

# NFIP

# New Hampshire's Floodplain Management Program

## Fact Sheet #8

### Best Practices for an Effective Local Floodplain Management Program

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## Introduction

Communities that participate in the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) have agreed to adopt local floodplain regulations and enforce these regulations through a local permitting process. In return, flood insurance through the NFIP is made available to all residents and businesses in the community. The floodplain management and insurance components of the NFIP are mutually supportive. Effective implementation of local floodplain management regulations helps minimize future flood damage that, in turn, helps keep insurance rates affordable for property owners. When a structure is built in a floodplain and it does not comply with floodplain management requirements, the insurance rates will be higher than if it was built in compliance with the regulations.

## Purpose

The purpose of this document is to provide guidance to communities on how to develop an effective local floodplain management program or administrative procedures to ensure the community fulfills its NFIP responsibilities. Established administrative and permitting processes are valuable tools that a community should have to ensure adherence, consistency, and good standing in the NFIP. Although the number, ability, and expertise of community staff responsible for administering and enforcing the local floodplain management program can vary by community, the responsibilities related to the community's participation in the NFIP program remain the same.

### Best Practices of an Effective Local Floodplain Management Program

- Public outreach.
- Floodplain mapping determination process.
- Floodplain development permit and process.
- Substantial damage & improvement determination process.
- Floodplain development monitoring.
- Floodplain development compliance & enforcement process.

# Best Practices for an Effective Local Floodplain Management Program

## Public Outreach about Your Community's Floodplain Management Program

To effectively and consistently enforce your community's floodplain regulations, it is important for the community to notify or to advertise to all property owners about your community's floodplain regulations and the requirement that all proposed development in the special flood hazard area requires a permit from the community. This outreach can be accomplished through various ways and should not be a one-time activity but an ongoing process to keep property owners informed.

Below are some type outreach activities that the community can do to inform property owners.

- Include information on community website
- Post information on community social media accounts such as Facebook
- Prepare flyers that can be made available in the community office
- Display a poster in the community office about requirements
- Include a notice along with annual bill (e.g. water, tax) sent out by the community.

Contact the Floodplain Management Program staff at the NH Office of Strategic Initiatives (NHOSI) for readymade content that your community can use for outreach.

## Floodplain Mapping Determination Process

As stated in your community's floodplain regulations, all proposed development in a Special Flood Hazard Area (SFHA) requires a permit, which is a local permit that is issued by the community. Therefore, the community must either determine or must verify a property owner's determination of whether the proposed development is located in an SFHA. The community must also determine the flood zone(s), base flood elevation(s), and floodway, if applicable, associated with the proposed development to ensure the applicable requirements in your community's floodplain regulations are complied with.

To have an effective floodplain mapping determination process, the community should:

- Identify which community official(s) are responsible for making the determination.
- Identify the FEMA map resources and tools and, if applicable, what community resources or tools that accompany the FEMA map will be used to make the determination.
- Know how to make or verify a determination in an SFHA including what to do when a determination is unclear or when multiple zones are involved.
- Know the process of determining the applicable flood zone(s), base flood elevation(s), and floodway, if applicable.

### Mapping Resources Guidance:

FEMA Mapping Resources and Tools that can be used to make a determination include:

- FEMA's Interactive Map Viewer (<https://www.fema.gov/national-flood-hazard-layer-nfhl>)
- FEMA's Map Service Center (for copies of the community's Flood Insurance Rate Maps & Flood Insurance Study, if applicable, & other products ) (<https://msc.fema.gov/portal/home> )
- FEMA GIS data (<https://hazards.fema.gov/femaportal/wps/portal/NFHLWMS>)
- Community's paper copies of the Flood Insurance Rate Maps (FIRMs)

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## Floodplain Development Determination Process (continued)

Community Mapping Resources and Tools that can be used along with the FEMA map include:

- The community's GIS system along with FEMA GIS mapping data from the FEMA Map Service Center.
- The community's assessor database and mapping viewer (if it includes the effective FEMA floodplain mapping layer).
- The community's tax maps along with the FEMA Flood Insurance Rate Map (FIRM) to determine the proposed development's location.

### Floodplain Mapping Determination Guidance:

The flood zones and floodway designation and the type of development affect which requirements in the community's floodplains regulations will apply. If a development site is located in an SFHA, it is the community's responsibility to confirm the flood zone that applies and whether it is located in a floodway. For structures and in some other situations, the Base Flood Elevation (BFE) that applies will also need to be determined.

When a community determines the location of a proposed development in an SFHA, the following guidance should be used:

- If the proposed development is located wholly or partially in an SFHA, the development is considered to be in the SFHA and must comply with the floodplain regulations.
- Where it is unclear whether a site is in an SFHA and/or in a floodway, the community may require additional information from the applicant to determine the development's location on the effective FIRM.
- If any portion of a proposed development including a structure and its attachments (e.g., deck posts, stairs) is located in multiple flood zones, the flood zone with the more restrictive requirements shall apply.
- For Zone A with no base flood elevation shown in the effective FEMA Flood Insurance Study, or the Flood Insurance Rate Map, or from any Federal, State or other source including data submitted to the community for development proposals, the base flood elevation shall be determined to be at least two (2) feet above the highest adjacent grade, which is consistent with how the structure will be rated for flood insurance purposes.

## Floodplain Development Permit Process

An established and effective floodplain development permit process is a key tool for a community to have to ensure it is meeting its requirement as a participating community of the NFIP.

### Floodplain Development Permit Application:

Once a proposed development is determined to be located within the SFHA, the community must require a permit application be completed by the applicant that details the proposed development. If the proposed development is only for a building development, the community can use its existing building permit application. However, if the proposed development involves any non-building development (e.g., filling, watercourse alteration, etc.), the community must have a permit application that can gather information needed for this type of development as well. A sample floodplain development permit application is available from NHOSI.

# Best Practices for an Effective Local Floodplain Management Program

## Floodplain Development Permit Application (continued):

Prior to the completion of the floodplain permit application, it is recommended that the community's permitting official discuss with the applicant what needs to be submitted as part of the application and discuss the town's floodplain regulations. This may be done with an informal meeting with the applicant, or in a letter or email.

## Floodplain Development Permit Application Review:

Once the permit application has been received, the information provided must be verified by the community to ensure completeness and accuracy. Specifically, the following questions must be answered:

- Have all questions in the floodplain development permit application been answered and the application signed by the applicant? If flood zone, floodway, and BFE information is provided by the applicant, it must be verified by the community.
- Are any additions, renovations, repairs, and/or maintenance being proposed for an existing residential or non-residential structure or manufactured home? If yes, a substantial damage or substantial improvement determination (see section below) must be performed in order to process the application.
- Which requirements of your community's floodplain regulations apply to the proposed development? Does the submitted application confirm that the development will meet all requirements of the regulations? For example, for new or Substantially Improved structures, will the lowest floor be constructed at or above the BFE?
- Have all required certifications/documents been submitted, as outlined in the floodplain regulations? Requirements will vary depending on the type of development, flood zone, floodway designation, etc.
- Have copies of all other required state, federal, and other local permits been provided? They must be received before proceeding with processing the permit application. Examples of permits that may be required include:
  - \* NHDES Shoreland Permit
  - \* NHDES Wetlands Permit
  - \* NHDES Subsurface Systems Permit
  - \* NHDES Alteration of Terrain
  - \* NH/USACE General Permit
  - \* USACE/Section 9&10 of Rivers and Harbors Act
  - \* Section 404 of Clean Water Act

## Substantial Damage and Improvement Determination Process:

The community is responsible for making determinations of substantial improvement and substantial damage. These determinations are made for all development in a special flood hazard area that proposes to improve an existing structure, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, repairs of damage from any origin (such as, but not limited to flood, fire, wind or snow) and any other improvement of or work on such structure including within its existing footprint.

**When reviewing a permit application, the key thing to remember is that the proposed activity itself must be safe from flooding and it must not increase the flood hazard to other areas.**

# Best Practices for an Effective Local Floodplain Management Program

## Substantial Damage and Improvement Determination Process (continued):

Specifically the community is responsible for:

- Determining the market value of the structure (excluding the land value) prior to the start of the initial repair or improvement, or in the case of damage, the market value prior to the damage occurring.
- Reviewing total cost estimates of the proposed work which must include donated or discounted materials and owner and volunteer labor submitted by the applicant.
- Notifying the applicant in writing of the result of the determination. If the determination is that the work constitutes substantial improvement or substantial damage, the written documentation should state that full compliance with the requirements of your community's floodplain regulations is required.



## Substantial Improvement/ Substantial Damage Desk Reference

FEMA P-758 / May 2010



It is highly recommended that a community develop written procedures on how to make substantial improvement and damage determinations to ensure consistency and compliance. Procedures should include what market value the community will use in making determinations.

Additional information and guidance about substantial improvements and damage can be found in FEMA's *Substantial Improvement/Substantial Damage Desk Reference* ([https://www.fema.gov/media-library-data/20130726-1734-25045-2915/p\\_758\\_complete\\_r3.pdf](https://www.fema.gov/media-library-data/20130726-1734-25045-2915/p_758_complete_r3.pdf)). Contact NHOSI for a hardcopy of this document.

## Floodplain Development Permit Application Decision:

Once a complete permit application has been reviewed, a decision must be made by the community to approve or deny the application. If the applicant has submitted the required application documentation and has demonstrated that the proposed development will be in compliance with your community's floodplain regulations, the application can be approved and a permit may be issued. Otherwise, the application must be denied and returned to the applicant with a written explanation.

Some options that the applicant may choose to pursue include: 1) withdrawing the application, 2) making updates/redesigning the project to comply with the regulations, 3) appealing to the community's Zoning Board of Adjustment, or 4) applying for a variance, which must meet the State's five and the floodplain ordinance's three variance criteria, for relief from the floodplain regulations.

## Floodplain Development Monitoring Process

Once a permit is issued, progress on development activities should be monitored regularly by the community to ensure the work is being performed in accordance with the approved permit and plans. Inspections are the most effective way of doing this for structures. For communities without staff available to perform inspections, consider requiring a FEMA Elevation Certificate form be completed once the lowest floor of a new or substantially improved structure is established to ensure it is being constructed to the correct and approved elevation.

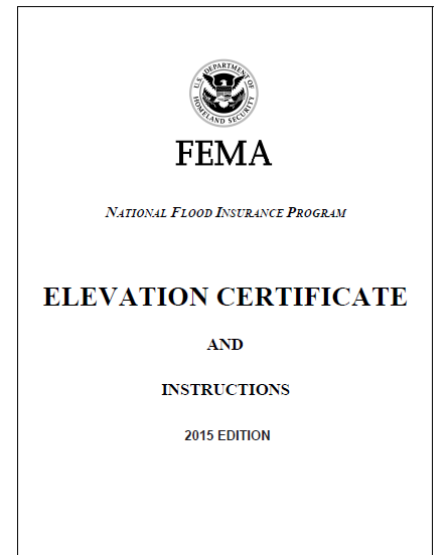
# Best Practices for an Effective Local Floodplain Management Program

## Floodplain Development Compliance and Enforcement Process

### Required As-built Elevation Data:

Once a new or substantially improved residential structure or manufactured home in the SFHA is completed, the applicant must, at a minimum, submit certified as-built elevation data of the lowest floor of the structure to the community, who must then confirm it was built in compliance with your community's floodplain regulations. For non-residential structures that are floodproofed, a FEMA Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation to which the structure was floodproofed must be provided to the community, who must then confirm it was built in compliance with your community's floodplain regulations. Any enclosures below the base flood elevation must also be confirmed to be constructed in compliance with the regulations.

As part of the community's participation in the NFIP, the community is required to obtain and maintain on file the required as-built elevation data. NHOSI recommends requiring the applicant to complete a FEMA Elevation Certificate form in order to meet the as-built elevation data requirement.



### Certificate of Occupancy or Certificate of Compliance:

The community must review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy and verify that all permit conditions have been completed in compliance with your community's floodplain regulation. Communities that issue a certificate of occupancy shall determine full compliance prior to issuing the certificate. Communities that don't issue a certificate of occupancy should consider developing and issuing a certificate of compliance as a means to ensure compliance with your community's floodplain regulations. NHOSI can provide a sample certificate of compliance.

### Community Enforcement Process:

If it is determined that full compliance with your community's floodplain regulations, including work being done in an SFHA without an approved permit from the community, has not been met, the community must notify the applicant in writing of any violation or non-compliance with the regulations and identify the actions required to bring the development into compliance with the regulations. It is the community's responsibility to follow the procedures in RSA 676 for any violations of its floodplain regulations and should consult with their attorney.

## NHOSI Floodplain Management Program

NHOSI is the state coordinating agency for the NFIP and works in partnership with FEMA Region 1. The staff at NHOSI's Floodplain Management Program is available to assist communities and provide technical assistance on the NFIP. Please view information and contacts on the Floodplain Management Program web site at [www.nh.gov/osi/planning/programs/fmp](http://www.nh.gov/osi/planning/programs/fmp).