Floodplain 101 for Realtors: the Good, the Bad, & the Ugly….What Montana Real Estate Professionals Need to Know

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Thank you:

- Helena Association of REALTORS ®
- MT Board of Realty Regulation

Course Objective

- To provide MT REALTORS® with additional understanding of floodplain management and the National Flood Insurance Program (NFIP)

- Cover how local community NFIP participation can affect REALTORS® and potential purchasers of Montana floodplain property

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- Mary Guokas, Outreach Coordinator
- Bri Shipman, Training Coordinator
- Tiffany Lyden, Regulations Specialist

Steve Story, Floodplain Engineer – Unit Supervisor

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- Chad Hill, Civil Engineer Specialist

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DNRC Water Resources Division

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Water Resources Division

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Floodplain Management

The Montana DNRC Floodplain Management Program promotes common sense planning for development in flood prone areas through education for the benefit of public health, safety and welfare.

Access materials from the July 2013 MT DNRC Floodplain Legal and Sustainable Development Workshop and 5th Annual Floodplain Resource Seminar.

New 2013 Model Ordinance
Written or verbal comments on this draft model ordinance are being accepted from the public through October 31, 2013. Send to lsiroky@mt.gov or call Lawrence Siroky at 406-444-6816.

PDF file links viewable with Acrobat Reader

www.mtfloodplain.mt.gov

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SERVICES AGENCIES LOGIN SEARCH...

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Engineering Specialist Regional Office Map

DNRC Home

Contacts

Insurance

NATIONAL FLOOD INSURANCE PROGRAM

Permitting and Regulations

Mapping and Technical Resources

Disaster and Recovery

Training

Outreach

Flood Photos

News and Announcements

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Be Risk Aware!

Cool Tools

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Big Hole Study Products

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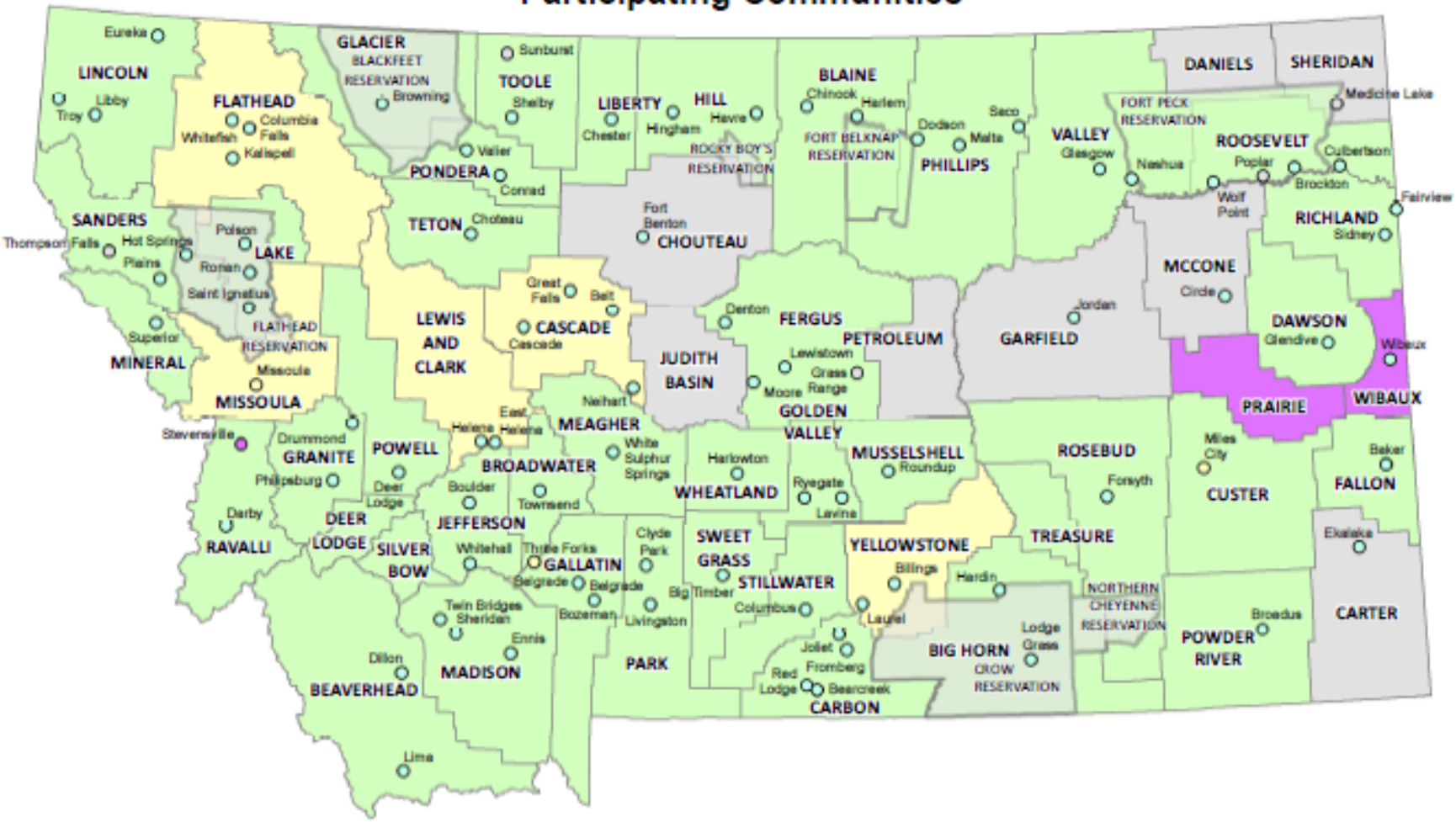
National Flood Insurance Program (NFIP)
Participating Communities



NFIP Community Status

- Community Rating System Participant
- Participating Community
- Community Not Participating
- Suspended Community

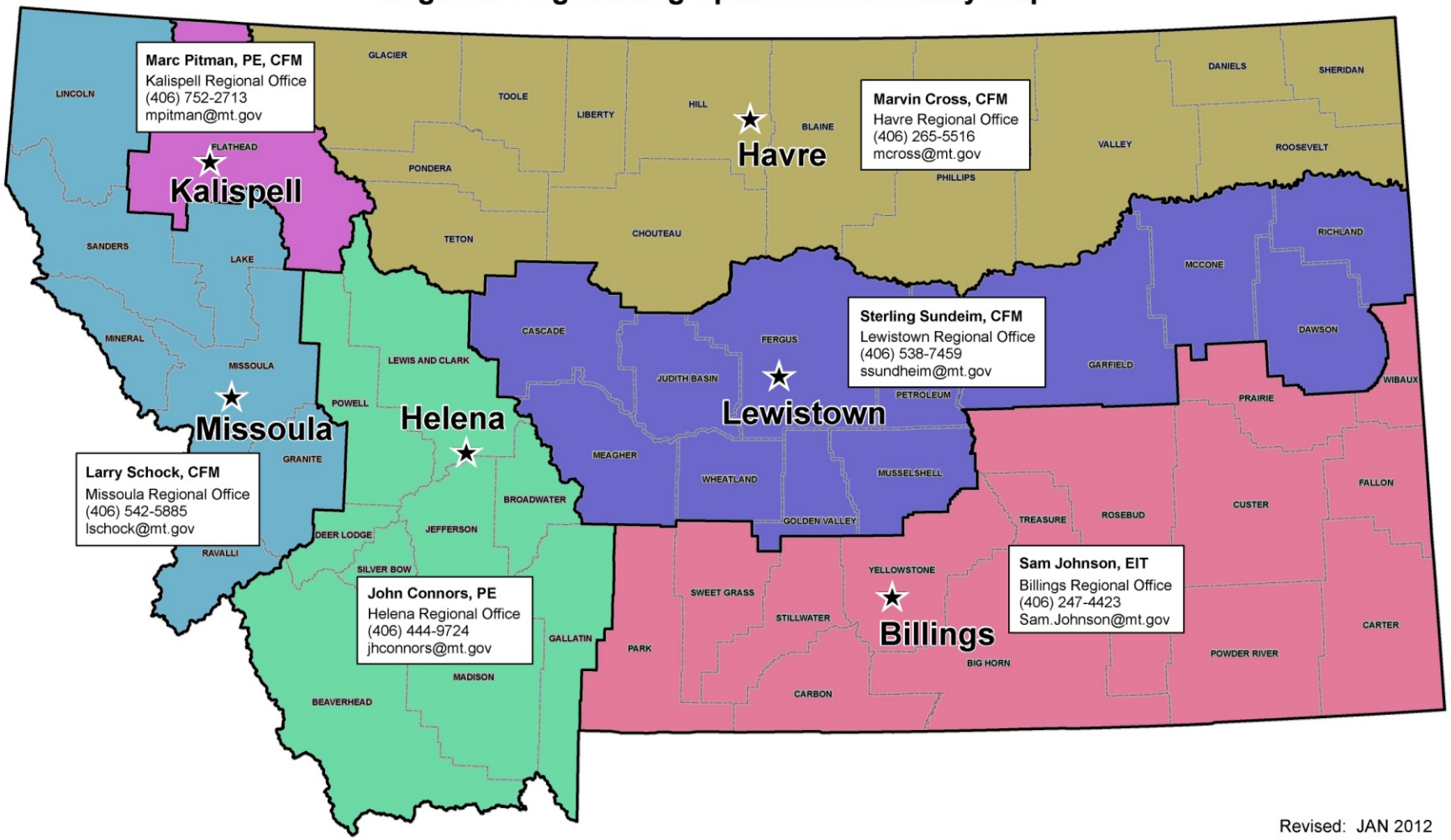
** CRS communities recieve discounted insurance premiums*

Number of Participating Communities

Counties	44
Municipalities	86
Reservations	2
Joint Municipality and County (Butte, Anaconda)	2
Total	134

September 2013

Requesting Assistance – DNRC Regional Engineers



People love to live near water – we are naturally drawn to it.

We can live near water and follow an approach of risk reduction!

This is Where the National Flood Insurance Program Came in.

- Everything you ever wanted to know (and then some) about the National Flood Insurance Program (NFIP)

National Flood Insurance Program (NFIP): Overview

- 1968 – NFIP established by Congress
- Intended as a means of financial protection for property owners

National Flood Insurance Program: Overview

- NFIP offers flood insurance to homeowners, renters, and business owners in NFIP participating communities

- NFIP participating communities agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce flood risk

National Flood Insurance Program: Overview

- The NFIP is administered by the Federal Emergency Management Agency (FEMA)
- The NFIP is coordinated by the State of Montana
- The NFIP is regulated and enforced by local communities

National Flood Insurance Program: Overview

Why Manage Floodplain Development? Voluntary, but…

- Local communities have to in order to maintain compliance with the NFIP and maintain eligibility for federal disaster relief funds and availability of Federal flood insurance

- Guide the development of the 100 year floodplain by insuring regulations balance the greatest public good with the least private injury (assure the actions of one landowner are not to the detriment of another landowner or the public)

National Flood Insurance Program: Overview

Why Manage Floodplain Development?

- Identify flood hazards for properties in order to determine best practices for development and/or open space areas

- Reduce flood loss and risk

National Flood Insurance Program: Overview

Talk Floods Early and Often: Learn the Floodplain Language

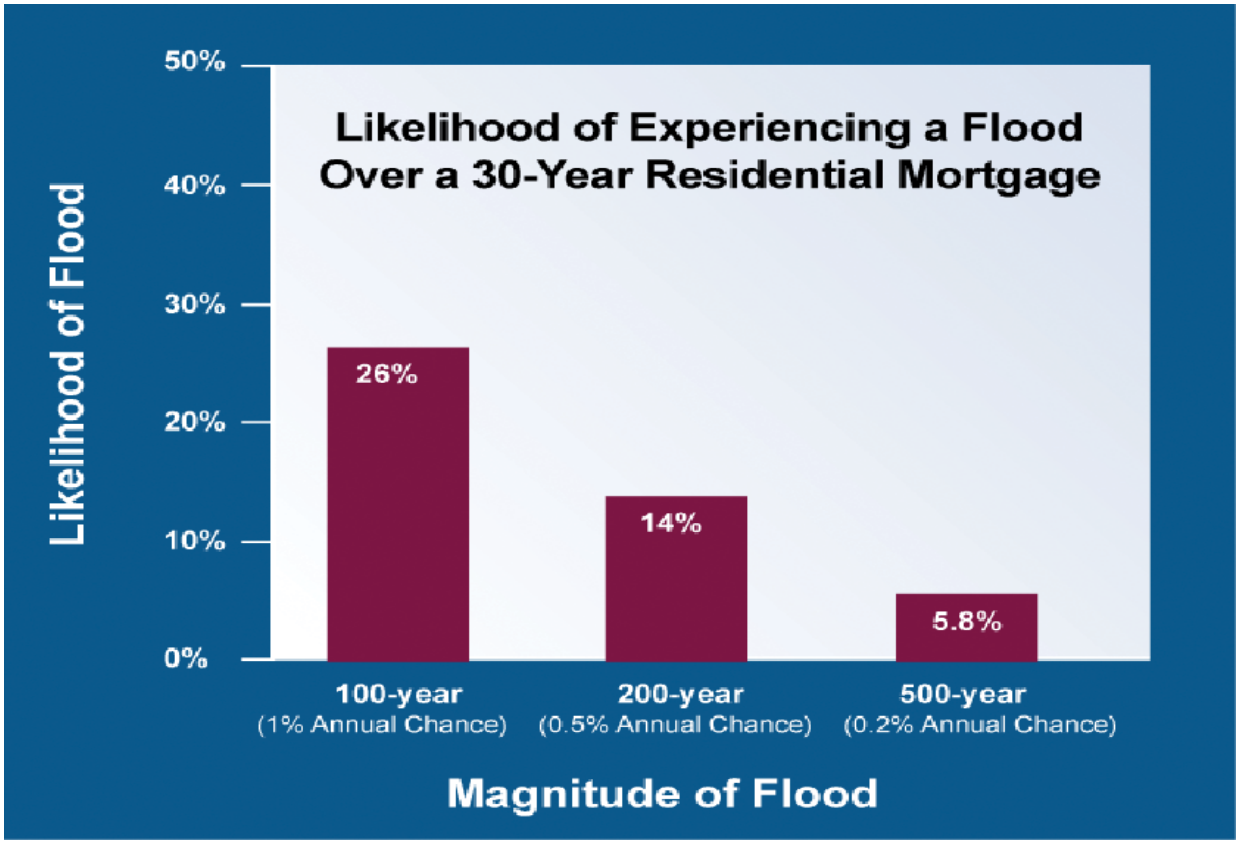
Educate Clients so they Know and Understand Flood Risk

National Flood Insurance Program: Overview

Understand Flood Risk: 26% chance of flooding over a 30 year mortgage….

National Flood Insurance Program: Overview

Understand Flood Risk: 26% chance of flooding over a 30 year mortgage….



National Flood Insurance Program: Overview

Common Acronyms:

- **BFE**- Base Flood Elevation
- **CLOMR** – Conditional Letter of Map Revision
- **DFIRM** – Digital Flood Insurance Rate Map
- **FIRM** – Flood Insurance Rate Map
- **FIS** – Flood Insurance Study

National Flood Insurance Program: Overview

Common Acronyms (continued):

- **LOMA** – Letter of Map Amendment
- **LOMR** – Letter of Map Revision

National Flood Insurance Program: Overview

Floodplain Terminology:

- **Base Flood** (100 year flood)– the flood having a 1% chance of being equaled or exceeded in any given year = Regulatory Standard

National Flood Insurance Program: Overview

Floodplain Terminology:

- **Base Flood Elevation** – computed elevation to which floodwater is anticipated to rise during the base flood. The **BFE** is the regulatory requirement for the elevation or flood-proofing of structures, and is used in determining a structure's flood insurance premium.

National Flood Insurance Program: Overview

Floodplain Terminology:

- **Encroachment** – development within the floodplain including fill, new construction, substantial improvements, bridges, channel crossings, and channel modifications that increase BFE's

National Flood Insurance Program: Overview

Floodplain Terminology: **ENCROACHMENT**

National Flood Insurance Program: Overview

Floodplain Terminology: **ENCROACHMENT**

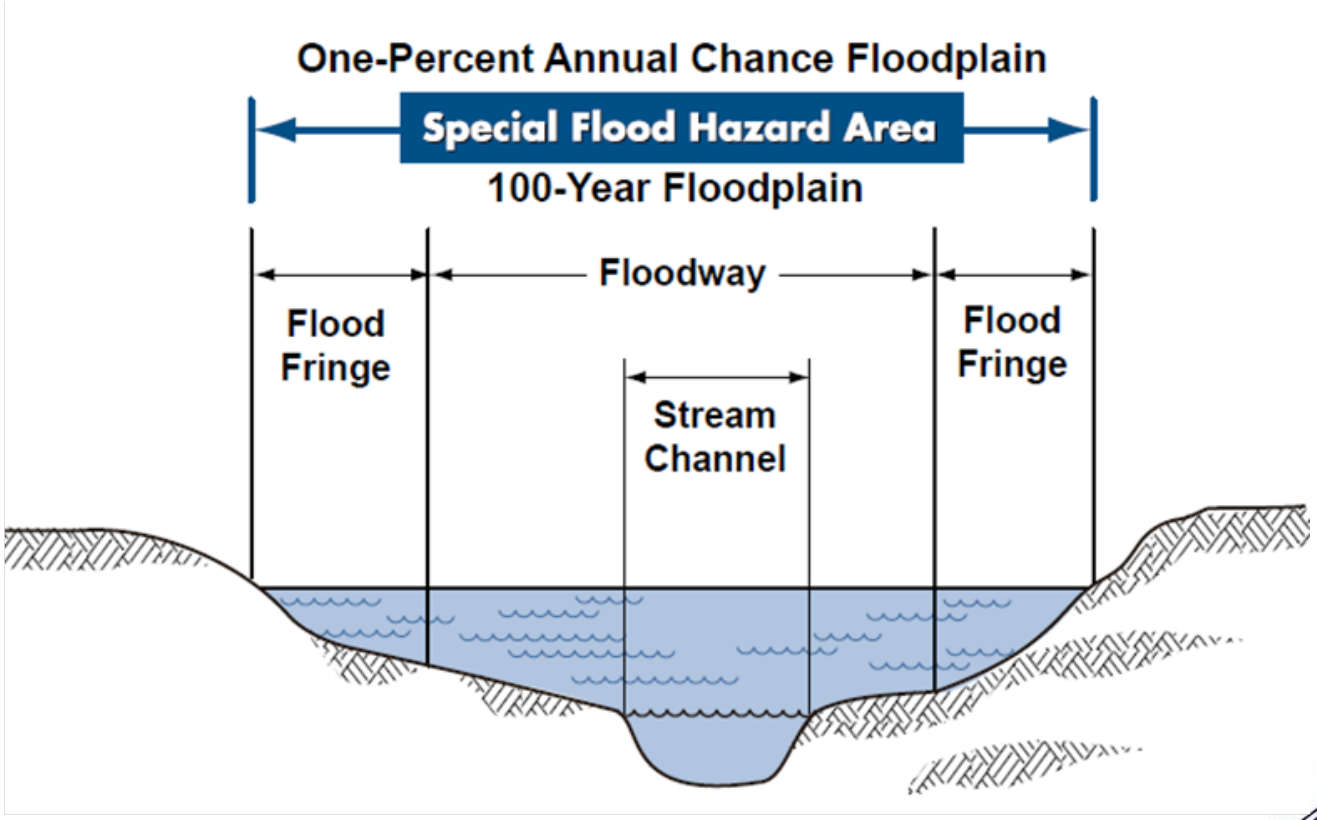
National Flood Insurance Program: Overview

Floodplain Terminology:

Special Flood Hazard Area (SFHA)/100 Year Floodplain:

- The area inundated by floodwaters of the Base Flood.
- The area where NFIP regulations must be enforced and where flood insurance is mandatory.

National Flood Insurance Program: Overview



National Flood Insurance Program: Overview

Floodplain Terminology:

- **Freeboard** – a margin of safety added to the base flood elevation to account for waves, debris, miscalculations, impacts from new development, or lack of data
- Can assist in significant savings on flood insurance premiums

National Flood Insurance Program: Overview

Floodplain Terminology: **FREEBOARD**

Adhering to Floodplain Parameters: Regulations, Mapping, Insurance, & Mitigation

Adhering to Floodplain Parameters: Regulations

NFIP Federal Regulations

In order to participate in the NFIP: the State and local Communities must adopt and enforce floodplain management regulations that meet or exceed the requirements specified under Section 60.3, Title 44, of the Code of Federal Regulations (CFR)

The Montana Rules vs. NFIP Minimum Requirements

**With exhaustive CLOMR/LOMR processes

Standard	Montana Administrative Rules	NFIP Minimum Requirements
Freeboard	2 Feet	No freeboard required
Floodway Standards	**1/2 foot Surcharge	**1 Foot Surcharge
Floodway Uses	Prohibits habitable structures with/in the floodway	Allows structures in Floodway with documentation of zero-rise
Mobile Home Applications	Requires all mobile homes to be elevated to the freeboard protection level.	Will allow for mobile home placed in and existing mobile home park to be elevated to 36” above the adjacent grade.

Adhering to Floodplain Parameters: Mapping

FEMA's Flood Hazard Mapping Program:

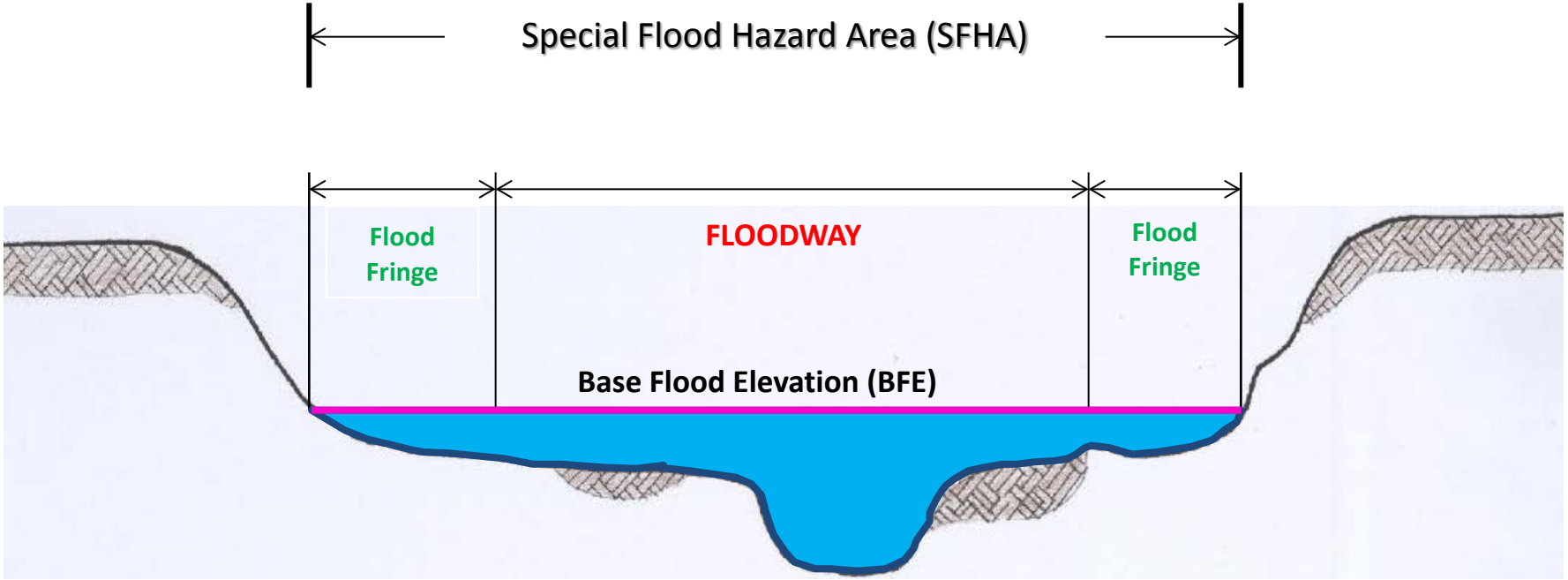
- Identifies flood hazards (rivers, lakes, drainages, etc.)
- Assesses flood risks
- Partners with States and communities to provide accurate flood hazard and risk data
- Flood Hazard Mapping is the basis of NFIP regulations and flood insurance requirements.

Adhering to Floodplain Parameters: Mapping

FEMA's Flood Hazard Mapping Program:

- Understanding the processes behind the mapping is key to knowing what can and can't be done on property.

Adhering to Floodplain Parameters: Mapping



Flood Fringe - Area of the Floodplain that could be encroached upon and used for development by raising the ground.

Encroachment cannot cause more than 0.5 ft. rise.

FLOODWAY – Regulatory Area Only - Limited Development and no Encroachment allowed – Not a Physical Feature.

Adhering to Floodplain Parameters: Mapping

Floodway or Regulatory Floodway:

- The **Floodway** is a **regulatory measure** to assist communities with protecting the river corridor where flows are most sensitive to encroachment. NOT a physical feature.

- The channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height (= 0.5 ft in MT).

- The **Floodway** is the river channel and that portion of the floodplain that must remain open to permit passage of the base flood. Floodwaters are generally deepest and swiftest in the floodway.

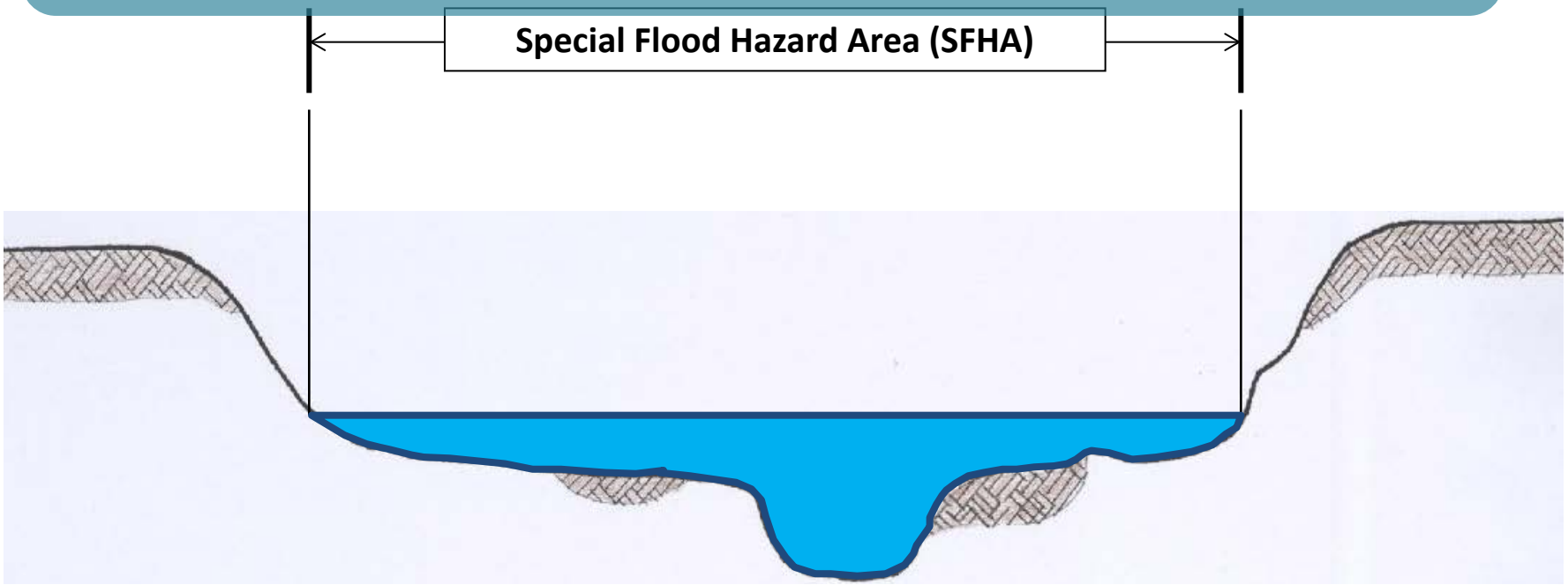
Adhering to Floodplain Parameters: Mapping

Floodway or Regulatory Floodway:

- **The State of Montana has higher standards for identified floodways than the NFIP minimum standards:**

- **½ foot surcharge**
- **No new structures in the floodway**

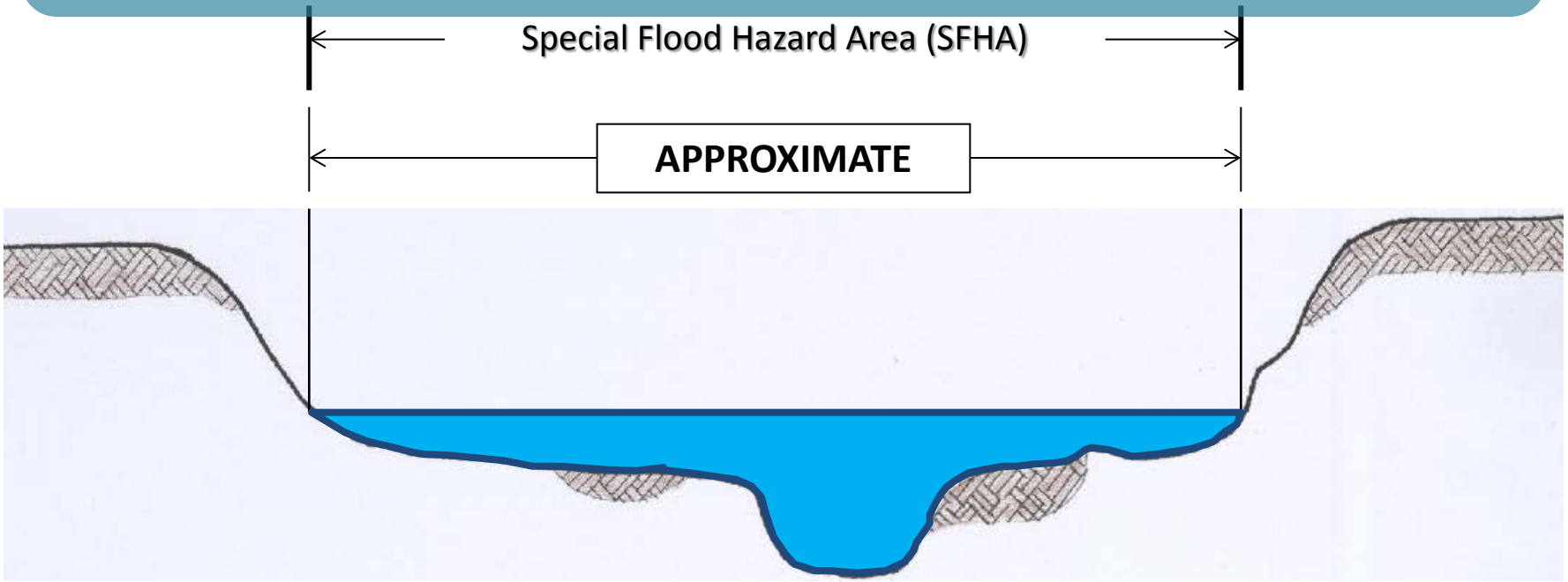
Adhering to Floodplain Parameters: Mapping



Three different types of floodplain studies can be used to identify the SFHA:

- Approximate Study
- Limited Detail Study
- Detailed Study

Adhering to Floodplain Parameters: Mapping



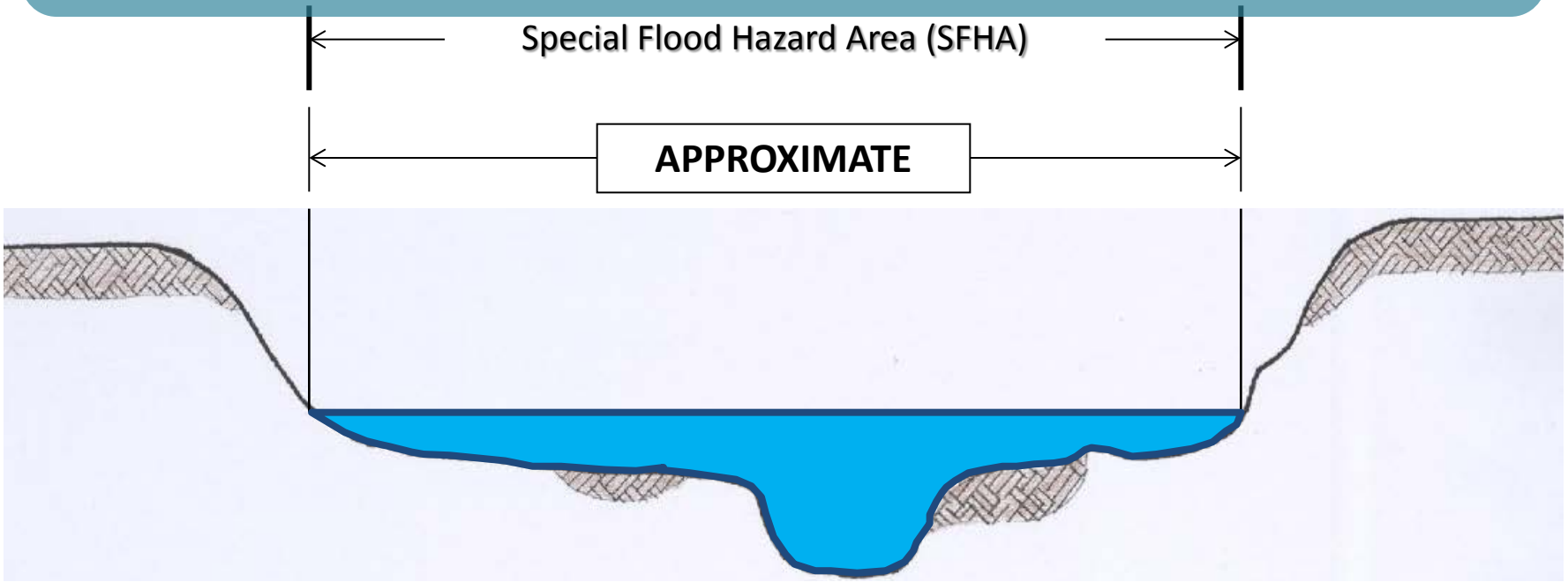
No Base Flood Elevations

No Hydrology

No Hydraulic Modeling

No Flood Profiles

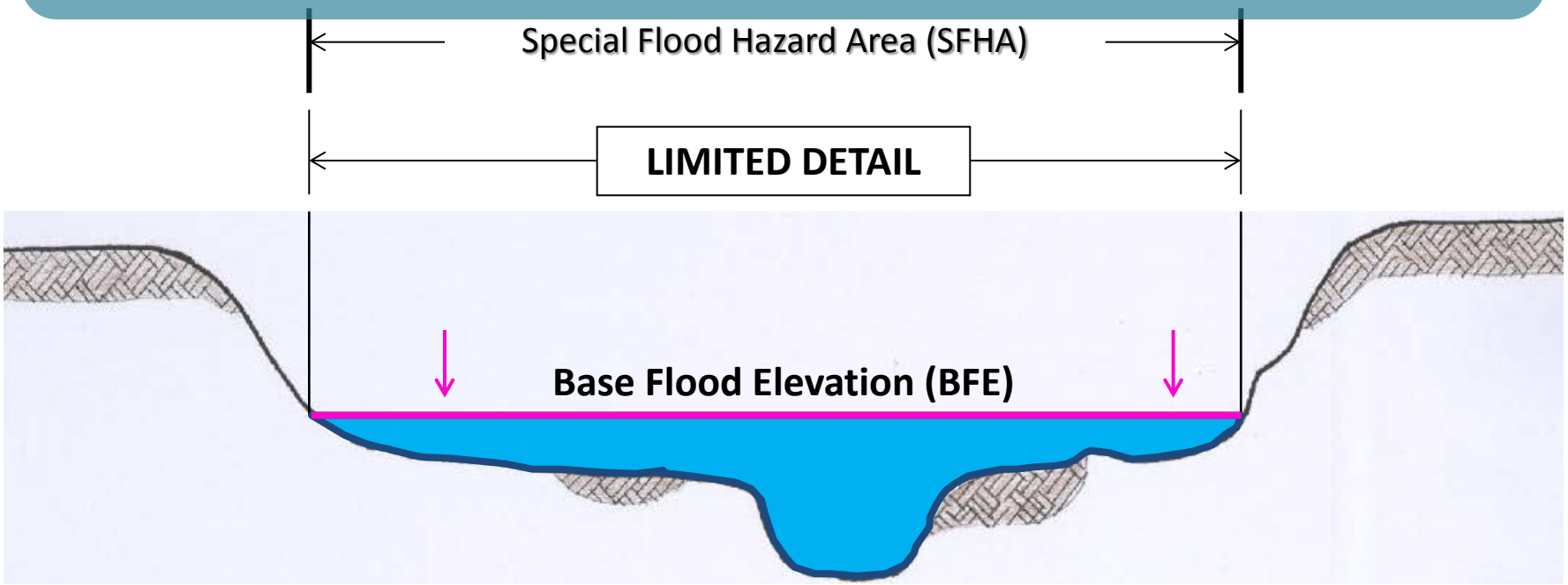
Adhering to Floodplain Parameters: Mapping



Represented as “flood fringe” in most local ordinances.

Establishing BFE’s could be a significant cost accrued by your client

Adhering to Floodplain Parameters: Mapping

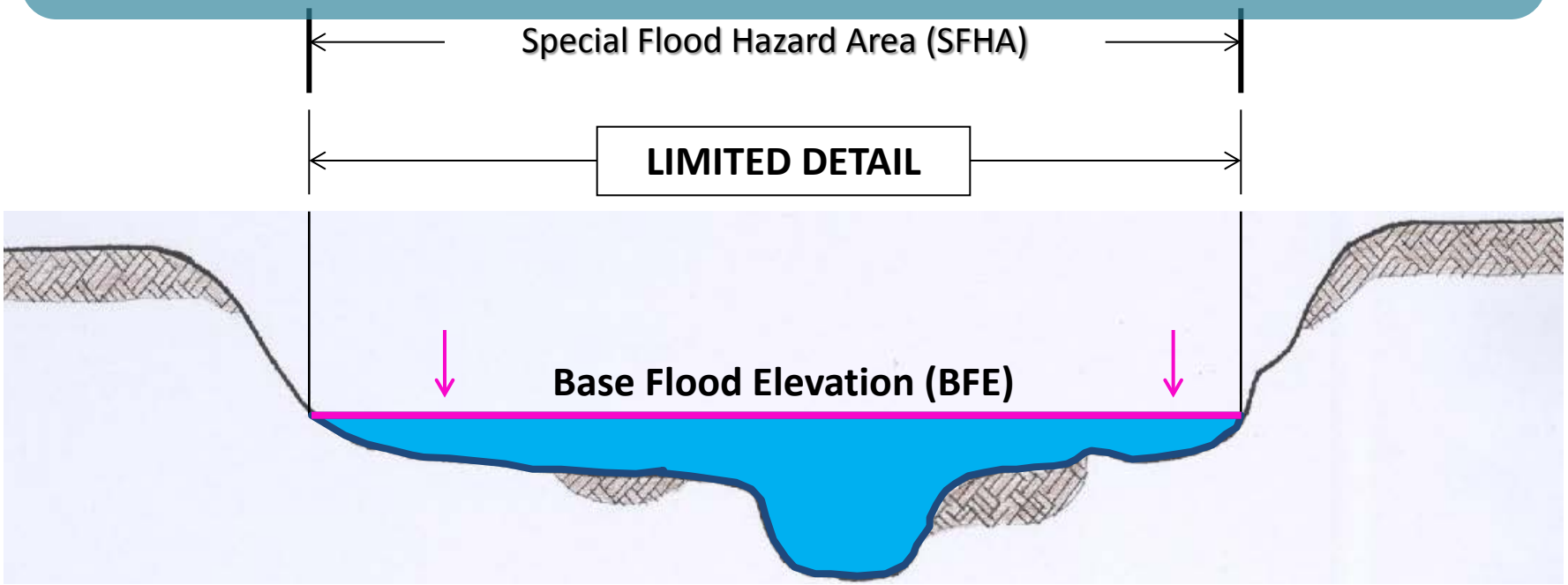


Flood Profiles and BFEs published in FIS.

Has limited Hydrology and Topographic Data

Has Limited Hydraulic Modeling at Bridges and Crossings

Adhering to Floodplain Parameters: Mapping

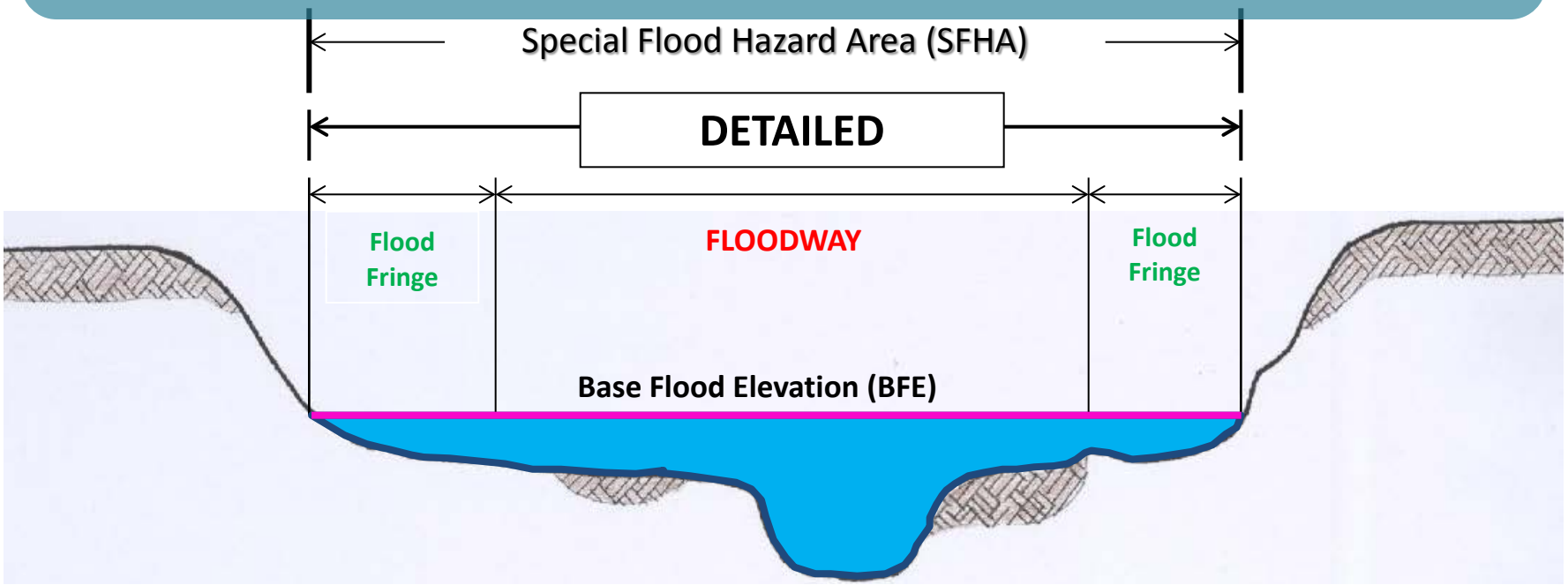


No floodway

BFE's are provided

Defined as flood fringe in most local ordinances

Adhering to Floodplain Parameters: Mapping



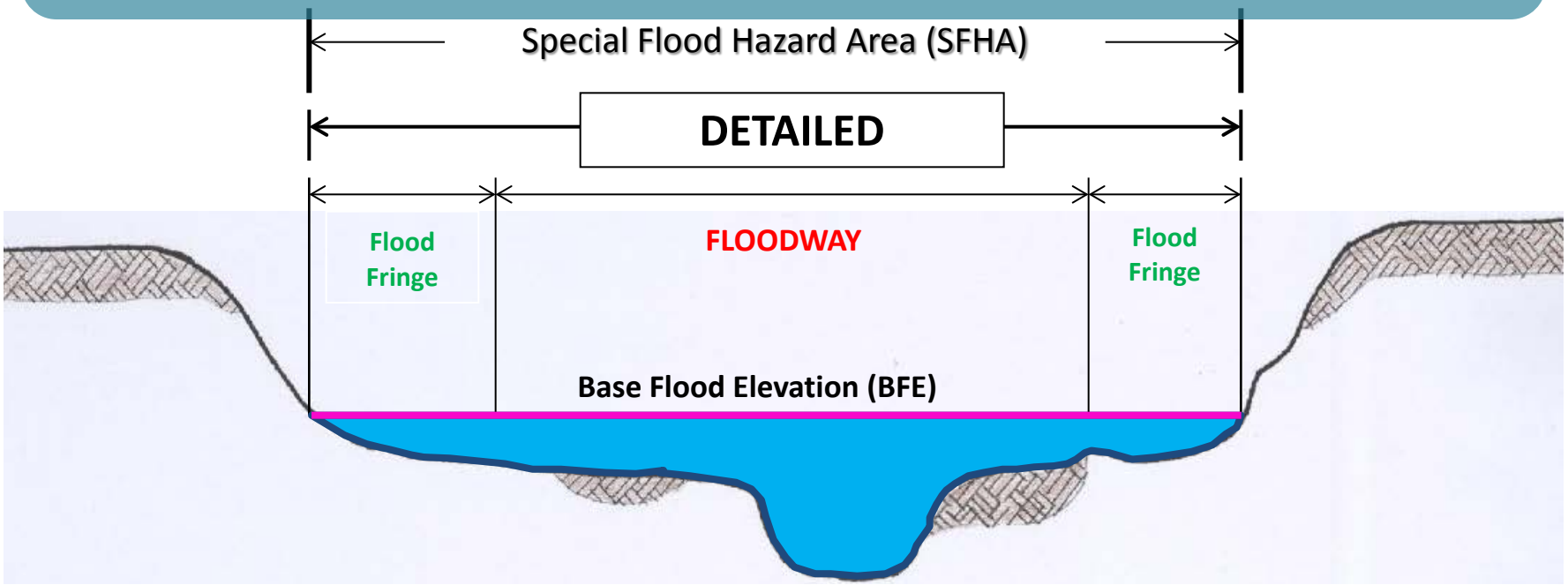
Flood Profiles and BFEs are published in FIS.

Based Upon Detailed Hydrology and Topographic data.

Based Upon Detailed Hydraulic Modeling.

Floodway Data Tables are published in the FIS.

Adhering to Floodplain Parameters: Mapping



Floodway – more restrictive for development

Costs for encroachment analysis for floodway projects

Provides BFEs and cross sections – can cost much less for already established BFE's

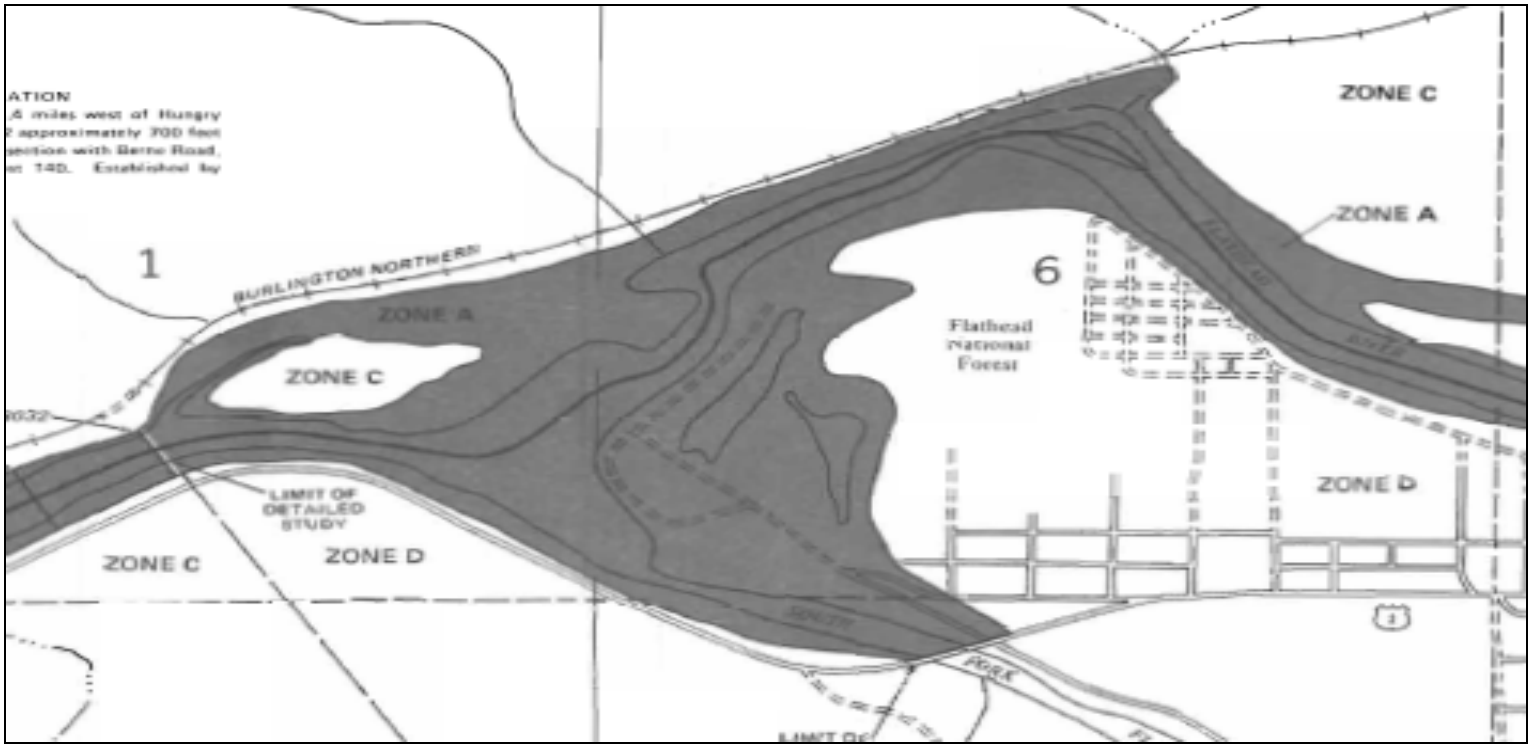
Adhering to Floodplain Parameters: Mapping

Flood Insurance Rate Map (FIRM) and Digital Flood Insurance Rate Map (DFIRM):

A map created by the NFIP for floodplain management and insurance purposes, that identifies special hazard areas and risk premium zones.

Adhering to Floodplain Parameters: Mapping

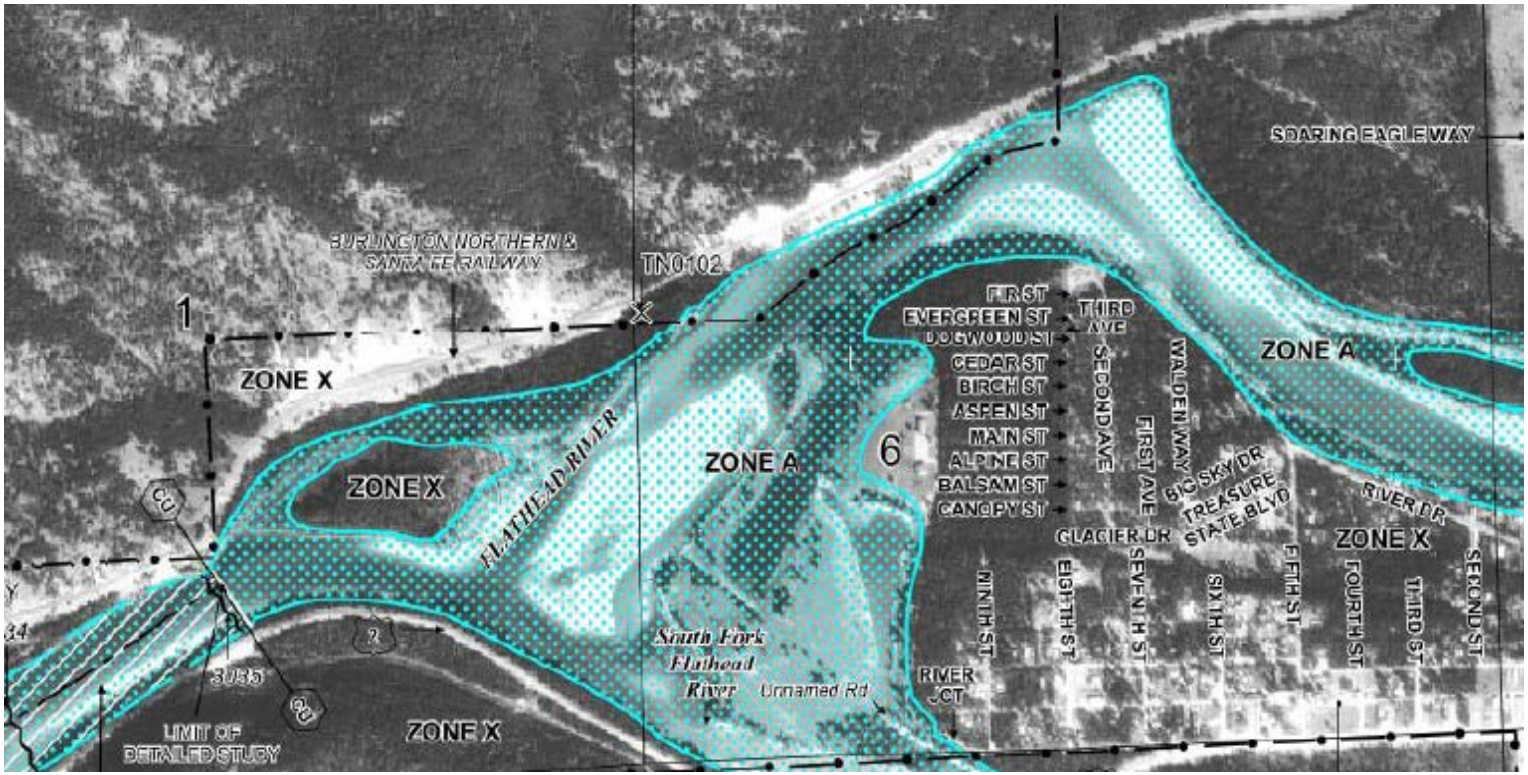
Flood Insurance Rate Map (FIRM)



Flood insurance and local ordinances adhere to the effective FIRMS

Adhering to Floodplain Parameters: Mapping

Digital Flood Insurance Rate Map (DFIRM):



Adhering to Floodplain Parameters: Mapping

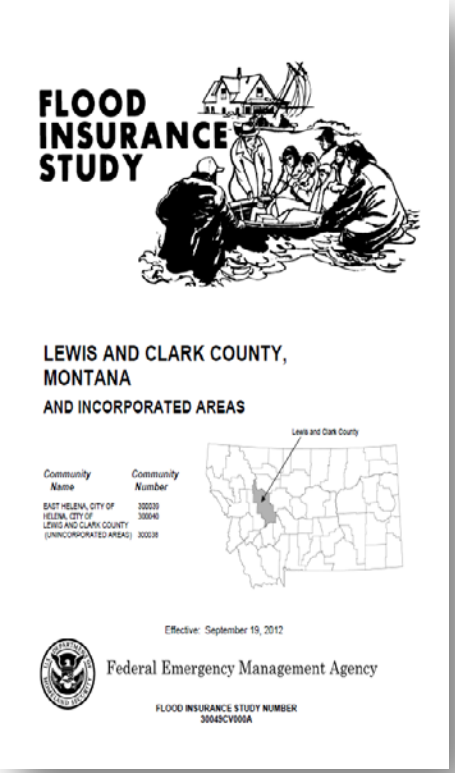
Digital Flood Insurance Rate Map (DFIRM):

- Better product
- Easier to access specific property information
- Maps are to be used as a guide
- True determination if a property is in or out is based on the BFE

Adhering to Floodplain Parameters: Mapping

Flood Insurance Study (FIS):

- FIS is compilation & presentation of flood risk data for specific watercourses & lakes within a community.
- The FIS report and associated maps delineate the SFHA, designate flood risk zones, and establish BFE's.
- The FIS serves as the basis for rating flood insurance, regulating floodplain development, history of flood events for the community, and managing local floodplain programs.


FLOOD INSURANCE STUDY

LEWIS AND CLARK COUNTY, MONTANA
AND INCORPORATED AREAS

Lewis and Clark County

Community Name	Community Number
EAST HELENA, CITY OF	300030
HELENA, CITY OF	300040
LEWIS AND CLARK COUNTY (UNINCORPORATED AREAS)	300036

Effective: September 19, 2012

Federal Emergency Management Agency

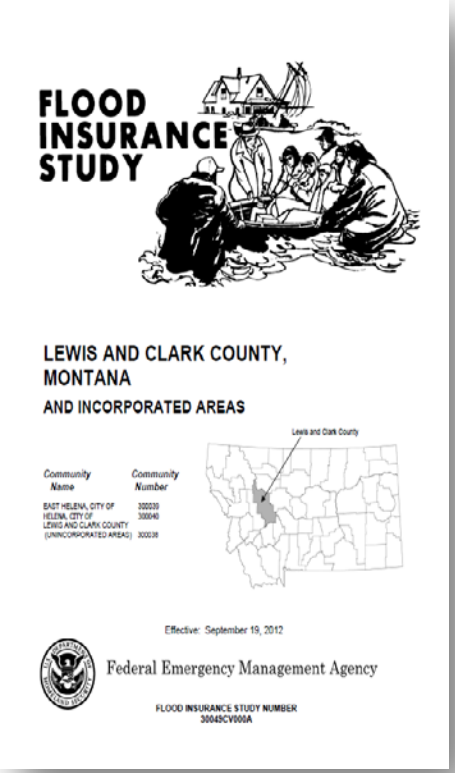
FLOOD INSURANCE STUDY NUMBER
30049CV000A

Adhering to Floodplain Parameters: Mapping

Flood Insurance Study (FIS):

The FIS report has:

- The Flood Insurance Study Report
- The FIRM or DFIRM's
- Prior to 1986, a separate Flood Boundary and Floodway Map (FBFM) was issued as a component of the FIS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Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

- Flood zones are geographic areas that FEMA has defined according to varying levels of flood risk.

- Zones are depicted on a community's FIRM or DFIRM

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

- Each zone reflects the severity or type of flooding in the area

- Important to understand development requirements and restrictions AND insurance implications

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

Lewis and Clark County has an assortment of the following zones:

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

MODERATE TO LOW RISK AREAS – In NFIP participating communities, flood insurance is available to all property owners and renters.

ZONE	DESCRIPTION
B and X (shaded)	Area of moderate flood hazard, usually between the limits of the 100 year and 500 year floods; also used to designate base floodplains of lesser hazards
C and X (un-shaded)	Area of minimal flood hazard, usually depicted on FIRMs as above the 500 year flood level

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

- **No Regulations**
- **May want to encourage building higher if located in low elevation area, near unmapped water, or if there are shallow aquifer concerns.**

ZONE	DESCRIPTION
B and X (shaded)	Area of moderate flood hazard, usually between the limits of the 100 year and 500 year floods; also used to designate base floodplains of lesser hazards
C and X (un-shaded)	Area of minimal flood hazard, usually depicted on FIRMs as above the 500 year flood level

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

HIGH RISK AREAS – in NFIP participating communities, mandatory flood insurance purchase requirements , and floodway and flood fringe regulations and development standards apply.

ZONE	DESCRIPTION
A	Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage. No depths or BFEs are shown within these zones.
AE	The base floodplain where base flood elevations are provided.
A1-30	Known as numbered A Zones. This is the base floodplain where the FIRM shows a BFE (old format, AE is used instead on new format FIRMs)

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

HIGH RISK AREAS – in NFIP participating communities, mandatory flood insurance purchase requirements and flood fringe regulations and development standards apply.

ZONE	DESCRIPTION
AH	Areas with a 1% annual chance of shallow flooding (ponding), average depth ranging from 1-3 feet. These areas have a 26% chance of flooding over the life of a 30 year mortgage. Base flood elevations derived from detailed analyses shown at selected intervals.
AO	River/stream flood hazard areas, and areas with a 1% or greater chance of shallow flooding each year (sheet flow), with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30 year mortgage. Average flood depths derived from detailed analyses are shown within these zones.

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

HIGH RISK AREAS – in NFIP participating communities, flood insurance purchase requirements apply when lender requests to protect investment.

ZONE	DESCRIPTION
D	Areas with possible but undetermined flood hazards. No flood hazard analysis has been conducted. Flood insurance rates are commensurate with the uncertainty of the flood risk.

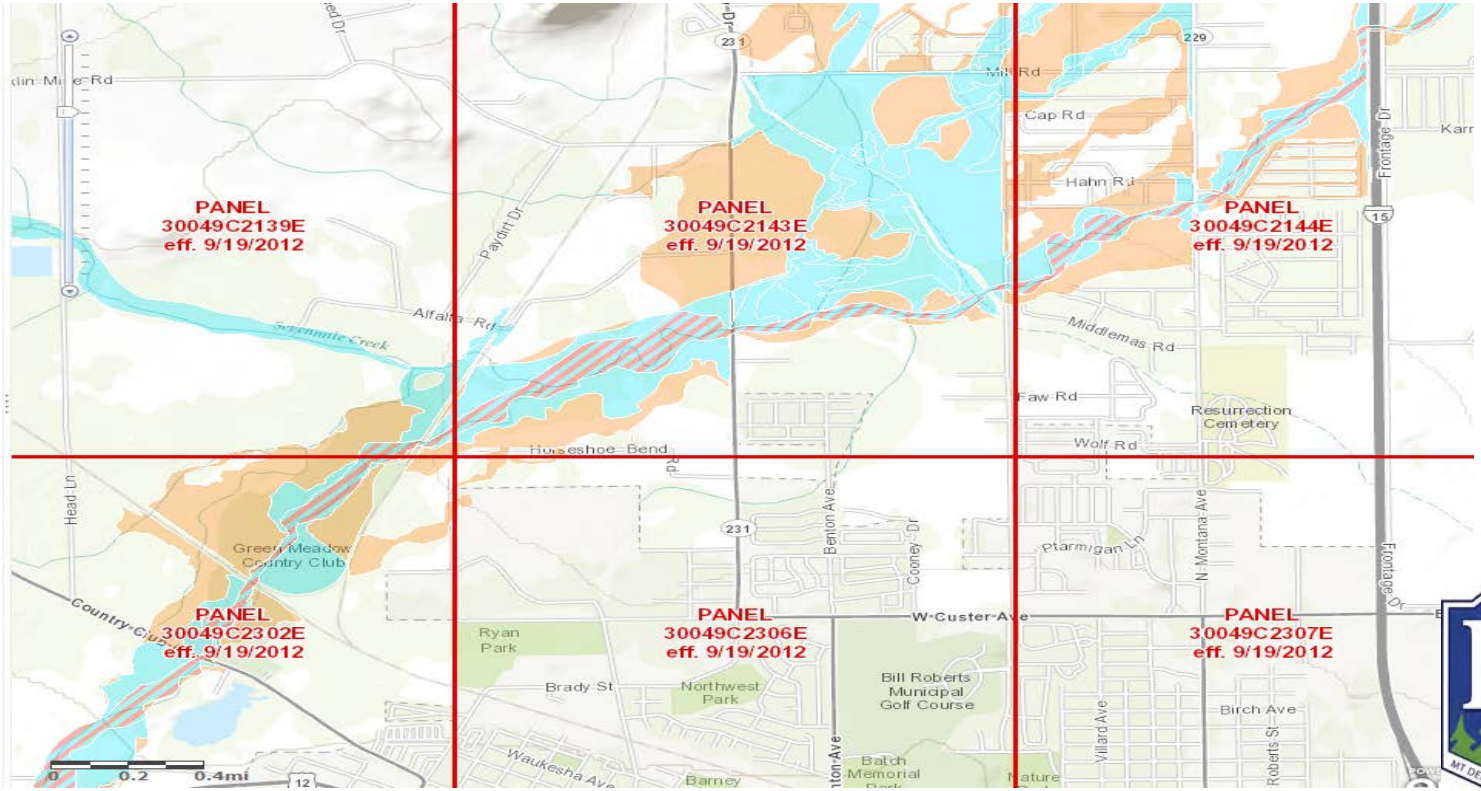
- **Can't get out of Zone D through LOMC process**
- **Insurance premiums may be higher than Zone A**

Adhering to Floodplain Parameters: Mapping

FEMA Flood Zone Designations

Adhering to Floodplain Parameters: Mapping

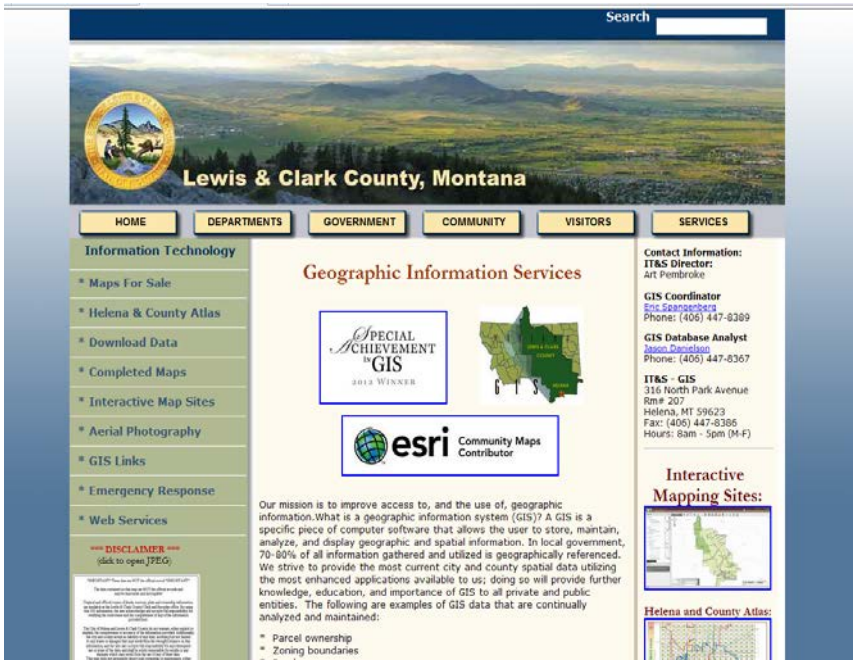
Lewis and Clark County: Where do you find Flood Hazard information



Adhering to Floodplain Parameters: Mapping

Lewis and Clark County: Where do you find Flood Hazard information

Local Floodplain Administrator: Paul Spengler, 406-447-2885



Lewis and Clark County GIS
http://www.lccountymt.gov/it/gis-maps.html

Adhering to Floodplain Parameters: Mapping

Lewis and Clark County: Flood Zones

FEMA Map Service Center

Product Catalog | Map Search | Quick Order | Digital Post Office | Help Log on

Home > Real Estate/Flood Determination Agents

Real Estate/Flood Determination Agents

Are you looking for official flood maps?

The map associated with a property may be found using the Map Search feature. If you need assistance with this tool, please contact the MSC Customer Service Department at (877) 336-2627. If you need to access community wide maps, use the latest available flood maps search method in the Product Catalog.

Are you looking for a LOMC?

If you know the case number, click here. If you do not know the case number but know the community for which the LOMC was issued, you will need to use the Product Catalog to identify your case.

Are you looking for a community's participation status in the NFIP?

This information is contained in the Community Status Book, which is published daily. To view the latest copy, click here.

Do you need to know how to make a FIRMette?

Once the flood map of interest has been identified, you may create a FIRMette. Click here for a tutorial.

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FEMA Map Service Center, P.O. Box 3617 Oakton, Virginia 22124-9617 Phone: (877) 336-2627
Adobe Acrobat Reader required to view certain documents. Click here to download.

FEMA's Map Service Center
www.msc.fema.gov

Options for Property Owner: Mapping

FEMA Letters of Map Change

Through a process called a Letter of Map Change (LOMC), a property owner, developer, or other entity may submit a record of site specific information to FEMA requesting an official change in flood risk.

Possible option to get out of mandatory insurance requirements if there is a higher BFE.

Options for Property Owner: Mapping

What are LOMCs?

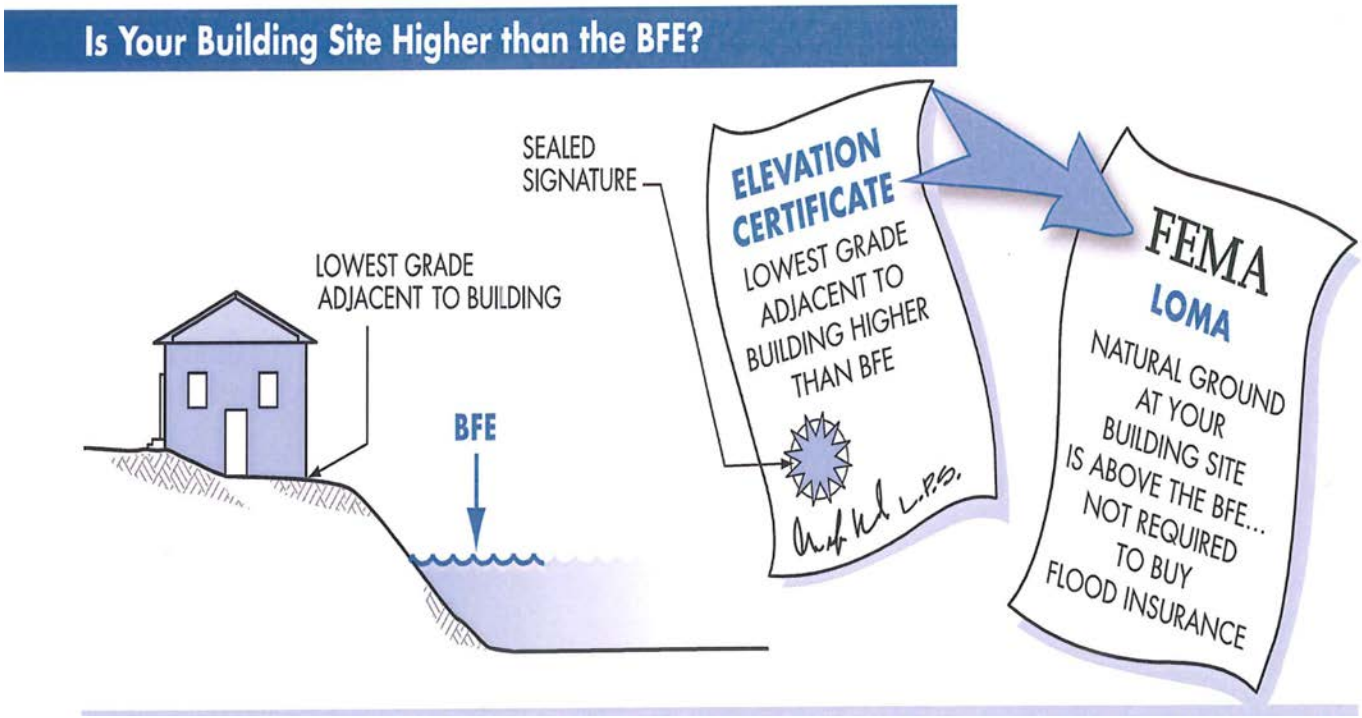
Letter of Map Amendment: LOMA

- Small scale changes
- Letter from FEMA – the map is "modified" by the letter; a new map panel is NOT produced
- Effective on the date sent
- Requires a surveyor
- Used to remove a structure/property from the SFHA, and thus remove mandatory purchase of flood insurance

Options for Property Owner: Mapping

What are LOMCs?

Letter of Map Amendment: LOMA



Options for Property Owner: Mapping

What are LOMCs?

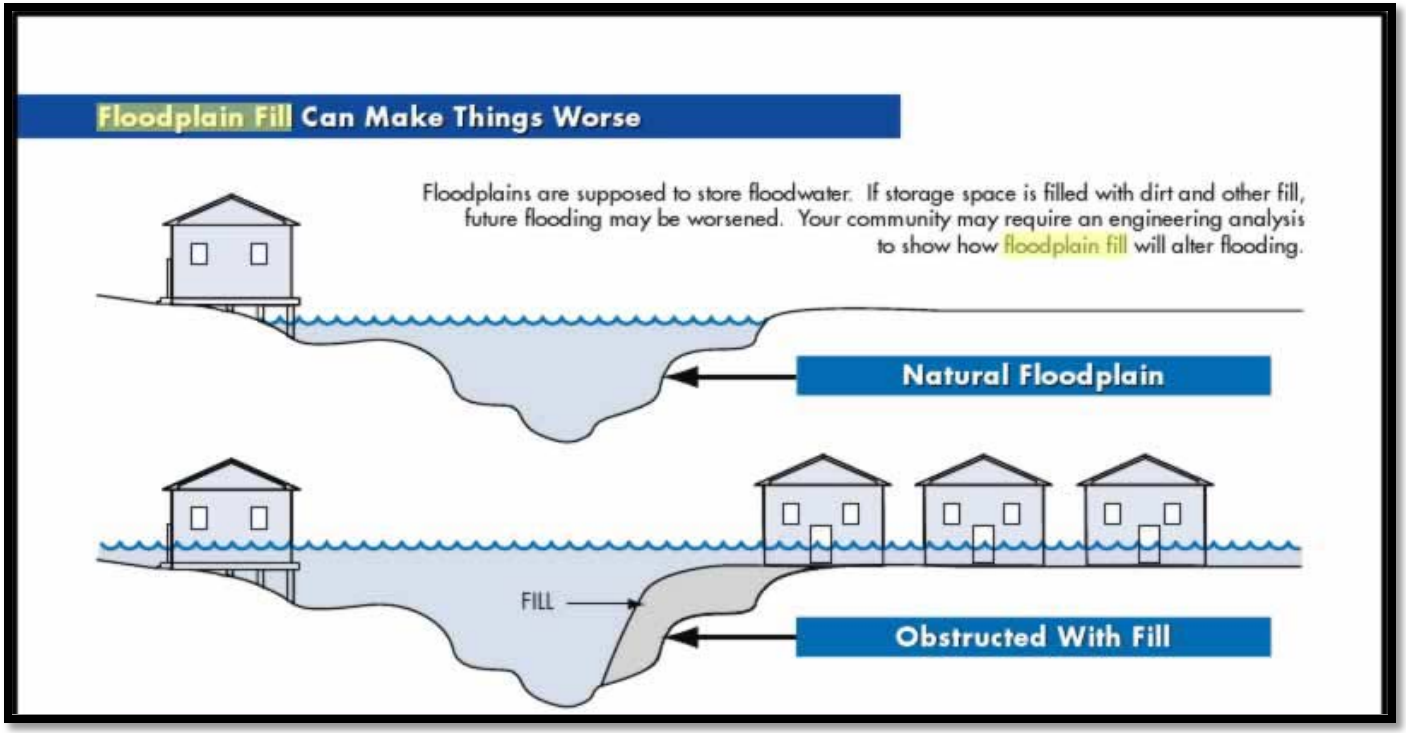
Letter of Map Revision based on Fill: LOMR-F

- Small scale changes where fill has been placed to elevate land to at/above BFE
- Letter from FEMA – the map is "modified" by the letter; a new map panel is NOT produced
- Effective on the date sent
- Requires a surveyor & floodplain permit for fill & structure
- Used to remove a structure/property from the SFHA, and thus remove mandatory purchase of flood insurance

Options for Property Owner: Mapping

What are LOMCs?

Letter of Map Revision based on Fill: LOMR-F



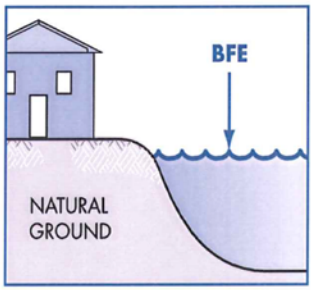
Options for Property Owner: Mapping

What are LOMCs?

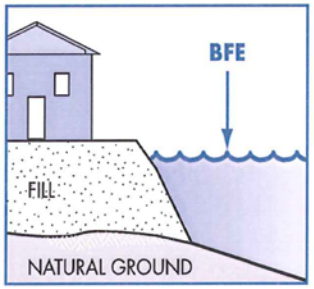
Letter of Map Revision based on Fill: LOMR-F

Flood Map Revisions: LOMAs and LOMR-Fs

The most accurate information available is used to make flood maps, including topographic base maps and detailed engineering methods or methods of approximation. FEMA issues map revisions if technical data are submitted to support the changes.



Letter of Map Amendment (LOMA) is an official amendment to an effective FIRM that may be issued when a property owner provides additional technical information from a licensed professional surveyor, such as ground elevation relative to the BFE. Lenders may waive the flood insurance requirement if the LOMA removes a building site from the SFHA because natural ground at the site is above the BFE.



Letter of Map Revision Based on Fill (LOMR-F) is an official revision to an effective FIRM that is issued to document FEMA's determination that a structure or parcel of land has been elevated by fill above the BFE, and therefore is no longer in the SFHA. Lenders may waive the insurance requirement if the LOMR-F removes a building site from the SFHA.

Adhering to Floodplain Parameters: Mapping

What are LOMCs?

Letter of Map Revision: LOMR

- Large changes, such as structural changes (bridge/culvert replacement), channelization, etc.
- Letter from FEMA –map is “modified” by the letter;
- Effective date identified in determination letter
- Requires a PE to perform detailed H&H analysis
- Used to remove a structure/property from the SFHA, and thus remove mandatory purchase of flood insurance

Adhering to Floodplain Parameters: Mapping

What are LOMCs?

Letter of Map Revision: LOMR

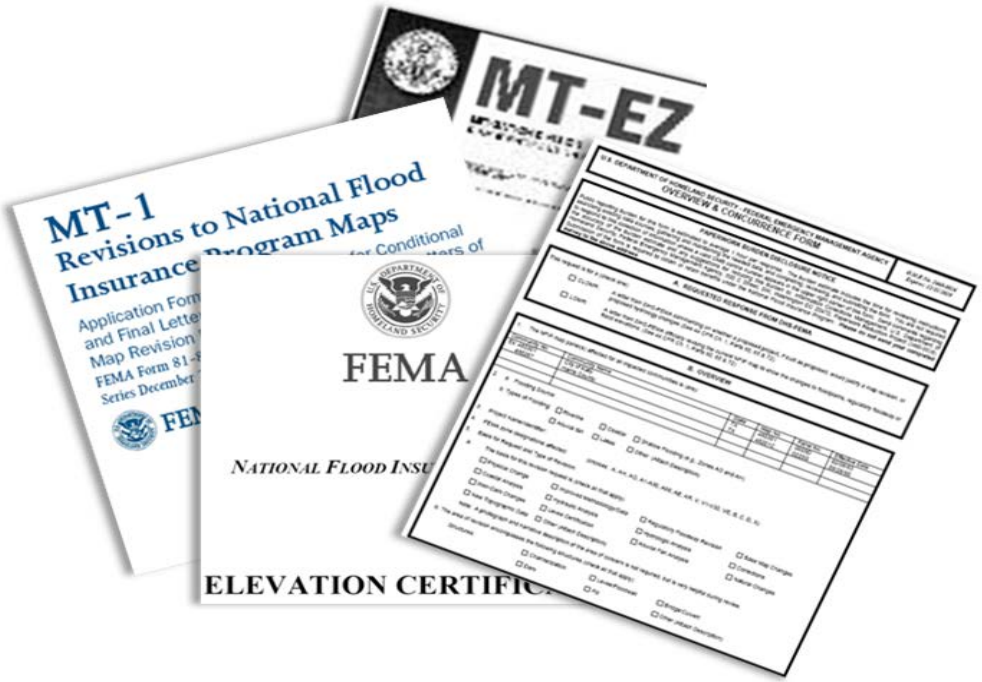
Used to:

- **Request a change to the BFE of SFHA**
- **Request a change to the regulatory floodway boundary delineation**
- **Request a change involving property and/or structures that have been elevated by fill placed within the regulatory floodway**

Adhering to Floodplain Parameters: Mapping

What are LOMCs?

Letter of Map Revision: LOMR



Adhering to Floodplain Parameters: Mapping

What are CONDITIONAL LOMCs?

FEMA's comment on a proposed project – used to ensure compliance or project the change in mapped flood risk

- **CLOMA – Conditional Letter of Map Amendment**
- **CLOMR-F – Conditional Letter of Map Revision Based on Fill**
- **CLOMR – Conditional Letter of Map Revision**

Adhering to Floodplain Parameters: Mapping

What are CONDITIONAL LOMCs?

Conditional LOMCs do not remove the mandatory purchase of flood insurance requirement.

- **A CLOMC is FEMA's comment on the proposed plan**
- **Does not revise or amend the map**
- **Pre-construction**

Adhering to Floodplain Parameters: Mapping

Contacts:

- FEMA Map Service Center Website (MSC) www.msc.fema.gov
- FEMA Publications – 1-800-480-2520
- FEMA FIRM and FIS Ordering – 1-800-358-9616
- General Mapping and LOMC Questions – 1-877-FEMA-MAP
- www.fema.gov

Adhering to Floodplain Parameters:

Demand for waterfront property:

Will continue to rise.

There will always be a demand and availability continues to be limited.

Adhering to Floodplain Parameters:

Lake cabin, purchased 1960:

$2000-$5000.

Same property, 2014: NOT SO CHEAP.

Adhering to Floodplain Parameters:

So does a floodplain designation on a property de-value the site?

Adhering to Floodplain Parameters:

Naturally people are drawn to water – it may cost more. Reality is, not much water front property is left undeveloped.

Adhering to Floodplain Parameters: Insurance

Let's have some discussion on the following NON four letter word:

INSURANCE

Adhering to Floodplain Parameters: Insurance

What is the Likelihood of Flooding?

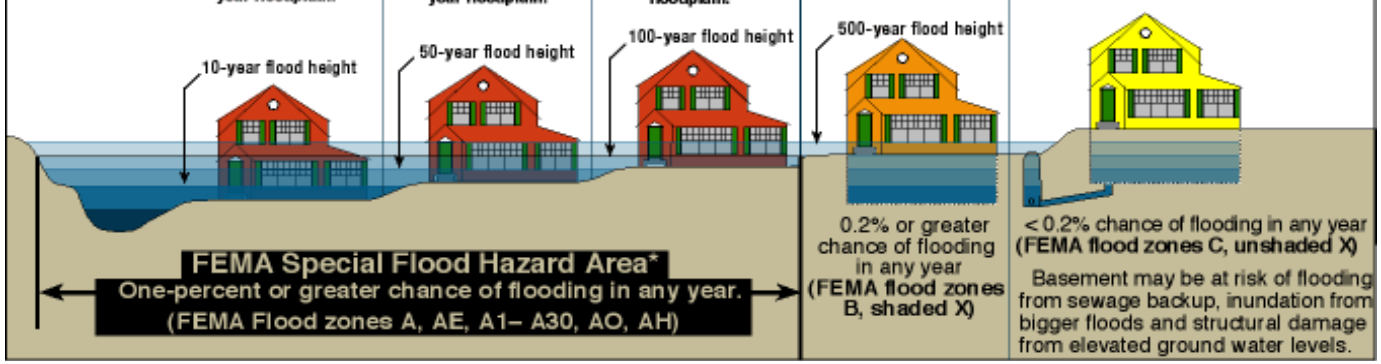
Years in floodplain	Chance of at least one **10-year flood**	Chance of at least one **50-year flood**	Chance of at least one **100-year flood**	Chance of at least one **500-year flood**
1	10%	2%	1%	<1%
2	19%	4%	2%	<1%
3	27%	6%	3%	1%
4	34%	8%	4%	1%
5	41%	10%	5%	1%
10	65%	18%	10%	2%
15	79%	26%	14%	3%
20	88%	33%	18%	4%
25	93%	40%	22%	5%
30	96%	45%	26%**	6%

The longer you occupy the floodplain, the greater your chance of being flooded.

FEMA has not identified all areas that may be at risk of flooding. Between 20%–25% of flood insurance claims are from areas OUTSIDE of the FEMA Special Flood Hazard Area in supposedly "low risk" areas.

**Over a 30 year mortgage, there is a 26% chance of a 100-year flood.

Risk Level:	High Risk	High Risk	High Risk	Medium Risk	Low Risk
	In FEMA 100-year floodplain* Also in: 10, 50 and 500 year floodplain.	In FEMA 100-year floodplain* Also in: 50 and 500 year floodplain.	In FEMA 100-year floodplain* Also in: 500 year floodplain.	In 500-year floodplain	Above 500-year floodplain



Adhering to Floodplain Parameters: Insurance

About the National Flood Insurance Program (NFIP): Coverage

Building vs. Contents Coverage: What's Covered

Flood insurance protects two types of insurable property: building and contents

Adhering to Floodplain Parameters: Insurance

About the National Flood Insurance Program (NFIP): Coverage

Building Coverage: What's Covered

- The insured building and its foundation
- Electrical and plumbing system
- Central air, furnaces, water heaters
- Refrigerators, cooking stoves, dishwashers
- Permanently installed carpet over unfinished flooring

Adhering to Floodplain Parameters: Insurance

About the National Flood Insurance Program (NFIP): Coverage

Contents Coverage

- Clothing, furniture, electronic equipment
- curtains
- Portable and window air conditioners
- Portable microwaves and dishwashers
- Carpeting not already included in property coverage
- Washers and dryers

Adhering to Floodplain Parameters: Insurance

About the National Flood Insurance Program (NFIP): When Insurance is Required

Residents of High Risk Areas

Homes and buildings in high risk flood areas with mortgages from federally regulated or insured lenders are required to have flood insurance.

Adhering to Floodplain Parameters: Insurance

About the National Flood Insurance Program (NFIP): When Insurance is Required

Residents of Moderate to Low Risk Areas

Homes and businesses in moderate to low risk areas with mortgages from federally regulated or insured lenders are typically NOT required to have flood insurance.

Adhering to Floodplain Parameters: Insurance

About the National Flood Insurance Program (NFIP): When Insurance is Required

HOWEVER

Flood insurance is highly recommended.

Adhering to Floodplain Parameters: Insurance

About the National Flood Insurance Program (NFIP): When Insurance is Required

AND

A lender can require flood insurance even if it is not federally required.

Adhering to Floodplain Parameters: Insurance

General Flood Insurance Rating Concepts

- **Build outside the floodplain and flood insurance is inexpensive (until a flood loss occurs or an area is remapped)**

- **Build in or near the floodplain and elevate the "living" or "finished floor" several feet above the BFE and insurance will be relatively cheap.**

Adhering to Floodplain Parameters: Insurance

General Flood Insurance Rating Concepts

- Structures in the floodplain with a finished or enclosed floor below the BFE – premiums will be very expensive.

- If flood openings are missing or insufficient and/or machinery/utilities are below the BFE, insurance will cost A LOT more.

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

Congress passed this Act which calls on FEMA and other agencies to make a number of significant changes to the management of the NFIP.

Some changes have already occurred and others will be phased in.

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

Key provisions:

***raise rates to reflect true flood risk**

***make the program more financially stable**

***change how FIRM updates impact policyholders**

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

Background: Pre-existing homes and businesses could remain as they were.

Owners of these properties were able to obtain insurance at lower, subsidized rates that did not accurately reflect the real risk.

As risk has been updated over the years, many homes and businesses in areas of revised risk were also allowed discounted insurance rates.

"Grandfathering" approach prevented rate increases for existing properties when the flood risk in these areas increased.

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

Present: Flood risks continue and costs and consequences of flooding are increasing dramatically.

July 2012 – Congress passed legislation to make the NFIP more sustainable and financially sound over the long term.

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

What This Means:

- **New law eliminates some artificially low rates and discounts which are no longer sustainable**
- **Flood insurance rates will reflect full risk**
- **Flood insurance rates will rise on some policies**

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

What Can Trigger Rate Changes:

- **Buying or selling a property**
- **Allowing a flood insurance policy to lapse**

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

What Is Changing:

•Owners of **non-primary/secondary residences** in a SFHA will see a 25% annual increase until rate reflects true risk

•Owners of **property which has experienced severe or repeated flooding** will see a 25% annual increase until rate reflects true risk

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

What Is Changing:

- Owners of **business properties in a SFHA** will see a 25% annual increase until rate reflects true risk

Adhering to Floodplain Parameters: Insurance

Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

What Is Changing:

•Owners of **primary residences** in SFHA will be able to keep their subsidized rates unless or until:

•The property is sold
•The flood insurance policy is allowed to lapse
•Suffer severe, repeated flood losses,
•Or a new policy is purchased

Adhering to Floodplain Parameters: Insurance

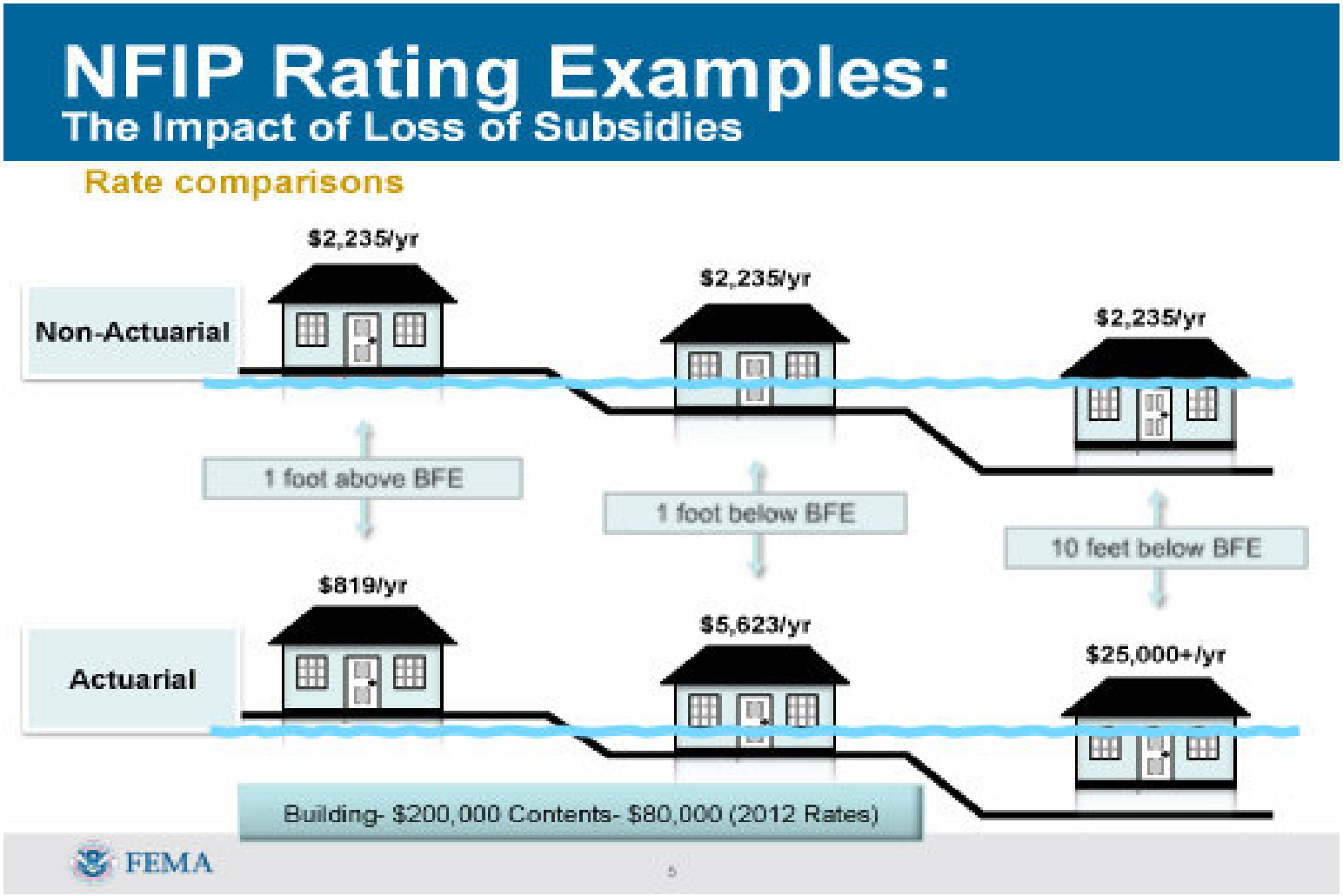
Why Realtors should be familiar with the Homeowner Flood Insurance Affordability Act (HFIAA) 2014 - Reform Act of 2012: Impact of Changes to the NFIP

- **Previous clients could come back and state that they were never informed they were in a floodplain**

Adhering to Floodplain Parameters: Insurance

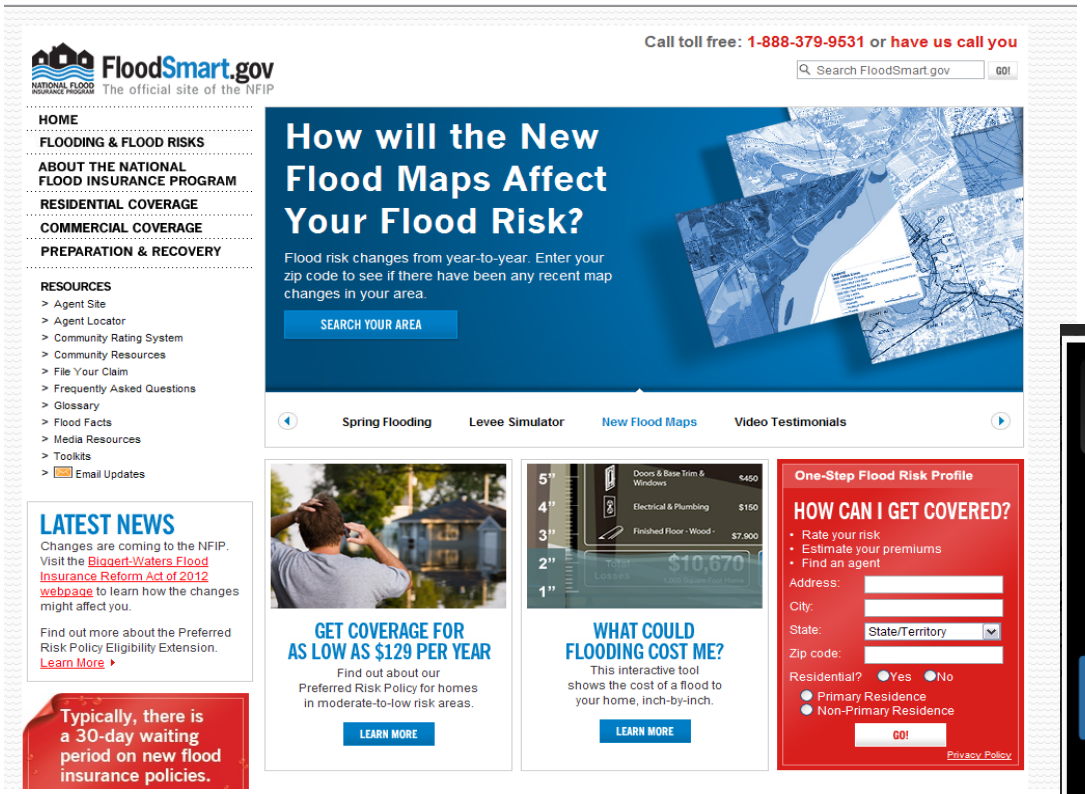
Decreasing Cost through Construction Standards

Adhering to Floodplain Parameters: Insurance



Adhering to Floodplain Parameters: Insurance

Adhering to Floodplain Parameters: Insurance



www.floodsmart.gov

Adhering to Floodplain Parameters: Insurance

Community Rating System (CRS) Program

- Reduce/avoid flood damage to insurable property
- Strengthen/support the insurance aspects of the NFIP
- Foster comprehensive floodplain management

Adhering to Floodplain Parameters: Mitigation

Community wide mitigation steps can assist in lowering costs.

Rebuilding higher will lower risk and could reduce premiums.

There are opportunities for state grants which can distribute funds to help with mitigation and rebuilding.

Adhering to Floodplain Parameters: Mitigation

Three Ways to Help With Higher Premium Costs:

1. **New construction: build higher and meet local regulations**
2. **CRS Program**
3. **Mitigation**

Adhering to Floodplain Parameters: Mitigation

MT Disaster & Emergency Services (DES)
Montana State Hazard Mitigation:
http://montanadma.org/montana-state-hazard-mitigation

http://letsmitigatemontana.com/

Adhering to Floodplain Parameters: Mitigation

Rossiter Elementary, 2011

Adhering to Floodplain Parameters: Mitigation

Helena Valley, 2011

Adhering to Floodplain Parameters: Mitigation

East Helena, 2011

Adhering to Floodplain Parameters: Mitigation

East Helena, 2011

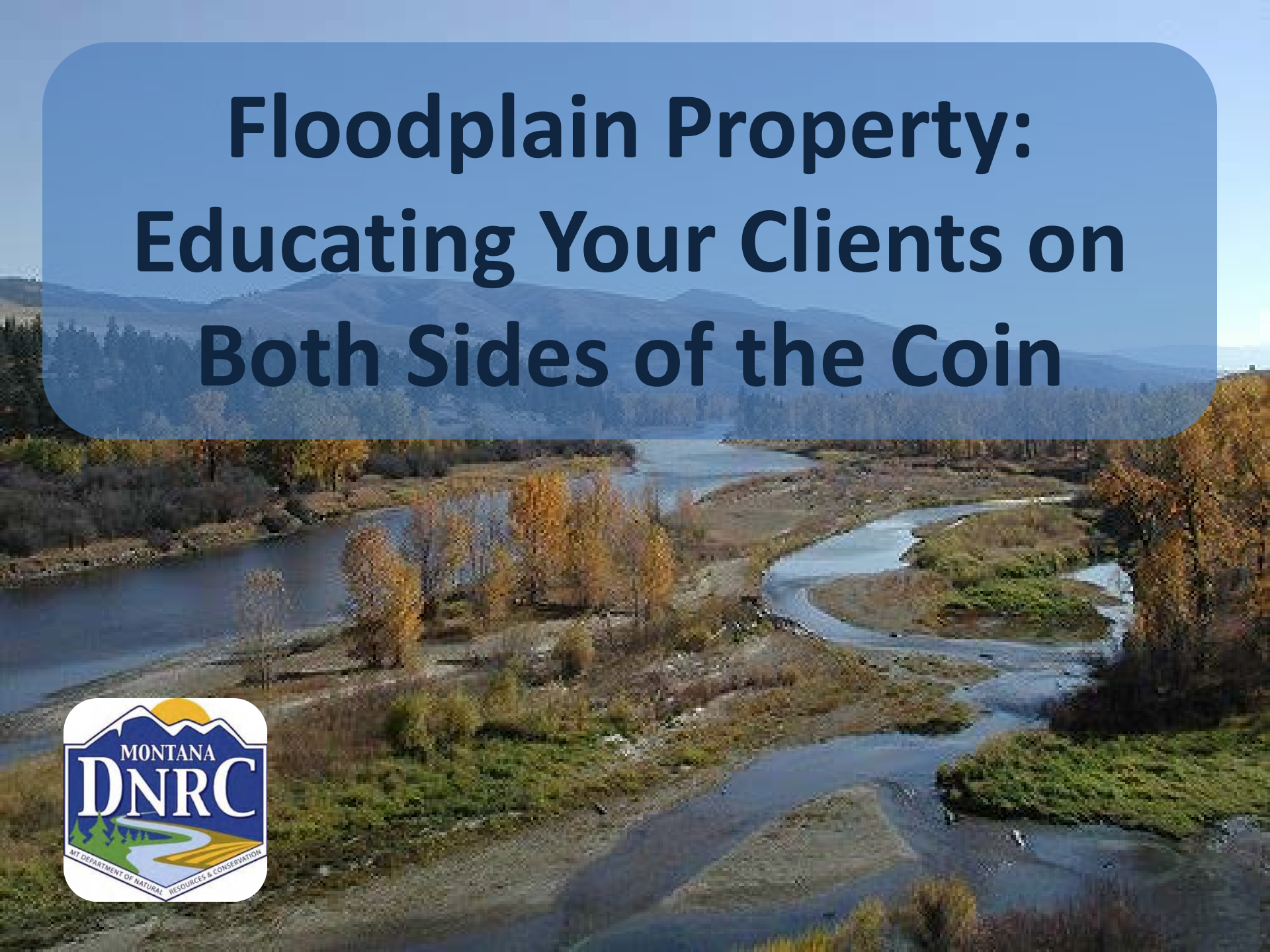
Adhering to Floodplain Parameters: Mitigation

Let's enable a better legacy and satisfied clients for the future.

MONTANA DNRC

MT DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

Floodplain Property: Educating Your Clients on Both Sides of the Coin



Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

Communities participating in the National Flood Insurance Program (NFIP) are required to have current local floodplain management ordinances – includes State and FEMA minimum procedural and development standards.

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

History

- 1968—Federal legislation establishes the NFIP
- 1976—44 CFR 60.3 NFIP Minimum Standards
- 1971 and amended in 1973 – Montana Flood Plain and Floodway Management Act
- 1989 – Chapter 15, Montana Administrative Rules

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

- Local ordinances require local notice and adoption

- DNRC must approve the local floodplain management ordinance before local adoption – 30 day review

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

- FEMA Region VIII must approve before adoption – 30 day review

- Local ordinances are required to be updated within 6 months of a State or FEMA revision or update to the SFHA.

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

In general, an ordinance is a local law or statute that includes:

- **Administrative and enforcement procedures for implementation**
- **Specific requirements, regulations, and/or standards to support its intended purpose**
- **Local ordinances are tied to FEMA maps to ensure consistency**

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

- An NFIP participating community can choose to adopt an ordinance that will meet the minimum requirements; OR

- Adopt an ordinance that will exceed these minimum requirements

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

- **Why Does Montana Have Higher Standards?**

Disaster related damages are increasing unnecessarily

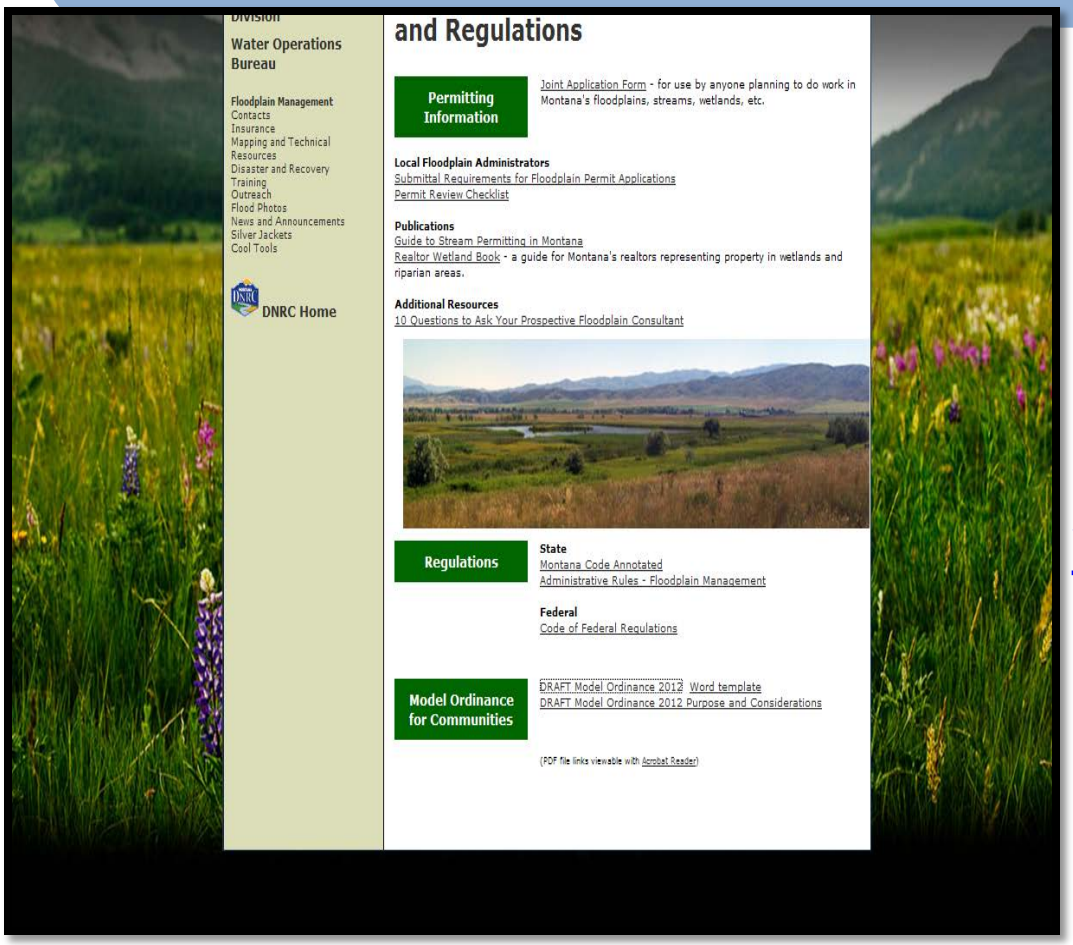
Protection of property rights

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances

- **Why Does Montana Have Higher Standards?**

Some current approaches deal primarily with how to build in hazardous locations vs. how to minimize future damages

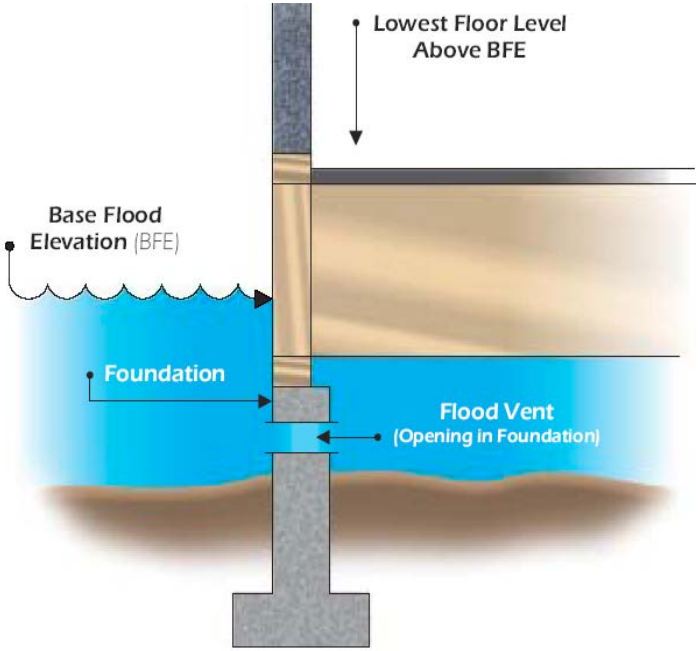
Floodplain Property: Educating Your Clients on Both Sides of the Coin: Local Ordinances



- **DNRC Draft Model Floodplain Ordinance:**

www.mtfloodplain.mt.gov

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevation Regulations



FREEBOARD:

- The NFIP minimum standards require buildings to be elevated to the BFE
- A freeboard standard requires a building to be elevated to 1, 2, or 3 feet or more above the BFE
- Administrative Rules of Montana (36.15.702) requires 2 feet of freeboard

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevating and Freeboard

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevating and Freeboard

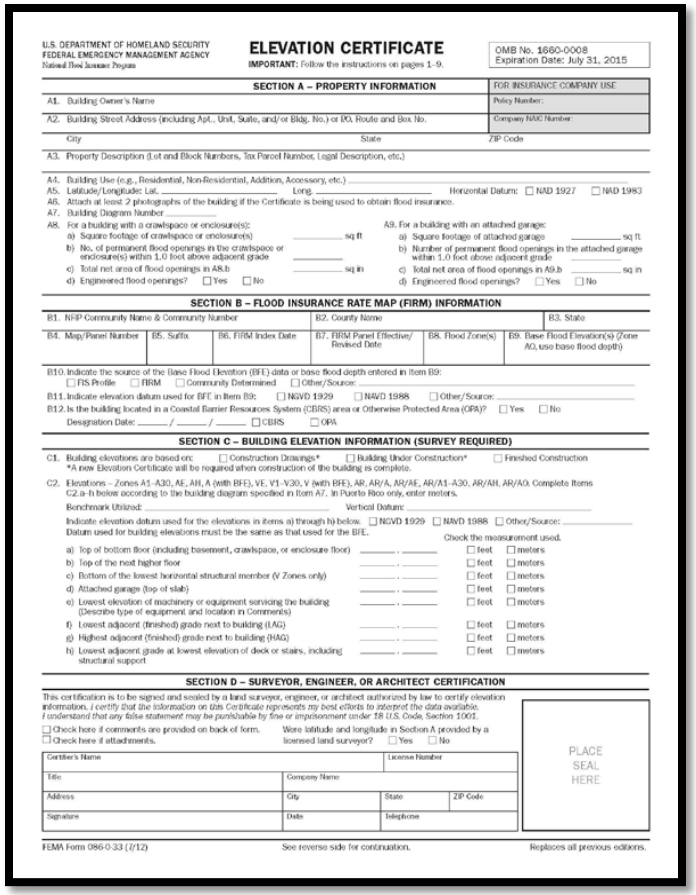
Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevating and Freeboard

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevating and Freeboard

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevating and Freeboard

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevation Certificates

FEMA Elevation Certificate



U.S. DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY
National Flood Insurance Program

ELEVATION CERTIFICATE
IMPORTANT: Follow the instructions on pages 1–9.

OMB No. 1660-0008
Expiration Date: July 31, 2015

SECTION A – PROPERTY INFORMATION | FOR INSURANCE COMPANY USE

A1. Building Owner's Name — Policy Number:

A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. — Company NAIC Number:

City — State — ZIP Code

A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)

A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.)
A5. Latitude/Longitude: Lat. _____ Long. _____ Horizontal Datum: ☐ NAD 1927 ☐ NAD 1983
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.
A7. Building Diagram Number _____
A8. For a building with a crawlspace or enclosure(s):
a) Square footage of crawlspace or enclosure(s) _____ sq ft
b) No. of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade _____
c) Total net area of flood openings in A8.b _____ sq in
d) Engineered flood openings? ☐ Yes ☐ No

A9. For a building with an attached garage:
a) Square footage of attached garage _____ sq ft
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade _____
c) Total net area of flood openings in A9.b _____ sq in
d) Engineered flood openings? ☐ Yes ☐ No

SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP Community Name & Community Number		B2. County Name		B3. State

B4. Map/Panel Number	B5. Suffix	B6. FIRM Index Date	B7. FIRM Panel Effective/ Revised Date	B8. Flood Zone(s)	B9. Base Flood Elevation(s) (Zone AO, use base flood depth)

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9:
☐ FIS Profile ☐ FIRM ☐ Community Determined ☐ Other/Source: _____
B11. Indicate elevation datum used for BFE in Item B9: ☐ NGVD 1929 ☐ NAVD 1988 ☐ Other/Source: _____
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? ☐ Yes ☐ No
Designation Date: ____ / ____ / ____ ☐ CBRS ☐ OPA

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☐ Finished Construction
*A new Elevation Certificate will be required when construction of the building is complete.
C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.
Benchmark Utilized: _____ Vertical Datum: _____
Indicate elevation datum used for the elevations in items a) through h) below. ☐ NGVD 1929 ☐ NAVD 1988 ☐ Other/Source: _____
Datum used for building elevations must be the same as that used for the BFE.

		Check the measurement used.
a) Top of bottom floor (including basement, crawlspace, or enclosure floor)	____ . ____	☐ feet ☐ meters
b) Top of the next higher floor	____ . ____	☐ feet ☐ meters
c) Bottom of the lowest horizontal structural member (V Zones only)	____ . ____	☐ feet ☐ meters
d) Attached garage (top of slab)	____ . ____	☐ feet ☐ meters
e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment and location in Comments)	____ . ____	☐ feet ☐ meters
f) Lowest adjacent (finished) grade next to building (LAG)	____ . ____	☐ feet ☐ meters
g) Highest adjacent (finished) grade next to building (HAG)	____ . ____	☐ feet ☐ meters
h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support	____ . ____	☐ feet ☐ meters

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. *I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.*

☐ Check here if comments are provided on back of form.
☐ Check here if attachments.
Were latitude and longitude in Section A provided by a licensed land surveyor? ☐ Yes ☐ No

Certifier's Name		License Number	
Title	Company Name		
Address	City	State	ZIP Code
Signature	Date	Telephone	

PLACE SEAL HERE

FEMA Form 086-0-33 (7/12) — See reverse side for continuation. — Replaces all previous editions.

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevation Certificates

FEMA Elevation Certificate: What is it For?

- Important administrative tool of the NFIP
- Used by communities to document and verify building compliance with the community's local floodplain management ordinance

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevation Certificates

FEMA Elevation Certificate: What is it For?

- Used to determine the proper flood insurance rate
- Used to support map amendments and revisions

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevation Certificates

Who Certifies Building Elevations?

In order to be properly rated for flood insurance, a State-licensed professional is required to certify the elevation information on the Elevation Certificate

- **Surveyor**
- **Engineer**
- **Architect**

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Elevation Certificates

Who Needs an Elevation Certificate?

- Anyone who will apply for insurance on a building located in or adjacent to a SFHA
- Anyone proposing to construct a new structure, or substantially improve an existing structure, within a SFHA
- Needed for Letter of Map Change application

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Permitting Requirements

A floodplain permit is required for new construction or development within designated floodplains.

All required local, state, and federal permits must be approved before a floodplain application is considered complete.

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Permitting Requirements

The completed application form with original signatures should be routed to each applicable agency. The application should be signed by the applicant, the person responsible for the project, and the landowner.

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Permitting Requirements

Development activities are tied to the local community ordinance.

Per the NFIP, "development" is defined as any human-caused change to improved or unimproved real estate including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Permitting Requirements

The Joint Application for Proposed Work in Streams, Lakes, & Wetlands in Montana – What is it?

One or more permits may be required for work on or near a Montana waterway.

Conservation Districts and other agencies developed a joint form intended to reduce the number of forms that must be completed and submitted to obtain necessary permits.

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Permitting Requirements

The Joint Application for Proposed Work in Streams, Lakes, & Wetlands in Montana –
What is it?

Available online:
http://dnrc.mt.gov/Permits/StreamPermitting/JointApplication.asp

Floodplain Property: Educating Your Clients on Both Sides of the Coin: Permitting Requirements

§ Conservation Districts – 310 permits

§ MT Fish, Wildlife, and Parks – SP 124 permits

§ Community Floodplain Administrators – floodplain development permits

§ US Army Corps of Engineers – Section 404/Section 10 permits

§ MT Department of Environmental Quality – 318 (turbidity) Authorizations

§ MT Department of Natural Resources & Conservation

Know Your Role: Protect Yourself as a Realtor

Know Your Role: Protect Yourself as a Realtor

Why does this matter to Realtors?

MONTANA DNRC
MT DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

Know Your Role: Protect Yourself as a Realtor

Potential Clients Need You to Be Informed – this profession has so many challenges as is; circumvent future problems by being equipped to educate your clients and avoid disclosure liability

MONTANA DNRC

MT DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

Private property rights are at the forefront in Montana – development in the floodplain comes with a higher level of personal responsibility.

Know Your Role: Protect Yourself as a Realtor

From the National Association of REALTORS ® website: applicable in that clients will expect you to dispel their misconceptions

Surprising Facts About Flood Insurance

1. Hurricanes, not floods, are the number one natural disaster and cause the biggest economic losses in the state.

Know Your Role: Protect Yourself as a Realtor

From the National Association of REALTORS ® website: applicable in that clients will expect you to dispel their misconceptions

Surprising Facts About Flood Insurance

2. Everyone who lives in a flood zone has to buy flood insurance.

Know Your Role: Protect Yourself as a Realtor

From the National Association of REALTORS ® website: applicable in that clients will expect you to dispel their misconceptions

Surprising Facts About Flood Insurance

3. Flood insurance is always expensive.

Know Your Role: Protect Yourself as a Realtor

From the National Association of REALTORS ® website: applicable in that clients will expect you to dispel their misconceptions

Surprising Facts About Flood Insurance

4. Taxpayers are footing the bill for federal flood insurance.

•The NFIP doesn't spend any tax dollars

•The government sets the premium rates high enough to cover flood insurance claims and operating expenses in an average historical loss year.

•The program can borrow money from the US Treasury when losses are heavy, but has to pay back those loans with interest

Know Your Role: Protect Yourself as a Realtor

From the National Association of REALTORS ® website: applicable in that clients will expect you to dispel their misconceptions

Surprising Facts About Flood Insurance

5. Companies sell flood insurance, so the government doesn't need to.

•Private flood insurance is very expensive and only a handful of companies offer excess flood insurance to homeowners with property valued at more than $250,000

•The NFIP is the only program offering low and middle income homeowners flood insurance

Know Your Role: Protect Yourself as a Realtor

From the National Association of REALTORS ® website: applicable in that clients will expect you to dispel their misconceptions

Surprising Facts About Flood Insurance

6. People who own beachfront property use flood insurance most

•The majority of properties insured through the NFIP are inland – many beach areas are off limits to the NFIP because the Coastal Barrier Resources Act band federal support of beachfront properties

Know Your Role: Protect Yourself as a Realtor

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Surprising Facts About Flood Insurance

Nearly 20% of flood insurance claims come from moderate-to-low risk areas.

7. The flood insurance program subsidizes beach front homeowners

•Midwestern states are at the top of the list of states with the most number of years in which claims exceeded premiums: Illinois, Iowa, Michigan, Ohio, and North Dakota to name a few

MONTANA DNRC

Flooding In Montana: What's the Big Deal?

Prickly Pear Creek, 2011

Lewis and Clark County

Flooding In Montana: What's the Big Deal?

Lewis and Clark County, 2011

Ten Mile Creek

Flooding In Montana: What's the Big Deal?

Lewis and Clark County, 2011

Flooding In Montana: What's the Big Deal?

Lewis and Clark County, 2011

Montana Law Enforcement Academy

Flooding In Montana: What's the Big Deal?

Yellowstone River, 2009

Flooding In Montana: What's the Big Deal?

Yellowstone River, HWY 59 Bridge, 2009

Flooding In Montana: What's the Big Deal?

Yellowstone County
2011

Flooding In Montana: What's the Big Deal?

Yellowstone County, 2011

MONTANA DNRC
MT DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

Flooding In Montana: What's the Big Deal?

Yellowstone County, 2011

Flooding In Montana: What's the Big Deal?

Yellowstone River, 2011

Flooding In Montana: What's the Big Deal?

Yellowstone River,
2011

Flooding In Montana: What's the Big Deal?

Billings, 2010

Flooding In Montana: What's the Big Deal?

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Flooding In Montana: What's the Big Deal?

Billings, 2010

Flooding In Montana: What's the Big Deal?

Billings, Lake Hills Subdivision, 2010

Flooding In Montana: What's the Big Deal?

Billings, Lake Hills Subdivision, 2010

Flooding In Montana: What's the Big Deal?

Billings, 2010

Flooding In Montana: What's the Big Deal?

Downtown Billings,
2010

Flooding In Montana: What's the Big Deal?

Roundup, Musselshell County, 2011

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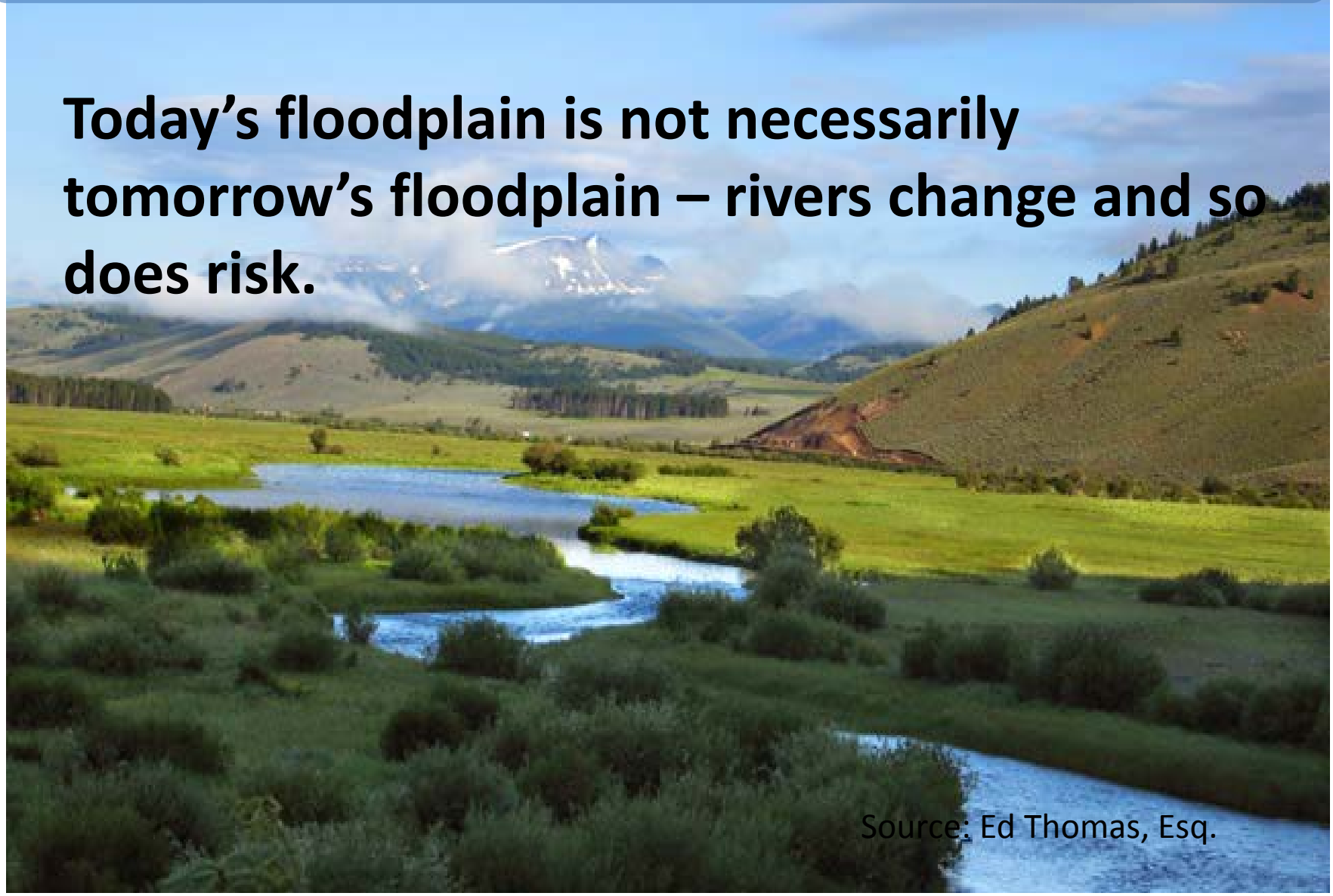

Today's floodplain is not necessarily tomorrow's floodplain – rivers change and so does risk.

Source: Ed Thomas, Esq.

Floods and Litigation

- When a property is damaged by the action of others, who pays?

- This is a fundamental question of Law.

Source: Ed Thomas, Esq.

Floods and Litigation

Fernley, Nevada
"Class action lawsuit updated in Fernley flood case"

- **"The lawsuit names the Truckee-Carson Irrigation District, Lyon County, the City of Fernley, and companies that built and sold homes in the area flooded when a storm swollen irrigation canal ruptured."**

Nevada Appeal, 1/26/2008

Source: Ed Thomas, Esq.

Floods and Litigation

Lincoln, Nebraska

Developer, engineer, and **realtor** settle with homeowners; City at first held liable; then wins in Nebraska Supreme Court– City "owed no duty to homeowners"

Photo: Lincoln Star Journal

Source: Ed Thomas, Esq.

Floods and Litigation

Take Away Message:

1. Many areas can flood
2. Uninsured victims will likely sue, if they can find someone to blame (they will find someone)
3. Fair harm prevention regulation helps everyone

Source: Ed Thomas, Esq.

Questions?

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