

SB 173 ~ WATERSIDE MANAGEMENT CORRIDORS
A WALK THROUGH THE BILL

Bill Summary: Establishes building setbacks of 30 yards from the high water mark of streams and 100 yards from the high water mark of rivers. This bill includes a variance process to make sure that no one loses the ability to build on an existing lot. Existing development would be grandfathered in, and local governments could collect a reasonable fee from the developer to pay for costs related to permitting.

Section 1. Legislative Findings and Purpose ~ Establishes the reasons for protecting Waterside Management Corridors, including protecting people and property from flooding, water quality, Montana's economy, and more.

Section 2. Definitions:

1. **Floodplain** ~ Comes from *Flood Plain and Floodway Management* statutes that are used by local governments to manage floodplains [76-5-103 MCA].
2. **Flood-prone area** ~ This basically adopts the federal definition of flood-prone area, but allows local governments to adopt a different standard (if they want to).
3. **Ordinary high-water mark** ~ Comes from *Recreational Use of Streams* statutes that are used to manage streams [23-2-301 MCA].
4. **Person** ~ Standard language in Montana statutes.
5. **Political subdivision** ~ Standard language in Montana statutes.
6. **River** ~ This definition includes all rivers that are identified on U.S. Geological Survey maps as "rivers."
7. **Stream** ~ Comes from *Streamside Management Zones* statutes that are used to regulate timber practices on certain streams [77-5-302 MCA].
8. **Waterside management corridor** ~ Modified from *Streamside Management Zone* statutes

Section 3. Requirements of Waterside Management Corridors ~ Waterside management corridors are defined in more detail:

- 30 yards from the ordinary high water mark of a stream
- 100 yards from the ordinary high water mark of a river
- Extends beyond the ordinary high-water mark to include:
 - The edge of any delineated 100-year flood plain, and
 - Adjacent wetlands (whichever is greater).
- Impervious surfaces (parking lots, streets, trails, etc.) must be quantified and excluded from the waterside management corridor:

Section 4. Uses and Activities Within Waterside Management Corridor ~ This is the main part of the bill:

1. **It outlines what is prohibited in the Waterside Management Corridor:**
 - New buildings;
 - Manufactured housing;
 - Septic tanks and drain fields;
 - Additions to existing buildings greater than 1/3 the square footage of the existing structure; and
 - New construction of roads, parking lots, etc. except when necessary to cross a road.

2. **It outlines activities allowed within a waterside management corridor:**
 - Nonconforming uses (*see variance process below*);
 - Existing uses/activities; and
 - When buildings are damaged (except by flood), rebuilding/remodeling of buildings.

3. **If slopes are more than 25%, special erosion controls must be put in place.**

Section 5. Political Subdivision Authority ~ These regulations are a minimum standard. Local governments may develop stricter regulations.

Section 6. Political Subdivision Administration – Certification Application Fee ~ This section describes the:

1. Application process for anyone who wants to build a home near a river or stream
2. Gives local governments permission to collect a reasonable fee from the developer to pay for costs related to permitting (defrays costs of the application review); and
3. Requires that individuals who do not comply with this statute are required to restore the waterside management corridor to its original condition.

Section 7. Variances ~ This section states that when compliance with the law would “result in unnecessary or undue hardship” a variance can occur. The local government is allowed to charge a reasonable fee for processing variances (defrays costs of the application review). Variance permits are valid for 2 years.

Section 8. Criteria to be Considered for Permit for Variances ~ This section defines variances in more detail, and establishes criteria that local governments can use to approve variances.

Section 9. Locally Established Waterside Management Corridors – Authorization ~ This section allows local governments to establish a narrower setback under certain criteria (out of identified flood prone areas, zoning in place for the stream, adequate stormwater systems in place, and there is at least a 15 yard setback).

Section 10. Notification to Tribal Governments ~ *The bill will not affect tribal lands on reservations. However, each tribal government will be notified that the act is in effect.*

Section 11. Codification Instructions ~ Codified within *Land Resources and Use* statutes in the Chapter for *Open Spaces*. This is where all land use planning statutes are found for the state.

Section 12. Savings Clause ~ Standard language. When the bill goes into effect, it will not impair 'rights' that may have already been granted. For example, if a subdivision was already approved by a local government but has not been built when this law goes into effect, the subdivision would be able to proceed without changes.

Section 13. Severability ~ Standard language. If any part of the statute is ruled invalid by a court, the court is asked to retain the portion of the law that is still valid.

Section 14. Effective Date ~ July 1, 2005 (standard)