain Permit is required for an Alteration of an Existing Artificial Obstruction or Nonconforming Use that increases the external size or increases its potential flood hazard and not exempt under [Section 4](#);
4. A Floodplain Permit is required to reconstruct or repair an Existing Artificial Obstruction that has experienced Substantial Damage and will undergo Substantial Improvement; and
5. Maintenance of an Existing Artificial Obstruction or use does not require a Floodplain Permit unless such Maintenance activity constitutes a Substantial Improvement or an Alteration.

9.2 REQUIRED FLOODPLAIN PERMIT APPLICATION INFORMATION

1. A Floodplain Permit application shall at a minimum include the following information:
 1. A completed and signed Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies (Joint Application) [Note: The Floodplain Administrator's review of the Joint Application Form is limited to content relevant to determining compliance with the requirements of these Regulations];
 2. A copy of other permits or a list of pending applications required by local, Federal or State law for the proposed project, which may include but are not limited to a 310 permit, SPA 124 permit, Section 404 Permit, 318 Authorization, 401 Certification or a Navigable Rivers Land Use License or Easement, wastewater treatment approvals, approach/encroachment permits, and non-ministerial zoning approvals (e.g. conditional use permits, variances). Prior to floodplain permit approval the applicant shall demonstrate the required permits have been obtained and the Floodplain Permit application is not in conflict with the permits; and

3. A copy of the effective Flood Insurance Rate Map with the project site identified;
 4. A plan-view map drawn to scale or with dimensions clearly labeled showing the nature and details of the proposed project, including but not limited to:
 - a. the location of the proposed project on the property;
 - b. the location of existing and proposed Structures;
 - c. the location of existing and proposed wells, wastewater treatment systems and other utilities;
 - d. the location of proposed excavation and/or fill sites;
 - e. the location where material will be stored or stockpiled; and
 - f. the location of the foregoing in relation to the Regulated Flood Hazard Areas and if applicable the Floodway boundary;
 5. Additional information related to the specific use or activity that demonstrates compliance with the design criteria and construction standards as specified in Sections [6](#) and [7](#) of these Regulations;
 6. A written response to the criteria of [Section 10.3.4](#) of these Regulations that references appropriate documentation submitted with the Floodplain Permit application.
 7. Application fee in accordance with the Planning Department fee schedule;
 8. Mailing labels for all adjoining property owners (including across roads and across watercourses); and
 9. Three hard copy applications and one digital copy of the entire application packet, including digital copies of any hydraulic model.
2. The Floodplain Administrator may require additional information, including but not limited to the following, for a Floodplain Permit application:
1. A topographic plan-view map of the project area, based on a 1-foot contour interval, with elevation values displayed in the same datum as the effective study, depicting details relevant to the proposed project. The topographic plan-view map should delineate the boundaries of the Regulated Flood Hazard Areas, and if applicable the Floodway, consistent with [Section 3.2](#) of these Regulations. All elevations shall be certified by a professional engineer or registered land surveyor;
 2. For a new Building, unless otherwise approved by the Floodplain Administrator, the topographic plan view map described above shall cover enough of the subject property to demonstrate the lack of alternative locations not subject to flooding;

3. For a new Building, Substantial Improvement, or Alteration to an existing Building, a completed FEMA Elevation Certificate based on construction drawings. For dry floodproofed Non-Residential Buildings a FEMA Floodproofing Certificate is also required;
4. Cross-sections of the proposed project that clearly differentiate between existing site conditions and post-project conditions;
5. A hydraulic model completed by a professional engineer demonstrating the impact of the proposed project on the Base Flood Elevations and velocities;
6. A professional engineer's certification that the proposed activity has been designed to be in compliance with all applicable requirements and standards of the Gallatin County Floodplain Regulations;
7. A response to issues raised as part of public comment that are related to the Floodplain Permit Review Criteria of [Section 10.3](#) of the Gallatin County Floodplain Regulations; and
8. Any other relevant information deemed necessary by the Floodplain Administrator to demonstrate a proposed project's compliance with the requirements of these Regulations, the Montana Floodplain and Floodway Management Act, or the requirements of the National Flood Insurance Program.

SECTION 10. FLOODPLAIN PERMIT APPLICATION EVALUATION

10.1 FLOODPLAIN PERMIT APPLICATION REVIEW

1. Floodplain Permit applications shall be filed with the Floodplain Administrator, accompanied by the required fee, and signed by the applicant and property owner.
2. The Floodplain Administrator shall determine whether the Floodplain Permit application contains adequate information to facilitate review of the proposed project and shall notify the applicant in writing of the Floodplain Administrator's determination on the completeness of the application. If it is determined that an application is incomplete, the Floodplain Administrator shall give the applicant 45 working days to provide the required information. Upon request by and with sufficient justification provided by the applicant that the required information cannot be provided within 45 working days, the Floodplain Administrator may approve a one-time extension and authorize up to an additional 45 working days for the applicant to provide the required information.
3. If the Floodplain Permit application is found to be incomplete and if the applicant corrects the identified deficiencies and resubmits the Floodplain application within the response time specified pursuant to [Section 10.1.2](#), the Floodplain Administrator shall determine whether the resubmitted Floodplain application contains adequate information to facilitate review of the proposed project.
4. The process at [Section 10.1.3](#) shall be repeated until the Floodplain Administrator determines the application is complete. If the application remains incomplete after the third notice from the Floodplain Administrator, or if the applicant doesn't respond to a notice from the Floodplain Administrator within the specified timeframe, the Floodplain Administrator may deny the application.
5. A determination that a Floodplain Permit application is complete for review does not ensure that the Floodplain Permit application will be approved or conditionally approved and does not limit the ability of the Floodplain Administrator to request additional information during the review process. If the Floodplain Administrator receives additional information requested from the applicant or a third party (e.g. DNRC, FEMA) during the review process, the 60 working-day review timeline restarts and the Floodplain Administrator shall notify the applicant that more time is required to process the application.

6. The Floodplain Administrator shall review and evaluate Floodplain Permit applications and shall approve, approve with conditions, or deny an application within 60 working days of determining that an application is complete, unless the applicant consents in writing to an extension or a public hearing is held per [Section 10.2.3](#).

10.2 NOTICE REQUIREMENTS FOR FLOODPLAIN PERMIT APPLICATIONS:

1. Within 15 working days of determining that an application for a Floodplain Permit is complete, the Floodplain Administrator shall prepare a notice containing the facts pertinent to the Floodplain Permit application and:
 1. Shall publish the notice twice, with at least six days separating each publication, in a newspaper of general circulation in the area, consistent with the requirements of MCA 7-1-2121;
 2. Shall serve notice by first-class mail upon adjacent property owners, including property owners across roads and watercourses;
 3. May provide notice to the State National Flood Insurance Program Coordinator located in DNRC, other permitting agencies, or other impacted property owners; and
 4. Prior to any Alteration or relocation of a watercourse in the Regulated Flood Hazard Area, shall provide notice to FEMA, and any adjacent communities that would be affected by the Alteration or relocation.
2. The notice shall provide 15 days from the date of the second scheduled newspaper publication for interested parties to submit comments on the proposed activity.
3. If public comment demonstrates that the issuance or denial of a floodplain permit is of significant public interest, the County Commission may hold a public hearing on the floodplain permit application for the purpose of directing the decision of the Floodplain Administrator.
 1. In such case, the 60 working-day review timeline shall be suspended, and the Floodplain Administrator shall notify the applicant of the public hearing and that more time is required to process the application.
 2. Notice of the public hearing shall be given consistent with [Section 10.2.1](#).
 3. The County Commission shall issue a written decision within 30 working days after the public hearing directing the Floodplain Administrator to approve or deny the Floodplain Permit on the application.

4. The Floodplain Administrator shall then issue or deny the Floodplain Permit within 30-working days consistent with the County Commission's decision.

10.3 FLOODPLAIN PERMIT REVIEW CRITERIA

1. The Floodplain Administrator shall consider information provided by the applicant, public comment, agency comment, and other information deemed relevant to the requirements of the Floodplain Regulations by the Floodplain Administrator to evaluate the review criteria and make a Decision on a Floodplain Permit Application.
 1. The Floodplain Administrator shall approve Floodplain Permit applications when the New Construction, Substantial Improvement, or Alteration of an Artificial Obstruction described in the Floodplain Permit application complies with the criteria of this section, the minimum standards in Sections [6](#) and [7](#) and all other applicable requirements of these Regulations.
 2. A Flood Plain permit application that will cause an increase of more than 0.00 feet to the Base Flood Elevation of the Floodway or more than 0.50 feet to the Base Flood Elevation of the Regulated Flood Hazard Area without a Floodway shall not be approved until an Alteration pursuant to [Section 3.3](#) has been approved, and, where required, a CLOMR has been approved by FEMA.
 3. The Floodplain Administrator shall determine that necessary permits for the project have been received from those governmental agencies from which approval is required by federal, state, or local law, including but not limited to 310 permit, SPA 124 permit, Section 404 Permit, 318 Authorization, 401 Certification or a Navigable Rivers Land Use License or Easement; wastewater treatment approvals, approach/encroachment permits, and non-ministerial zoning approvals (i.e. Conditional Use Permits, Variance). Floodplain Permit applications shall not be approved if the Floodplain Administrator is aware that the project does not conform with the permitting requirements of federal, state, or local laws.
 4. An application for a Floodplain Permit must also demonstrate the following factors are considered as they relate to impact on flood hazards and incorporated into the design of the use or Artificial Obstruction:
 - a. the danger to life and property due to increased flood heights, increased flood water velocities or alterations in the pattern of flood flow caused by Encroachments;
 - b. the danger that the obstruction or use may be swept downstream or onto other lands to the injury of others;

- c. whether the obstruction or use could be constructed or altered in such a manner to lessen the flooding danger;
- d. the susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual Owner;
- e. the importance of the services provided by the facility to the community;
- f. the permanence of the obstruction or use and whether it will be reasonably safe from flooding;
- g. the drainage at the site is adequate to reduce exposure to flood hazards;
- h. the requirement of the facility for a water-front location;
- i. the location of the project in relation to identified channel migration hazards (i.e. historic migration zones, avulsion hazard zones, and erosion hazard areas) where such hazards have been mapped through channel migration studies;
- j. the availability of alternative locations for the proposed use not subject to Flooding;
- k. the compatibility of the proposed use with existing Development and anticipated Development in the foreseeable future;
- l. the compliance of the proposed use with any adopted growth policy or other plans covering the project area and any applicable zoning regulations as such policy, plans, or regulations address flood hazards;
- m. the safety of access to the property in times of flooding for ordinary and emergency services; and
- n. 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.

10.4 DECISION

1. The Floodplain Administrator shall issue a written Decision to approve, conditionally approve, or deny the proposed Floodplain Permit application within the timeframe specified in [Section 10.1](#) of these Regulations. A copy of the approved Floodplain Permit must be provided to DNRC.

2. Within 45 days after issuance of the Floodplain Administrator's written Decision, the applicant shall obtain a Notice of Decision from the Floodplain Administrator and record it in the office of the Gallatin County Clerk & Recorder. If the applicant fails to record the Notice of Decision as required, the Floodplain Administrator shall record the Notice of Decision and bill the applicant for the cost of recording.
3. The approval of a Floodplain Permit application does not affect any other type of approval required by any other federal, state, or local law or regulation, but is an added requirement.

10.5 FLOODPLAIN PERMIT CONDITIONS AND REQUIREMENTS

1. The Floodplain Administrator shall attach conditions of approval to a Floodplain Permit as may be necessary to ensure compliance with the requirements of these Regulations and reasonable mitigation of adverse impacts. Failure to comply with such conditions shall constitute a Violation of these Regulations. Conditions may address, but are not limited to, the following:
 1. Completion of the work authorized under the Floodplain Permit shall be limited to the scope of work authorized in the approval and shall be done in a manner consistent with all other applicable Federal, State, or local approvals.
 2. Establishment of a timeline for completion of the work authorized by the Floodplain Permit. Work shall be completed within one year from the date of Floodplain Permit issuance, unless the conditional approval specifies a different time limit for completion of the project or Development. The initial approval period for a Floodplain Permit shall not exceed three years;
 3. The applicant shall record a Notice of Decision in the office of the Gallatin County Clerk & Recorder to notify successors in interest of the issuance of the Floodplain Permit and that such property is located within a Regulated Flood Hazard Area;
 4. The applicant shall maintain the Artificial Obstruction or use to comply with the conditions and specifications of the permit;
 5. The applicant shall allow the Floodplain Administrator to perform on-site inspections during construction and within a reasonable amount of time after completion of the project to verify compliance with the permit conditions;
 6. The applicant shall provide engineering oversight and may be required to provide reports during the construction period to the Floodplain

Administrator to confirm constructed elevations and other project elements;

7. The applicant shall submit a compliance report within 30 days of completion of the project, or other time as specified by the Floodplain Administrator, to document completion of the project in conformance with the requirements of these Regulations and conditions of floodplain permit approval. The compliance report may be required to include items such as an engineering certification Floodproofing Certificate, Elevation Certificate, documentation of surface drainage, verification of proper Enclosure openings, and documentation of flood-resistant building materials;
8. The applicant shall submit an annual performance and Maintenance report on bank stabilization or other projects utilizing maturing vegetative components to the Floodplain Administrator for a period of 5 years or a time specified in the permit; or
9. The applicant shall submit evidence of submittal of a FEMA Letter of Map Revision (LOMR) to FEMA and applicable fees within 6 months of project completion and proceed with due diligence for acceptance of the document and necessary supporting materials by FEMA.

10.6 EXTENSIONS TO FLOODPLAIN PERMIT APPROVAL PERIOD

1. When a Floodplain Permit application has been approved by the Floodplain Administrator, the applicant may, prior to expiration of the approved Permit, request the Floodplain Administrator extend the duration of the approval. Such requests shall be in writing, accompanied by the applicable fee; and shall provide the following:
 1. Justification of the need for the extension;
 2. Description of all work completed to-date on the project;
 3. Confirmation that all work completed to-date has been in compliance with the conditions of approval or a detailed plan of actions that will be taken to bring the project into compliance with the conditions of approval.
2. Approvals to extension requests shall be issued in writing upon a determination by the Floodplain Administrator that:
 1. All work completed to-date is in compliance with the conditions of approval of the Floodplain Permit, or the applicant has provided a satisfactory plan to bring the project into compliance with the conditions of approval;

2. The size, scope, and details of the project have not been expanded from those included in the approved Floodplain Permit; and
3. The requested extension provides a reasonable time frame to complete the project. Extensions shall not be of greater duration than the original approval period. Multiple extension requests are discouraged, but allowed upon showing of good cause.
4. If there have been any amendments to these Regulations since the Floodplain Permit was originally approved, such as changes to standards for specific uses or changes to the Regulated Flood Hazard Area, that the project complies with the amended Floodplain Regulations.
 - a. The Floodplain Administrator may attach additional conditions of approval to a Floodplain Permit as part of the permit extension process only if such conditions are necessary to bring a project into compliance with the amended regulations.
 - b. If additional conditions cannot be attached to the Floodplain Permit to bring the project into compliance with the amended regulations, the extension shall be denied.

SECTION 11. EMERGENCIES

11.1 General

1. Emergency repair and replacement of severely damaged Artificial Obstructions and Development in the Regulated Flood Hazard Area, including public transportation facilities, public water and sewer facilities, flood control works, and private projects are subject to the permitting requirements of these Regulations as modified in [Section 11.2](#) below.
2. The provisions of these Regulations are not intended to affect other actions that are necessary to safeguard life or Structures during periods of emergency.

11.2 Emergency Notification and Application Requirements

1. The property owner or the Person responsible for taking emergency action shall make a reasonable effort to notify the Floodplain Administrator prior to initiating any emergency action in a Regulated Flood Hazard Area normally requiring a Floodplain Permit. An Emergency Notification Form must be submitted to the Floodplain Administrator within five (5) days of the action taken as a result of an emergency.
2. Unless otherwise specified by the Floodplain Administrator, within 30 days of initiating the emergency action, a Person who has undertaken an emergency action must submit a Floodplain Permit Application that describes the action taken during the emergency and any additional work that may be required to bring the project into compliance with the requirements of these Regulations.
3. A Person who has undertaken an emergency action may be required to modify or remove the emergency work in order to meet the requirements of these Regulations.

SECTION 12. VARIANCES

12.1 GENERAL

In accordance with the procedures described herein, the County Commission may authorize a Variance from the minimum requirements of these Regulations. A Variance authorizes the Floodplain Administrator to issue a Floodplain Permit for a project that otherwise would be prohibited or conflict with the minimum requirements of these Regulations.

12.2 VARIANCE APPLICATION REQUIREMENTS:

1. A completed Floodplain Permit application and required supporting material as described in [Section 9.2](#) of these Regulations must be submitted in order for a Variance to be considered.
2. Additionally, the applicant must submit supporting materials specific to the Variance request, including the facts necessitating the Variance and information addressing the criteria in [Section 12.5](#).

12.3 VARIANCE APPLICATION REVIEW:

1. Variance applications shall be filed with the Floodplain Administrator accompanied by the required fee and signed by the applicant and property owner.
2. The Floodplain Administrator shall determine whether the Variance application contains adequate information to facilitate review of the proposed project and shall notify the applicant in writing of the Floodplain Administrator's determination on the completeness of the application. If it is determined that an application is incomplete, the Floodplain Administrator shall provide the applicant with 45 working days to provide the required information.
3. If the Variance application is found to be incomplete and if the applicant corrects the identified deficiencies and resubmits the Variance application, the Floodplain Administrator shall determine whether the resubmitted Variance application contains adequate information to facilitate review of the proposed project.
4. The process at [Section 12.3.2](#) shall be repeated until the Floodplain Administrator determines the application is complete. If the Variance application remains incomplete after the third notice from the Floodplain Administrator, or if the applicant does not respond to a notice from the Floodplain Administrator within the specified timeframe, the Floodplain Administrator may deny the Variance application.

5. A determination that a Variance application is complete for review does not ensure that the application will be approved or conditionally approved and does not limit the ability of the Floodplain Administrator or County Commission to request additional information during the review process. If the Floodplain Administrator receives additional information requested from the applicant or a third party (e.g. DNRC, FEMA) during the review process, the 60 working-day review timeline restarts and the Floodplain Administrator shall notify the applicant that more time is required to process the application.
6. After determining that a Variance application is complete, the Floodplain Administrator shall prepare a staff report to assist the County Commission in their review of the request.
7. The County Commission shall hold a public hearing on a Variance application within 60 working days of the application being deemed complete by the Floodplain Administrator.
8. Variances may only be approved by the affirmative action of the County Commission. Notwithstanding the 60 working-day period established by [Section 12.3.7](#), under no circumstances Variance be deemed automatically granted.
9. In the event a Variance request is approved by the County Commission, the Floodplain Administrator may issue a Floodplain Permit upon finding that aside from the Development standard(s) from which a Variance was approved, all other applicable procedures and requirements established by these Regulations for issuance of a Floodplain Permit are met, including but not limited to the criteria of [Section 10.3.4](#) and the specific standards of Sections [6](#) and [7](#) of these Regulations.

12.4 NOTICE REQUIREMENTS FOR FLOODPLAIN VARIANCE APPLICATION

Public Notice of the Variance application shall be given consistent with [Section 10.2](#); however, notice to adjacent property owners shall be provided via certified mail. Notice of the Variance application shall also be provided to DNRC.

12.5 EVALUATION OF VARIANCE APPLICATION

1. Except as provided at [Section 12.5.2](#), a Variance shall only be issued upon the County Commission's finding that all of the following criteria are met:
 1. The Variance is the minimum allowance necessary, considering the flood hazard, to afford relief from these Regulations;
 2. There is a good and sufficient cause for the Variance. Financial hardship is not a good and sufficient cause;

3. Failure to grant the Variance would result in exceptional hardship to the applicant;
 4. Granting of a Variance will not result in increased flood heights or flood hazards to existing Buildings, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances;
 5. The proposed use is adequately floodproofed;
 6. Reasonable alternative locations outside the Regulated Flood Hazard Area are not available;
 7. An Encroachment does not cause an increase to the Base Flood Elevation that is beyond that allowed in these Regulations unless an Alteration to the Regulated Flood Hazard Area has been approved pursuant to [Section 3.3](#) of these Regulations;
 8. The Variance request does not have the effect of allowing Residential Buildings or Non-Residential Buildings in the Floodway, except for Alterations or Substantial Improvement to existing Buildings;
 9. The Variance request does not have the effect of allowing residential dwelling(s) to have the Lowest Floor elevation below the Base Flood Elevation, including Basements and attached garages;
 10. Any Building with an enclosed area below the Lowest Floor (e.g. Crawlspace) must meet the requirements of [Section 7.2.15](#), Wet Floodproofing; and
 11. Besides the Development standard(s) from which the Variance is sought, all other applicable requirements established by these Regulations for issuance of a Floodplain Permit are met, including but not limited to the criteria of [Section 10.3.4](#) and the specific standards of Sections [6](#) and [7](#) of these Regulations.
2. The County Commission may approve a Variance that does not satisfy all eleven of the above criteria only in the following circumstances:
1. For either Substantial Improvement or Alteration of an existing Structure, or New Construction of a Structure, located on a parcel of one-half acres or less that is outside of the Floodway and contiguous to and surrounded by parcels with existing Structures constructed below the Base Flood Elevation; or

2. For Historic Structures – Variances may be issued for the repair or rehabilitation of historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the Structure's continued designation as a historic Structure and the Variance is the minimum relief necessary to preserve the historic character and design of the Structure. The historic nature of the Building must be designated as a preliminary or historic Structure by U.S. Secretary of Interior or an approved state or local government historic preservation program.

12.6 DECISION

1. The County Commission shall:
 1. Evaluate the Floodplain Permit application and Variance application using the criteria in [Section 12.5](#), and the application requirements and minimum Development standards in Section [6](#) and [7](#);
 2. Issue a written decision approving, conditionally approving, or denying a Variance within 30 working days after the public hearing on the application; and
 3. Include in its written decision notice that the issuance of a Floodplain Permit and Variance to construct a Structure not meeting the minimum Building requirements in these Regulations may result in increased risks to life and property, increased premium rates for flood insurance, and that flood insurance premiums are determined by actuarial risk and will not be modified by the granting of a Variance.
2. The Floodplain Administrator shall send a copy of each written decision granting a Variance to DNRC.

12.7 JUDICIAL REVIEW

Any Person or Persons aggrieved by the County Commission's decision on a Variance may appeal such decision to a court of competent jurisdiction within 30 days of the issuance of the County Commission's written decision on the matter.

SECTION 13. APPEALS

13.1 GENERAL

Except as provided at [Section 13.5.2](#), below, a Decision of the Floodplain Administrator or Code Compliance Officer may be appealed to the County Commission.

13.2 APPEAL REQUIREMENTS

The following provisions apply to appeals to the County Commission:

1. An aggrieved Person may appeal any Decision of the Floodplain Administrator or Code Compliance Officer to the County Commission by filing a notice of appeal no more than 30 days after the date of the Decision. An Appeal shall be in writing, accompanied by the appropriate fee, and shall explain how the Floodplain Administrator's or Code Compliance Officer's Decision was an erroneous interpretation or application of these Regulations or relevant State or Federal laws. If an appeal is received more than 30 days after the date of the Decision, the Floodplain Administrator or Code Compliance Officer shall notify the appellant in writing declining to send the appeal to the County Commission for consideration;
2. The Floodplain Administrator or Code Compliance Officer shall acknowledge receipt of the appeal and notify the appellant of the preliminary date of the appeal hearing in writing; and
3. Additional information specific to the appeal request may be requested by the County Commission.

13.3 NOTICE AND HEARING – APPEALS TO COUNTY COMMISSION

1. Notice of the pending appeal and hearing shall be provided pursuant to [Section 10.2](#). The Floodplain Administrator may notify DNRC and FEMA of pending appeals.
2. A public hearing on the appeal must be held within a reasonable time.

13.4 DECISION

The County Commission shall issue a written decision on an appeal within 30 working days of the hearing. The County Commission may affirm, modify, or reverse the Floodplain Administrator's or Code Compliance Officer's Decision only if the County Commission finds, based on facts contained in the administrative record on which the Floodplain Administrator based their decision, that the Floodplain Administrator or Code Compliance Officer erred in their Decision. The County Commission's Decision on an appeal shall be consistent with the requirements of these Regulations and shall not have the effect of granting a Variance therefrom.

13.5 JUDICIAL REVIEW

1. Any Person or Persons aggrieved by the County Commission's decision on an appeal may appeal such decision to a court of competent jurisdiction within 30 days of the issuance of the County Commission's written decision on the matter.

2. Any Person or Persons aggrieved by the County Commission's decision to direct the approval or denial of a Floodplain Permit per [Section 10.2.3](#) may appeal such decision to a court of competent jurisdiction within 30 days of the issuance or denial of the Floodplain Permit by the Floodplain Administrator.

SECTION 14. ENFORCEMENT

14.1 INTENT

It is the intent to provide for the efficient, reasonable, and impartial enforcement of these Regulations through the Floodplain Administrator and Code Compliance Officer and to set forth the basic procedures for compliance with and remedies for Violations of these Regulations.

14.2 COMPLAINT PROCEDURE

A complaint may be filed with the Floodplain Administrator or Code Compliance Officer whenever a Violation of these Regulations is alleged to have occurred.

1. The complaint shall be in writing, state fully the facts supporting it, and be signed by the complainant. The names and addresses of the Persons requesting the investigation shall be released if requested.
2. Upon receipt of a written complaint or on their own initiative, the Floodplain Administrator or Code Compliance Officer shall investigate alleged Violations of this Zoning Regulations. The Floodplain Administrator or Code Compliance Officer may notify Persons or entities responsible that an investigation is underway and may request information or access to property for an inspection.

14.3 NOTICE TO ENTER AND INVESTIGATE LANDS OR WATERS

The Floodplain Administrator or Code Compliance Officer may make reasonable entry upon any lands and waters for the purpose of making an investigation, inspection or survey to verify compliance with these Regulations.

1. Unless written consent is obtained for the entry, the Floodplain Administrator or Code Compliance Officer shall provide notice of entry by personal delivery to the property owner, owner's agent, lessee, or lessee's agent on whose lands entry is requested.
2. If none of the Persons identified in [Section 14.3.1](#) can be found, the Floodplain Administrator or Code Compliance Officer shall affix a copy of the notice to one or more conspicuous places on the property.

14.4 NOTICE OF VIOLATION AND ORDER TO TAKE CORRECTIVE ACTION

The Floodplain Administrator or Code Compliance Officer shall put any Person or entity believed to be responsible for a Violation of these Regulations on notice of such Violation.

1. The Floodplain Administrator or Code Compliance Office shall give such notice, in the name of Gallatin County, and require the cessation of the Violation. Such notice shall be sent by mail and may be sent by other

means, and is subject to appeal in accordance with [Section 13](#) of these Regulations. Such notice shall cite the regulatory offense, and include an order to take corrective action within a reasonable time.

2. In order to facilitate compliance with these Regulations, the Floodplain Administrator and Code Compliance Officer are authorized to enter into agreements on behalf of Gallatin County, for the sole purpose of allowing reasonable time to remedy a Violation.

14.5 FAILURE TO COMPLY WITH ORDER TO TAKE CORRECTIVE ACTION

1. If the property owner or responsible party fails to comply with the order for corrective action, Gallatin County may pursue all available administrative and legal remedies.
2. The County Attorney may pursue all available legal remedies to compel compliance with these Regulations, including filing an action in district court to enjoin any violations thereof. Such action does not prevent efforts by the responsible party to voluntarily comply with these Regulations.
3. Nothing in these Regulations shall be interpreted to prohibit the continuation of existing enforcement actions by Gallatin County under previous versions of these Regulations that remain valid and lawful.

SECTION 15. PENALTIES

15.1 MISDEMEANOR

Any Person who violates § 76-5-401 through § 76-5-404, MCA, shall, be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$100 or imprisoned for not more than 10 days or both. Each day's continuance of a violation shall be deemed a separate and distinct offense.

15.2 DECLARATION TO THE FEDERAL FLOOD INSURANCE ADMINISTRATOR

Upon finding of a Violation and failure of the property owner or responsible party to take corrective action as ordered, the Floodplain Administrator may submit notice and request a 1316 Violation Declaration to the Federal Insurance Administrator. The Federal Insurance Administrator has the authority to deny new and renewal flood insurance for a Structure upon finding a valid Violation declaration.

The Floodplain Administrator shall provide the Federal Insurance Administrator the following:

1. The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;
2. A clear and unequivocal declaration that the property is in Violation of a cited State or local law, regulation or ordinance;
3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. Evidence that the property owner has been provided notice of the Violation and the prospective denial of insurance; and
5. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

Appendix A

Regulated Flood Hazard Area Reference Guide

Gallatin County Community Number: 300027

Table 1: Gallatin County Flood Insurance Study		
Study #	Suffix	Effective Date
30031CV001	B	April 21, 2021
30031CV002	B	April 21, 2021
30031CV003	B	April 21, 2021
30031CV004	B	April 21, 2021

Table 2: Gallatin County Flood Insurance Rate Maps		
FIRM Panel No.	Suffix	Effective Date
30031CIND1	B	4/21/2021
30031CIND2	B	4/21/2021
30031CIND3	B	4/21/2021
30031C0287	D	9/02/2011
30031C0289	D	9/02/2011
30031C0290	D	9/02/2011
30031C0291	D	9/02/2011
30031C0292	D	9/02/2011
30031C0293	D	9/02/2011
30031C0294	D	9/02/2011
30031C0305	D	9/02/2011
30031C0315	D	9/02/2011
30031C0320	D	9/02/2011
30031C0340	E	4/21/2021
30031C0345	E	4/21/2021
30031C0365	D	9/02/2011
30031C0485	D	9/02/2011
30031C0505	D	9/02/2011
30031C0510	D	9/02/2011
30031C0530	D	9/02/2011
30031C0555	E	4/21/2021
30031C0558	E	4/21/2021
30031C0559	E	4/21/2021
30031C0560	E	4/21/2021
30031C0565	D	9/02/2011
30031C0566	E	4/21/2021
30031C0567	E	4/21/2021
30031C0569	E	4/21/2021
30031C0580	D	9/02/2011

30031C0585	D	9/02/2011
30031C0586	E	4/21/2021
30031C0588	E	4/21/2021
30031C0595	D	9/02/2011
30031C0615	D	9/02/2011
30031C0780	E	4/21/2021
30031C0790	E	4/21/2021
30031C0801	D	9/02/2011
30031C0802	D	9/02/2011
30031C0806	D	9/02/2011
30031C0808	E	4/21/2021
30031C0809	E	4/21/2021
30031C0816	E	4/21/2021
30031C0817	E	4/21/2021
30031C0818	E	4/21/2021
30031C0819	E	4/21/2021
30031C0828	D	9/02/2011
30031C0829	D	9/02/2011
30031C0835	D	9/02/2011
30031C0836	D	9/02/2011
30031C0837	D	9/02/2011
30031C0839	D	9/02/2011
30031C0845	D	9/02/2011
30031C0905	E	4/21/2021
30031C0925	E	4/21/2021
30031C0931	E	4/21/2021
30031C0932	E	4/21/2021
30031C0935	D	9/02/2011
30031C0960	D	9/02/2011
30031C1114	D	9/02/2011
30031C1118	D	9/02/2011
30031C1119	D	9/02/2011
30031C1131	D	9/02/2011
30031C1133	D	9/02/2011
30031C1136	D	9/02/2011
30031C1137	D	9/02/2011
30031C1138	D	9/02/2011
30031C1207	D	9/02/2011
30031C1226	D	9/02/2011
30031C1228	D	9/02/2011
30031C1236	D	9/02/2011

Table 3: Gallatin County Recognized Letters Of Map Revision				
FEMA Case Number	Type	Effective Date	Affected Map Panel(s)	Watercourse
02-08-151A	LOMR-FW	September 3, 2011	30031C0816D	Bozeman Creek
11-08-1121A	LOMR-FW	October 8, 2011	30031C0819D	Bozeman Creek
12-08-0136A	LOMR-FW	March 22, 2012	30031C0567D	Baker Creek, Baker Creek West Overflow
12-08-0247A	LOMR-FW	February 09, 2012	30031C0569D	Baker Creek West Overflow
12-08-0251A	LOMR-FW	January 17, 2012	30031C0806D	Eat Gallatin River Overflow Reach
12-08-0406A	LOMR-FW	April 5, 2012	30031C0806D	East Gallatin River Overflow Reach
12-08-0498A	LOMR-FW	May 22, 2012	30031C0790D	West Gallatin River
12-08-0519A	LOMR-FW	May 24, 2012	30031C0809D	Bridger Creek
13-08-0031A	LOMR-FW	December 13, 2012	30031C0790D	West Gallatin River
13-08-0410A	LOMR-FW	March 2, 2013	30031C0819D	Bozeman Creek
13-08-0881A	LOMR-FW	July 16, 2013	30031C0836D	East Gallatin River
13-08-1337A	LOMR-FW	October 10, 2013	30031C0806D	East Gallatin River Overflow Reach
14-08-0017A	LOMR-FW	November 5, 2013	30031C0806D	East Gallatin River Overflow Reach
17-08-0879A	LOMR-FW	June 23, 2017	30031C0836D	East Gallatin River
18-08-0629A	LOMR-F	April 11, 2018	30031C0615D	East Gallatin River
18-08-0663A	LOMR-FW	May 31, 2018	30031C0569D	Baker Creek West Overflow
19-08-0406A	LOMR-FW	March 14, 2019	30031C0806D	East Gallatin River Overflow Reach
19-08-0434A	LOMR-FW	April 11, 2019	30031C0905D	West Gallatin River
20-08-0102A	LOMR-FW	December 11, 2019	30031C00818D	Mathew-Bird Creek

20-08-0500P	LOMR	July 12, 2021	30031C0802D 30031C0806D 30031C0808D	East Gallatin River
20-08-0733P	LOMR	October 6, 2021	30031C0802D	East Gallatin River
21-08-0464P	LOMR	April 11, 2022	30031C00595D	Hyalite West Overflow
21-08-1190P	LOMR	May 6, 2022	30031C0790E	West Gallatin River Shed's Split
22-08-0206A	LOMR-FW	February 9, 2022	30031C0790E	West Gallatin River
22-08-0582A	LOMR-FW	June 23, 2022	30031C0588E	West Gallatin River
22-08-0585A	LOMR-FW	May 27, 2022	30031C0905E	West Gallatin River
22-08-0804A	LOMR-FW	May 27, 2022	30031C0905E	West Gallatin River
22-08-0739A	LOMR-FW	December 7, 2022	30031C0802D	Buster Gulch

Table 4: Other Sources of Information in Zone A Areas Where Base Flood Elevations and Floodway Designations are not Provided by FEMA			
Study Title	Publication Date	Source	Description of Applicable Area
East Gallatin River and Upper Tributaries Flood Hazard Analysis	1972	Soil Conservation Service	Bear Canyon, Bridger Creek, Hyalite (Middle Creek), Thompson Creek
Floodplain Management Study Gallatin River at Big Sky	1996	Natural Resource Conservation Service	Main Gallatin and West Fork of the Gallatin in the vicinity of Big Sky
Floodplain Management Study Lower Gallatin and Lower East Gallatin Rivers	2000	Natural Resource Conservation Service	East Gallatin River downstream of Airport Road and Gallatin River downstream of Nixon Gulch Bridge

Appendix B

PROTOCOL FOR USING THE FEMA FLOOD INSURANCE STUDY TO ESTABLISH BASE FLOOD ELEVATIONS

1. **Intent.** This Appendix is intended to provide a reference guide of appropriate methodology for determining the Base Flood Elevation at a specific site under typical conditions to demonstrate compliance with the requirements of these Regulations. If this protocol is found to be in conflict with FEMA-issued technical guidance specific to the issue, the FEMA-issued technical guidance shall control and be used for determining the Base Flood Elevation in that instance. It is also noted that abnormal situations exist that may require deviation from this protocol. Such situations should be discussed with the Floodplain Administrator prior to employing a methodology for determining the Base Flood Elevation.

2. **Order of Preference.** The order of preference for identifying the Base Flood Elevation at a particular location is as follows:
 - a. The most accurate Base Flood Elevations are found in the Floodway Data Table (for a riverine Floodplain) portion of the published Flood Insurance Study. These Base Flood Elevations are listed to 0.1 foot; however, the Floodway Data Table is only accurate for sites on or immediately adjacent to a cross section.
 - b. The next most accurate source of elevation data is the flood profile found in the published Flood Insurance Study. Instructions for determining the Base Flood Elevation from the flood profile are provided below.
 - c. The least accurate source of elevation data for a riverine Floodplain is the Flood Insurance Rate Map. Base Flood Elevations depicted on the Flood Insurance Rate Map are seldom appropriate for use in the regulatory decision making process because such Base Flood Elevations are rounded to the nearest whole foot. However, the Flood Insurance Rate Map is the only source of Base Flood Elevations for AO and AH Zones.

3. **Use of Flood Profile Sheet**
 - a. **Stationing.** In order to identify the Base Flood Elevation at a specific site using the flood profile sheet from the published flood study, the stream stationing for the site must be determined.
 - i. Locate the site on the applicable Flood Insurance Rate Map, keeping in mind that in many instances, such as is the case with a Building, the Base Flood Elevation for determining compliance with the requirement of these Regulations is measured at the point where the BFE is the highest, generally the upstream end of the project or Building.
 - ii. Identify which cross sections are nearest to your site, both upstream and downstream. (**Note:** The DFIRM database or National Flood Hazard Layer may be useful in identifying additional cross sections

- used in the hydraulic model that are not published on the Flood Insurance Rate Map panel. These may be used in locating the site.)
- iii. Check the map scale used for the Flood Insurance Rate Map panel. Use an engineer's scale to measure the distance along the profile base line, or if no profile baseline exists, along the stream centerline, from the site to the nearest cross section, following all bends and curves of the profile baseline or stream. Measure the distances to both the upstream and downstream cross sections to check accuracy. The most conservative of the two measurements (the one that results in the highest Base Flood Elevation) is generally used.
 - b. **Flood Profile Sheet.** Find the applicable flood profile sheet in the corresponding Flood Insurance Study. Check the scale on the flood profile sheet and convert your measurements from the upstream and downstream cross sections to the corresponding location on the profile. Use the key in the flood profile sheet to identify which line represents the 100-year Flood and identify the Base Flood Elevation to the nearest tenth of a foot based on the location of the site determined from stationing.
 - c. **Slope Calculation.** When the flood profile sheet and hydraulic model depict a constant slope between the upstream and downstream cross sections utilized to determine the project location, a simple slope calculation using the distance between the cross section and location of the site may be performed to accurately determine the Base Flood Elevation.
4. **Base Flood Elevations Perpendicular to Flood Flow.** The Base Flood Elevation line, similar to a cross section line, is oriented perpendicular to the flow direction of the mapped Floodplain through the project area.