

Chapter 6 of the Floodplain Management 101 GUIDEBOOK Enforcement

- OWRB Publication No. 142
- January 1999
- no cost to floodplain managers
- Number 1 reference tool for FPM

Four Major Components to Any Program

- DEVELOPMENT PERMIT
- PUBLIC AWARENESS
- PROGRAM IMPLEMENTATION
- ENFORCEMENT

The Development Permit

- Application
- Plans & Specs
- Floodzone determination, map number, map date, etc.
- Completeness
- Checklist
- Review process
- Actual permit issuance
- Fee structure

Public Awareness

- This helped start the NFIP
- The need for flood insurance helped your community officials join the NFIP
- Program Is Quid Pro Quo--insurance ok, if ordinance is enforced
- All segments of the community must be aware of permit needs before development takes place

Public Awareness

- "Get the Word Out"
 - enlist cooperation of others
 - individuals & agencies directly involved in providing services in the floodplains
 - letter of agreements
 - memorandum of understanding
 - examples at end of chapter (lenders, water district, county health dept., electric company)

PROGRAM IMPLEMENTATION

- Why do I need a permit?
- Where do I get a permit?
- How much does it cost?
- What can be done if I don't get a permit?
 - Community made commitment to FEMA when it joined
 - Evaluate hazards and take official action necessary to meet objectives of program

ENFORCING ORDINANCES

- The Legal Basis

- penalty section

- action locals can take to enforce the community's ordinance
 - authority for locals to enforce ordinances is found in Section 1604
 - other statutes available
 - Titles 11 & 74 for cities & towns
 - Titles 19 & 74 for counties
 - Title 50 deals with Public Nuisances

The Legal Basis

- Planning, zoning & land use-Title 82
- Title 11, article 22 general authority
 - Abate safety hazards, dilapidated buildings, weeds, trash, junk cars, unsanitary conditions.
 - In general--Oklahoma communities have the legislative tools to deal with situations that may jeopardize their floodplain safety.

Why Enforce

- 1st--the need to protect the lives & property of the community's residents
- 2nd--to meet state & federal NFIP agreements
- Police power--flood ordinance is no different than fire, electrical, plumbing, mechanical, structural, etc.

Why Enforce

- Cumulative effects can be devastating.
- Unabated violations create bad atmosphere and sets precedent that may make future enforcement much more difficult.
- It is imperative each community must actively enforce its ordinance.

Types of Violations

- construction
- mining
- dredging
- excavating
- drilling operations
- filling
- grading
- paving
- storage

Activity Impact Comparisons

- Construction can impact flood conveyance, flood storage, building protection, structural integrity
- Fences--conveyance and storage
- Utilities--same
- Addition--same plus building protection and structural integrity
- Manufactured home--impact all four

Resolving a Violation

- Violator did not get permit
- Violator did not follow permit requirements

Discovery, notification & inspection

- Perform inspection upon discovery
 - maybe correctable on spot, illegal dumping, failure to post permit, etc.

Simple Vs. Complicated

- Inspector may need to check code and site information, legal description, property owner's name/address, flood map, BFE, lowest floor elevation
- If active permit, inspector can enter property
- No active permit, permission to enter required first

NO FORCEABLE ENTRY

- Under no circumstances should the inspector use intimidation or force his/her way onto the property.
- Keep good and thorough notes.
- Options are to inspect property from next door or from a bridge.
- Consult with supervisor, city, district attorney.

SAMPLE VIOLATION PROCEDURES

- Discovery
- Inspection
- Compliant--no action, close file
- Non-compliant--send violation letter
 - schedule meeting
 - hold meeting, site modification, re-inspect
 - no response--litigation

VIOLATION CONFIRMED

- Consult, obtain guidance from municipal/district attorney
- Post notice of violation & stop work order on site in plain view
- Send certified violation notice letter and stop work order to property owner
 - Include remedies to abate violation and remove stop work order

Posting Notice and Stop Work Order

- Need to be authorized in the state law
- Always send violation notices by certified mail with return receipt requested
- Maintain records in file
- Notice must contain response date deadline
- Notice may need to be delivered by law officer or two staff members, one to serve as witness

VIOLATION MEETING

- Enforcement official should be prepared for all eventualities
 - voluntary removal or correction
 - litigation--worst case scenario
 - stop work order stays in affect until violation is corrected

OTHER OPTIONS

- The ticket approach
- Recording Violation Notice
 - Record violation in the County Clerk's office
 - Clouds the deed to the property
 - Title insurers may not be willing to insure the title until the violation is removed
 - Title insurers may require property owners to meet certain conditions prior to title transfer

LITIGATION

- If all else fails, request attorney to initiate action
- Section 1316
- State role--OWRB staff can provide assistance

QUESTIONS

THANK YOU