

An aerial photograph showing a residential area with several houses and a road. The area is heavily flooded with brown water. A large white house is in the center, and a smaller brown house is to its right. A road runs diagonally across the bottom right. The text "2012 MODEL ORDINANCE" is overlaid in large black letters across the top center.

2012 MODEL ORDINANCE

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PURPOSE OF MODEL

- Provide a template or model for local community flood plain management ordinances
- Integrates State and NFIP minimum standards
- DNRC is required by statute to provide “suggested minimum standards”
- Facilitate the review and approval of a local floodplain management ordinance by DNRC and FEMA
- Update minimum requirements
- FEMA requires updating ordinance upon map revisions

LOCAL COMMUNITY ORDINANCES

- Variable in content and obsolescence
- Most are based on the 1990 model ordinance
- Changes include stem wall construction, crawl space standards and substantial improvement for example.
- Higher or additional standards and requirements
 - Ravalli—no residential structures in the regulated floodplain
 - Missoula—no rip rap in floodplain
 - Lewis & Clark – regulated area included 500-year floodplain

ORDINANCE UPDATE DEADLINE

ESTIMATED REVISED MAP EFFECTIVE DATES

County and NFIP communities

- Sanders 2012 (6 months after FEMA LFD)
- Lewis & Clark 2012
- Carbon 2012
- Cascade 2013
- Sweet Grass 2013
- Stillwater 2013
- Missoula 2013
- Ravalli County 2013
- Lake 2013
- Broadwater 2013
- Yellowstone 2013
- Granite 2014
- Flathead 2015



2012 MODEL DEVELOPMENT

- March-April 2012--
Draft for Review
 - Work Committee
 - Peer review-AMFM members
- May-June 2012 Roll Out
 - Public Review
 - Comments and input
- July 2012 Final



MODEL ORDINANCE HIGHLIGHTS

- Fun to read and great plot
- Substantial rewrite and reorganization
- Integrates current State and NFIP standards
 - Reference cites in document- informational only
 - Some higher standards included and identified
- Updated minimum building and development standards
- Corrections and clarifications
- Community customization
- 2012 Draft Model Ordinance on web site



FLOOD PLAIN HAZARD MITIGATION REGULATIONS TABLE OF CONTENTS

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Section 1. General Provisions

- **Flood Plain Hazard Mitigation Regulations**
- **Statutory Authority**
- **Finding of Fact**
- **Purpose**
- **Methods to Reduce Losses**
- **Jurisdictional Area**
- **Flood Plain Administrator**
- **Abrogation and Greater Responsibility**
- **Regulation Interpretation**
- **Warning and Disclaimer of Liability**
- **Severability**
- **Disclosure Provision**
- **Artificial Obstructions and Nonconforming Uses**
- **Amendment of Regulations**
- **Public Records**
- **Land Divisions and Subdivision Review**
- **Flood Disaster Recovery**

Section 2. DEFINITIONS

- Pared to necessary definitions:
 - Defined terms used differently than as defined in the usual sense .
 - Terms used only once or twice moved into the text.
 - Eliminated terms used for flood insurance purposes and not the local ordinance.
 - Eliminated terms used in describing the DNRC role prescribed in the statute and administrative rules.
 - Others.

Section 3. Forms and Fees

- Flood Plain Permit Application
- Flood Plain Permit Compliance Report
- Flood Plain Variance Application
- Flood Plain Appeal
- Flood Plain Emergency Notification
- Official Complaint Form
- Fees

Section 4. JURISDICTIONAL AREA

- **Regulated Flood Hazard Areas**
 - Specifically designated and delineated as flood plain by DNRC/FEMA
 - Dated flood study and maps.
 - Special flood hazard area, 100-year floodplain district, etc
- **Interpretation of Regulated Flood Hazard Area Boundaries**
 - Interpretation guidelines and criteria.
 - Boundary by interpretation of base flood elevation with the natural ground
- **Alteration of Jurisdictional Area**
 - DNRC approval—alteration of the designated flood plain
 - FEMA approval—CLOMR, LOMR

Section 5. USES ALLOWED WITHOUT A PERMIT

- Open space uses:
 - Agricultural
 - Accessory—loading, parking
 - Forestry
 - Recreational
 - Residential—lawns, gardens
 - Picnic grounds without structures
 - Open space maintenance
 - Resurfacing maintenance of highways
 - Road guard rail, signing and utility poles
 - wells

Section 6. PROHIBITED USES, ACTIVITIES AND STRUCTURES

- **Floodway**
 - Building or structure including alterations for living purposes
 - Structure, **fill or excavation** except incidental to a permitted use.
- **Flood Fringe, Regulated Flood Hazard Area without a Floodway**
 - Solid and hazardous waste
 - Storage of toxic, flammable, hazardous...materials
 - Cemeteries
 - **Critical facilities(higher standard)**

Section 7. PERMIT APPLICATION REQUIREMENTS

- **General**
 - Establish or alter an artificial obstruction, nonconforming use or development.
 - Permit required for artificial obstructions, nonconforming uses not specifically listed in Sections 5, 6, 9, and 10.
 - Substantial damage and substantial improvement.
- **Required Information**
 - Application
 - Fee
 - Plans and drawings showing locations, elevations, dimensions.
 - Information demonstrating Section 9 and 10 criteria and construction standards are met or exceeded
 - **Copy of all other required permits**

Section 8. APPLICATION EVALUATION

- **Application Review**
 - complete application
- **Notice Requirements**
- **Permit Criteria**
 - Project meets the minimum standards and criteria
 - All necessary permits have been received.
- **Decision**
 - 60 days from a completed application
- **Flood Plain Permit Application Approval**
 - Valid when all other permits are issued.
 - Time period to complete the project
 - Certificate of compliance
 - Require FEMA approval of revisions to NFIP rate maps.

SECTION 9. DEVELOPMENT STANDARDS - FLOODWAY

- General Standards
- Mining of materials from pits or pools
- **Railroad, highway and street stream crossings**
- Limited fill for road and railroad embankments
- Buried or suspended utility transmission lines
- Storage of material and equipment
- Domestic water supply wells
- Buried and sealed vaults for sewage disposal
- Recreation uses
- Structures accessory or appurtenant
- Agricultural structures
- Surface water diversions
- **9.12 Flood Control and Bank Protection**
- **9.13 Stream and Bank Restoration**
- All other obstructions

Section 9.12 Flood Control and Bank Protection Measures

- Designed by an engineer
- Designed and constructed to **withstand** the flood depths, hydrodynamic and hydrostatic pressures, velocities, impact, buoyancy, and uplift forces associated with the base flood
- Include an encroachment analysis.
- Show compliance with the following additional criteria
 - Levee and Floodwall
 - **9.12.2 Bank Stabilization Projects, Pier and Abutment Protection**
 - Channelization Projects
 - Dams

Section 9.12.2 Bank Stabilization Projects, Pier and Abutment Protection

- least **environmentally damaging** and practicable designed to withstand a base flood within **5 years without substantial yearly maintenance**
- Materials for the project may be designed to **erode over time** but not fail catastrophically and impact others.
- Erosions and raveling of the materials may be designed to be at least **similar in amount and rate to existing natural stream banks** during the base flood.
- The project must not increase erosion upstream, downstream, or adjacent to the site.
- Materials for the project may include but not limited to **rip rap, root wads, brush mattresses, willow wadding, woody debris** or combinations of analogous materials.
- The stream's **biological capacity and habitat potential** shall be incorporated in the project design.
- The project includes compensating efforts by **replacing and providing substitute resources or environments** through creation, restoration, enhancement or preservation of similar or appropriate resource areas. **(Higher Standard)**

Section 9.13 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** if:
 - The project design must be **reviewed and approved by an engineer**.
 - An **encroachment analysis** is performed by an engineer.
 - **Not increase erosion** upstream, downstream, or adjacent to the site.
 - Materials may include but are not limited to **rip rap, root wads, brush mattresses, willow wadding, woody debris** or combinations of analogous materials.
 - Erosions and raveling of the materials are similar in amount and rate to existing natural stream banks during the base flood.
 - Meets the terrestrial and aquatic resource capabilities of the area.

SECTION 10. DEVELOPMENT STANDARDS FLOOD FRINGE AND REGULATED FLOOD HAZARD AREA W/O FLOODWAY

- Floodway requirements and criteria(cumulative)
- Uses requiring permits
 - Residential, commercial and industrial structures
 - Suitable fill
- General requirements
 - Flood damage resistant and safe
 - Water resistant materials
 - Anchoring
 - Certification
 - Access
 - Encroachment limit
 - Electrical systems
 - Heating and Cooling systems
 - Plumbing systems
 - Structural Fill
 - Water and sewer systems

SECTION 10. DEVELOPMENT STANDARDS
FLOOD FRINGE AND
REGULATED FLOOD HAZARD AREA W/O FLOODWAY

- Residential Requirements—new construction, alterations and substantial improvements of residential dwellings, manufactured homes, and recreation vehicles on site more than 180 days.
 - Lowest floor and service facilities and equipment is Two foot above the BFE.
 - Stem wall or fill
 - Crawl space requirements
 - Manufactured home
 - Floor elevation, foundation, anchoring, hauler access.
 - Existing manufactured or mobile home exception for elevating fill.

SECTION 10. DEVELOPMENT STANDARDS
FLOOD FRINGE AND
REGULATED FLOOD HAZARD AREA W/O FLOODWAY

- Non-residential requirements—new construction, alterations, and substantial improvements of commercial or industrial buildings.
 - Two foot elevation of lowest floor, or
 - Dry or wet flood proofing
 - Exceptions for manufactured home uses as commercial or industrial buildings
 - Exceptions for agricultural structures

SECTION 11. EMERGENCIES

- **General**
 - Emergency work is subject to permitting
- **Emergency Application Requirements**
 - Notify the Flood Plain Administrator of action
 - Emergency Notification Form within five days
 - Permit application within 30 days
- **Permit Evaluation**
 - May require modification or removal of the project

Section 12. VARIANCES

- **General**
 - Construction as otherwise required or prohibited.
 - Not an appeal.
- **Variance Application Requirements**
 - Flood Plain permit application
 - Variance Application
- **Notice**
- **Evaluation of Variance Application**
 - Findings and criteria
- **Decision**
 - Commission or Board

Section 13. APPEALS

- **General**
 - Commission or Board review of Flood Plain Administrator's permit decision
 - Not a variance request
- **Appeals Requirements**
 - 30 days from permit issuance or denial
- **Notice and Hearing**
 - Notice and hearing
- **Decision**
 - Grant, modify, or deny the permit
 - Remand to the Flood Plain Administrator
- **Judicial Review**

Section 14. ENFORCEMENT

- **Investigation Request**
- **Notices To Enter And Investigate Lands Or Waters**
- **Notice To Respond And Order To Take Corrective Action**
- **Administrative Review**
- **Appeal of Administrative Decision**
- **Failure to Comply With Order to Take Corrective Action**
- **Judicial Review**
- **Other Remedies**

SECTION 15. PENALTIES

- **Misdemeanor**
- **Declaration to the Federal Flood Insurance Administrator**
 - Conclusively, a violation has occurred
 - Enforcement procedure concluded
 - Declaration by Flood Plain Administrator
 - FEMA Administrator
 - Required components of a statement

SUMMARY

PURPOSE OF MODEL

- Provide communities a current (2012) Model Ordinance; the 1987, 1990, 1991 and 2006 versions are obsolete.
- Provides a model and template for local floodplain management ordinances.
- Communities participating in the National Flood Insurance Program are required to have up to date floodplain management ordinances.
- Includes State and FEMA minimum procedural and development standards.

QUESTIONS

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