

CHAPTER 3

page 69

LOCAL FLOODPLAIN REGULATIONS AND NFIP STANDARDS

LOCAL FLOODPLAIN REGULATIONS AND NFIP STANDARDS, page 69

**THE PARTICIPATION OF A COMMUNITY
IN THE NFIP IS MADE POSSIBLE BY ITS
ADOPTION OF FLOODPLAIN
MANAGEMENT REGULATIONS. THESE
REGULATIONS MUST MEET OR
EXCEED THE REVISED STANDARDS OF
THE NFIP.**

FLOODPLAIN REGULATION

Communities that wish to make flood insurance available to their residents must regulate development in floodplains.

This can be done by adopting land use regulations which set forth construction standards and establish a permit system that allows the community to enforce those standards.

FLOODPLAIN REGULATION

(page 69)

Floodplain regulations (ordinances) are the foundation of all efforts to prevent flood damage and minimize the impact floods cause within a community.

The standards of the NFIP are the minimum floodplain management efforts required for participation in the NFIP. These standards can differ since they are based on the degree of information provided the community by FEMA.

FLOODPLAIN REGULATION

(continued)

States or communities may strengthen their floodplain management ordinances as they determine necessary in order to be more restrictive than the NFIP standards. This is encouraged, and those will take precedence over any less restrictive conflicting laws, ordinances.

FLOODPLAIN REGULATION

(continued)

THE FLOODPLAIN ORDINANCE IS COMPREHENSIVE IN WHAT IT REGULATES:

- **Placement of structures, methods of construction, types of structures and alterations to structures (including manufactured homes).**
- **Subdivisions (no structures in the floodway).**
- **Installations of water and sewer utilities, fence construction.**

FLOODPLAIN REGULATION

(page 70)

- **Filling, grading, channelization and excavating within the floodplain.**
- **Installation and replacement of roads and bridges.**
- **Storage of materials and equipment.**
- **Related activities which may affect the level of the 100-year flood event.**

NFIP GENERAL STANDARDS

To effectively reduce potential flood damages, the NFIP has established standards for new or substantially improved construction projects and other development in SFHA's.

Under NFIP regulations, 44 CFR 60.3 general standards are outlined which are required of all communities participating in the NFIP.

The following are the minimum standards required based on the information known about the flood hazard (page 70).

NFIP STANDARDS

(Appendix 3-2, page 97)

- 60.3(a) No Map**
- 60.3(b) Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM), Zone A, no detailed study has been provided.**
- 60.3(c) FIRM with detailed study and base flood elevations have been provided.**
- 60.3(d) FIRM with detailed study and base flood elevations have been provided and the Regulatory Floodway has been established.**

GENERAL STANDARDS

ANCHORING, page 70

Regulations require that all structures be properly anchored to prevent hydrodynamic and hydrostatic loads from moving them from their foundations during a flood.

Permanent structures are considered adequately anchored through common construction practices.

Manufactured homes must be elevated (lowest member not lowest floor) and are required to be placed on permanent foundations with over the top or frame ties attached to the permanent foundation.

GENERAL STANDARDS

(continued)

CONSTRUCTION MATERIALS AND METHODS

Page 70

Buildings can suffer damages in many ways during a flood. For example, hydrostatic pressure can push in foundation walls, hydrodynamic pressure from waves can destroy walls, uplift can cause structure buoyancy problems and contact with water can warp or damage walls and floors.

GENERAL STANDARDS

(page 70)

The most common practice in Oklahoma is to elevate on earthen fill. Other methods is by means of columns, posts, piers or foundations walls.

- Earthen fill must be placed in layers and compacted to provide the necessary permeability and resistance to erosion, scouring and settling, as set forth in NFIP regulations.
- Foundation walls must have at least one square inch of opening for every square foot of floor space located within 1 foot of adjacent grade. This is to allow equalization of the hydrostatic pressure.

GENERAL STANDARDS

(pages 132, 133, 173-179)

VARIANCES – As defined by FEMA, is a granting of relief from the requirements of a community's floodplain ordinance, permitting construction in a manner that would otherwise be prohibited by the ordinance.

DON'T GIVE VARIANCES!

Variance should only be granted in unique physical hardship situations. (Site specific, lot limitations)

A community should have a fair and consistent policy to deal with such requests.

GENERAL STANDARDS

(continued)

VARIANCES CONTINUED

The granting of a variance does not lessen or waive any insurance premium rates. If a variance is issued the community must provide written notification to the applicant that the project is not exempt from insurance requirements.

The Floodplain Board must maintain a record of all variance actions including the justification for granting the variance & provide copy to OWRB.

UTILITIES

page 71

- **Utilities servicing flood-prone structures should also be flood proofed and secured to prevent damage.**
- **Heating, air conditioning and ventilating equipment will be placed above the BFE.**
- **NFIP regulations require that new and replacement water supply systems, sanitary sewer systems, and on-site waste disposal systems be designed to minimize or eliminate infiltration of floodwaters into the systems.**

SUBDIVISIONS

page 72

For large subdivisions (50 lots or 5 acres or more), it is the responsibility of the developer to produce the BFE and delineate the boundary of the floodplain on the subdivision proposal.

Be familiar with your ordinance and the detail of your FHBM's or FIRM's. Different regulations apply for each circumstance.

ENCROACHMENTS page 72

All development permits must be reviewed to see if the proposed action will significantly obstruct floodwaters, thereby increasing flood heights.

- For communities without BFE data, if development is suspected of increasing flood heights additional justification is needed and the developer should detail to the community how this project will minimize adverse impacts.

ENCROACHMENTS

(continued)

- For communities with BFE's, but without a designated floodway, proposed actions (when combined with other existing and anticipated development) may not increase base flood heights more than one foot anywhere in the identified floodplain.
- Communities which have BFE's established and a floodway delineated should not have to worry about this "encroachment" because the FIRM shows the area of the floodplain which can be fully developed without causing more than a one-foot increase in the BFE.

SPECIFIC STANDARDS page 72 & 73

Specific standards are required by the NFIP in addition to the general standards in communities where the BFE has been established. NFIP regulations are more restrictive in dealing with residential than nonresidential structures.

RESIDENTIAL STRUCTURES

For new or substantially improved residential structures, the lowest floor, including the basement, must be elevated to or above the BFE.

SPECIFIC STANDARDS

(page 74)

NONRESIDENTIAL STRUCTURES

For all nonresidential structures such as office buildings or stores, the lowest floor, including the basement, must either be elevated or flood proofed to or above the BFE. The community must have the assurances of a registered professional engineer that the flood proofing method is effective.

For insurance purposes the structure must be flood proofed at least one foot above the BFE. Wet flood proofing is not recognized for reduced flood insurance premiums under the NFIP.

SPECIFIC STANDARDS

(page 74)

MANUFACTURED HOMES

Manufactured homes are now treated like any other residence. The lowest floor must be elevated so the bottom of the lowest I beam is elevated at or above the BFE.

The only exception to this is in pre-FIRM manufactured home parks where substantial flood damage has not occurred.

The model ordinance in AE Zones gives the communities an option of placing the home at or above the BFE or 36” above the ground.

SPECIFIC STANDARDS

(page 76)

ENCLOSURE

An enclosure is an area below the lowest floor. Enclosures can only be used for storage, parking and building access. Enclosures must have the required openings.

FUEL STORAGE TANKS

Are now considered to be a structure so elevating and anchoring requirements similar to those used for manufactured homes are required. Underground fuel storage tanks are required to be flood proofed and certified by an engineer. Permits are required for the installation in a SFHA.

SPECIFIC STANDARDS

(page 76)

STORM CELLAR

Storm cellars constructed in a SFHA should be required to be anchored sufficiently so that flood waters do not buoy up the structure.

All openings should be constructed so it is at a minimum of one foot above the BFE, as well as any ventilation ducts. Any utilities located in the structure should be flood proofed.

It is best not to allow in ground cellars to be built in the 1% chance floodplain.

SPECIFIC STANDARDS

(page 76)

RECREATIONAL VEHICLES

Recreational vehicles are required to be road ready in every way. This means licensed, 400 square feet or less, self propelled or towed by a light duty truck and not used as a permanent dwelling. RV's are required to be on site no more than 180 days. This means they are required to obtain a permit from the community.

SPECIFIC STANDARDS

(page 77)

FLOODWAYS

The floodway is the conveyance area within the floodplain in which most development is not allowed.

Consequently, NFIP regulations prohibit encroachments, including fill, new construction or other development in the floodways, unless it can be shown that the development would result in no increase in flood heights. (No rise certificate)

CHAPTER 5, page 196.

FEMA GUIDELINES

When a community has failed to enforce its floodplain management program, and the FEMA Regional Office has identified one or more program deficiencies or violations, FEMA may initiate enforcement action against the community in order to obtain compliance.

CHAPTER 5, GUIDELINES

(continued)

PROGRAM DEFICIENCIES:

- **Lack of state accreditation**
- **Failure to require permits.**
- **Failure to obtain and reasonably utilize available flood data.**
- **Ordinances that are not compliant with NFIP floodplain management criteria.**
- **Administrative procedures that cannot ensure compliance with the local ordinance.**
- **Variance procedures that are not consistent with NFIP & State variance criteria.**

Chapter 5-FEMA GUIDELINES, 198

SUBSTANTIAL VIOLATIONS:

- **Obstruction of floodways or stream channels that increase flood stages.**
- **Residential structures with lowest floor below the BFE.**
- **Non-residential structures not elevated or flood proofed.**
- **Structures without elevation certificates or flood proofing certificates.**
- **Structures with enclosures below the BFE.**

Chapter 5, GUIDELINES, 199

MITIGATING FACTORS

- **Demonstrate a willingness to take positive actions.**
- **No history of prior violations by FEMA.**
- **No prior contact with FEMA.**
- **Newly elected officials or recently hired staff has demonstrated a positive attitude towards NFIP compliance.**
- **Isolated instance of violations rather than a pattern of wide spread program deficiencies or violations.**

Chapter 5, GUIDELINES, 199

AGGRAVATING FACTORS:

- **Community has demonstrated negative attitude & has taken no positive actions to resolve past problems.**
- **History of prior violations or program deficiencies have been identified and brought to their attention.**
- **FEMA has had prior contact with the community.**
- **FEMA has provided technical assistance.**
- **Pattern of widespread program deficiencies or violations.**
- **Violations have occurred recently.**

FEMA GUIDELINES

(continued)

WAYS TO CORRECT PROGRAM DEFICIENCIES

- Amend ordinance to close loopholes and to include more effective enforcement provisions or add penalty provisions.
- Pass a resolution of intent to fully comply.
- Change or increase staff or resources.
- Provide missing elevations or flood proofing certificates.
- Change administrative procedures to improve the permitting and inspection process.

FEMA GUIDELINES

(continued)

WAYS TO REMEDY VIOLATIONS:

- Demonstrate the structure is not in violation.
- Submit engineering data showing that floodway fill results in “no increase” in BFE.
- Tear down or modify the noncompliant structure or remove fill in the floodway.
- Seek civil/criminal penalties as provided for in the local ordinance, regulations or community code.
- Issue declarations and submit them for Section 1316 denial of insurance.

FEMA GUIDELINES

(continued)

PROBATION

Communities which inadequately enforce floodplain management regulations can be placed on probation by FEMA. Probation allows a period of time for the community and FEMA to work out identified problems, deficiencies or violations.

During probation, an additional premium charge of \$50.00 per policy will be levied on all new and renewed flood insurance policies. This is based on a 1 year time period. If a community is on probation for 3 months, the surcharge is still in effect for the remainder of the year. 13 months, surcharge is for 2 years.

FEMA GUIDELINES

(continued)

SUSPENSION

When efforts to resolve identified community deficiencies do not meet FEMA's conditions or otherwise fail under probation, the community may be removed from the program. Suspension authority lies with the FEMA Washington office.

- Flood insurance will no longer be available.
- No federal grants or loans for buildings in a SFHA.
- No federal disaster assistance in a SFHA.

FEMA GUIDELINES

(continued)

SUSPENSION (continued)

- No federal mortgage insurance may be provided in a SFHA.
- Mortgages requiring the purchase of flood insurance may be foreclosed.
- Liability of local government for denying citizens the right to purchase flood insurance or by not taking positive steps to reduce exposure of life and property from a known natural hazard.

FEMA GUIDELINES

(page 201)

SUBROGATION

Is an action brought when flood damages have occurred, flood insurance claims have been paid, and all or part of the damage can attributed to acts or omissions of a community. FEMA then sues a third party to recover flood insurance claims it has paid.

- Regular Program.
- Insured property.
- Caused by flooding.
- Negligence by third party.

FEMA GUIDELINES

(page 203)

DENIAL OF FLOOD INSURANCE AND DISASTER ASSISTANCE

Under Section 1316 of the National Flood Insurance Act, flood insurance can be denied to properties in violation of state or local floodplain regulations. FEMA will not allow new flood insurance coverage for any property declared in violation of floodplain regulations by the state or local entity in which the violation exists

QUICK QUIZ

CHAPTER 3

- 1. What is the foundation of all efforts to prevent flood damage and minimize the impact floods cause within a community?**
- 2. Where are the recommended minimum NFIP regulations located?**
- 3. What does the floodplain management ordinance regulate?**
- 4. What is the requirements for sub-division development 50 lots or 5 acres or more?**
- 5. What are the requirements for recreational vehicles to be permitted in a SFHA?**

QUICK QUIZ

CHAPTER 3

6. Name three program deficiencies that could cause FEMA to take enforcement action.
7. Name three substantive violations that could cause FEMA to take enforcement action.
8. Name three ways to remedy deficiencies and three ways to remedy violations.
9. At what point could a community go under suspension from the NFIP?
10. What are four components that FEMA would insure before subrogation occurs?