

Montana Floodplain and Floodway Management Act

## Montana Floodplain and Floodway Management Act

The Montana Legislature passed the Montana Floodplain and Floodway Management Act in 1971, then amended and revised the Act in 1973. The Act gives local governments the necessary authority to regulate development through adoption of local ordinances designed to minimize flood damage within specific areas identified by the state as prone to flood damage. It prescribes the role of the state and local communities and is a joint effort to combat flood loss. In addition to minimizing recurrent flood damage and impacts to health, safety, and welfare in flood prone areas, the Act was specifically implemented to meet the new requirements for national flood insurance that first became available in 1968 to individuals and businesses.

[See Appendix](#) for the complete text of the Act and the Administrative Rules.

### A. Statutory Provisions

The Montana Floodplain and Floodway Management Act is comprised of four major parts.

**Part 1: General Provisions** - describes the policy and purpose of the Act, including:

- that recurrent flooding of a portion of the state's land resources causes loss of life, damage to property, disruption of commerce and governmental services, and unsanitary conditions; all of which pose a significant detriment to the health, safety, and welfare, and property of occupants of flooded lands and the residents of Montana;
- that the public interest necessitates management and regulation of flood-prone lands and waters in a manner consistent with sound land and water use management practices which will prevent and alleviate

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flooding threats to life and health and reduce private and public economic losses;

- the encouragement of local governmental units to manage flood-prone lands, including the adoption, enforcement, and administration of land use regulations; and
- the restriction of uses that are dangerous to health or safety of property in times of flood or that cause increased flood heights or velocities.

(MCA 76-5-101 (1)(2) and 76-5-102 (1)€ and (2)(a))

**Part 2: Role of State Agencies** -The DNRC is named as the agency responsible for examining flood prone areas and delineating floodplains and floodways for the State of Montana's watercourses. The delineations of Special Flood Hazard Areas (SFHAs) establish local jurisdictional areas for their local flood hazard mitigation ordinances. Often the mapping and technical study is done in coordination with FEMA mapping efforts. The DNRC is also required to develop minimum standards and a model ordinance for local communities. Furthermore, the DNRC must approve specific community ordinances before local adoption, and approve any alterations to the established local jurisdictional area.

**Part 3: Role of Local Government** - focuses on the significant role of local government in meeting the Act's requirements. Political subdivisions such as counties and municipalities have six months to adopt land use regulations upon receipt of a FEMA developed Effective Map. Often an effective map is produced from data contained in a Flood Insurance Study, in which case the FIS is also adopted. Adoption of data/maps produced from non-FEMA sources such as the State may occur. Additionally, local government is responsible for the enforcement of local community ordinances. Local government reviews and issues floodplain development permits.

**Part 4: Use of Floodplains and Floodways** – identifies state minimum standards for permissible and non-permissible land uses for designated floodways and flood fringe areas. It also provides local government authority

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for a permit system and requirements to regulate development in designated flood hazard areas.

## **B. MT DNRC Floodplain Management Section**

DNRC, through its Floodplain Management Section, is responsible for meeting the state role required in the Montana Floodplain and Floodway Management Act and the Montana Code Annotated (MCA).

The Floodplain Management Section staff and activities are funded with a combination of state and federal sources. Funds from the National Flood Insurance Program through FEMA contribute toward the cost of providing the following services:

1. Adopt administrative rules prescribing minimum standards for development and procedures for local ordinances.
2. Develop a model ordinance with suggested federal and state minimum standards.
3. Review and approve proposed local government floodplain ordinances, regulations, or resolutions.
4. Develop a comprehensive plan for delineation of designated floodways and floodplains.
5. Designate regulatory floodways and floodplains and provide maps of involved areas to political subdivisions.
6. Provide technical assistance to local governments.
7. Provide guidance in developing a permit system for utilization in ordinance administration.
8. Permit application review per floodplain administrator request to determine a proposed project's impact on the base flood elevation, the

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local floodplain program, surrounding properties, and properties upstream and downstream from the new construction. Also, a review of the project based on public health, safety, and welfare.

9. Training, education, and outreach to floodplain administrators and others.

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