

ADOPTING A FLOODPLAIN ORDINANCE AND JOINING THE NFIP



Developed by the

***NEW MEXICO
FLOODPLAIN MANAGERS ASSOCIATION***

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**Prepared for the
New Mexico Floodplain Managers Association
By
LA Bond Associates and Grant Pinkerton, CFM
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INTRODUCTION

§ 3-18-7 NMSA 1978 requires that any New Mexico community with identified flood hazard areas adopt a floodplain management ordinance, join the National Flood Insurance Program (NFIP) and have a Certified Floodplain Manager (CFM) to administer their ordinance. This packet of information is intended to assist your community in that process.

The New Mexico Floodplain Managers Association (NMFMA) is a non-profit organization dedicated to improving floodplain management in New Mexico, primarily through education of our floodplain managers, elected officials and the public.

The NMFMA has prepared materials that will help your community adopt and implement a floodplain management ordinance and join the NFIP. The NMFMA also has the nationally recognized program to certify floodplain managers in New Mexico. We also offer training materials and courses to help your floodplain manager prepare for the certification examination.

This packet will guide your community through the three steps listed above and also provide information on setting up your Floodplain Administrator's office.

For additional information, see the *Handbook for New Mexico Floodplain Managers*, Which is on the compact disk (CD) included with this packet. Also, you may contact:

NMFMA Executive Director

Leslie A. Bond, CFM 877-682-1389 nmfma@nmfma.org

State NFIP Coordinator (NM Dept of Public Safety/Office of Emergency Mgmt)

Bill Borthwick, CFM (505) 476-9617 wborthwick@dps.state.nm.us

FEMA Region VI

Dolores LeVinus, CFM (940) 898-5357 dolores.levinus@fema.gov

1. Overview of the Process

- a. Community selects staff person to be Floodplain Administrator.
- b. Floodplain Administrator studies, takes examination, becomes a Certified Floodplain Manager.
- c. Community obtains model ordinance, resolution, and NFIP application from NMFMA.
- d. Community tailors model ordinance, sends to FEMA for review and approval.
- e. Community adopts ordinance, maps and resolution.
- f. Community counts the number of structures in the floodplain.
- g. Community submits NFIP application with ordinance and resolution.
- h. FEMA and/or DPS conduct a Community Assistance Visit.
- i. FEMA/DPS discuss CAV and correct deficiencies.
- j. FEMA notifies community of NFIP participation

2. The Costs and Benefits of Floodplain Management in Your Community:

The only direct costs of floodplain management are getting your Floodplain Administrator certified and maintaining that certification, which are discussed in the next section of this packet. There are no fees for participation in the NFIP.

Indirect costs are staff time required to do the job as specified in your ordinance. This cost will vary from community to community, depending on the size of the mapped (“identified”) floodplain in your community and the amount of development that occurs in that floodplain. Your ordinance only applies to designated floodplains in your community.

There are four benefits to your community from enforcement of your floodplain management ordinance and your participation in the NFIP:

- New development in your floodplains is protected from flood damage.
- NFIP flood insurance is available to all property owners in your community. A large percentage of flood insurance claims are on buildings outside of identified flood hazard areas.
- Federally insured mortgages are not available for buildings in identified flood hazard areas. Owners of those buildings will have more flexibility in obtaining mortgage loans when you join the NFIP.
- When a flood occurs in your community, you will be eligible for certain federal disaster assistance that is not provided to communities that do not participate in the NFIP.

GETTING YOUR FLOODPLAIN ADMINISTRATOR CERTIFIED

One of the requirements of § 3-18-7 NMSA, 1978 is to have a person, certified by the State Certified Floodplain Manager (CFM) Program, administer the local floodplain ordinance. (§ 3-18-7 NMSA, 1978 is included in Appendix F of the Handbook for NM Floodplain Managers)

1. Selecting the Community's Floodplain Administrator

The position of Floodplain Administrator can be filled by anyone currently on staff. It does not take someone with an engineering degree to do this job for a community, but it does require some study to become familiar with floodplain management.

2. Preparing for the Examination

The person selected to be the Floodplain Administrator for a community should learn more about the study guide, or list of materials to study to prepare for the CFM exam. This study guide is on the NMFMA web site, www.nmfma.org. Click on "Certification", then on "Read, print or download the Study Guide". The main items to study are the local floodplain ordinance, the local maps and flood insurance study, NFIP regulations, and a discontinued FEMA home study course, IS-9. The IS-9 is a complete, detailed course on minimum NFIP requirements for floodplain management. Although FEMA does not offer this as a home study course any more, the document is still available for download as study material for the CFM exam. A link to the IS-9 is on the NMFMA website, www.nmfma.org/CERTGIDE.HTM. It is suggested that it be downloaded one chapter at a time as the entire document is very large. The *Handbook for New Mexico Floodplain Managers* is also excellent study material for preparing for the CFM exam.

When a community is preparing to adopt a floodplain ordinance and join the NFIP in order to be compliant with state law, it is a good idea to select someone to be the Floodplain Administrator for the community and get that person certified before pursuing the ordinance or NFIP participation. After that person has studied the materials on floodplain management, passed the CFM exam, and has been introduced to the many community floodplain managers and other professionals from around the state, he or she will be much better prepared to assist the elected officials and attorney in adopting an ordinance and joining the NFIP. The Floodplain Administrator will also be able to better communicate to the general public the reasons for the ordinance and the ways in which the community will benefit. There is much erroneous information out there about floodplain management, and having a trained professional on staff to answer questions and offer guidance will be a benefit to the community's governing body.

The new community floodplain manager should also consider joining the NMFMA. Membership can benefit communities in many ways. First, it provides a lower cost to the Floodplain Administrator for taking the CFM exam and for attending NMFMA conferences. A quarterly newsletter with current news about floodplain management is another benefit of membership.

3. Taking the Examination

NMFMA conducts two conferences each year, one in the spring in the Albuquerque area, and one in the fall in a community other than Albuquerque. In addition to the technical training within the conference agenda, the NMFMA offers the CFM exam at every conference, and an 8 hour refresher course the day before each conference.

In order to take the CFM exam, an application must be submitted to NMFMA. The application is on the NMFMA web site and can be downloaded and filled out. Go to the NMFMA web site at www.nmfma.org and click on "Certification". Then click on "Read, print or download the Application Package for the NMFMA CFM Exam". The application is in a pdf format. Send the completed application and the appropriate fee to the address on the application. Be sure to indicate where and when you want to take the exam. The exam is scheduled for three hours on Wednesday morning before the conference. The exams are graded and the results returned to the exam taker within a couple of weeks. If you have any questions or need help, call Grant Pinkerton, the Chair of the Certification Board 505-624-6606.

4. Maintaining Certification: Continuing Education

The floodplain managers' certification is good for a two year period during which a CFM must obtain a certain number of continuing education credits (CECs) in order to maintain CFM status without retaking the exam. Every two years a renewal application must be sent to NMFMA along with proof of CECs. Attendance at NMFMA conferences provide enough CECs for CFM renewal.

NMFMA has kept the fees for its functions low to make them more accessible to all local communities. Conference fees are \$70.00 for NMFMA members and \$90.00 for non-members (no increase since 1998). The fee for the refresher course given at each conference is \$45.00. CFM exam fees are \$50.00 for NMFMA members and \$100.00 for non-members. CFM renewal fees are \$25.00 for members and \$50.00 for non-members. The NMFMA individual membership fee is \$35.00.

ADOPTING AN ORDINANCE

1. Before you start:

Adoption of any ordinance is serious business. By statute, it involves your elected officials and the public. Be sure your community's attorney is involved from the beginning.

It is important that the community Floodplain Administrator, the elected officials (City, Town or Village Council or County Commission), the community's attorney and, to some extent, the public, understand the intent of the ordinance and how it will be implemented.

Your attorney has two areas of interest:

- The wording of the ordinance, its enforceability, etc. and
- The process for adoption of the ordinance (public hearings, adoption, etc.)

2. Drafting ordinance language:

The language in your floodplain management ordinance must be very precise, and must include all requirements of § 3-18-7 NMSA 1978 and all requirements of the National Flood Insurance Program (NFIP).

The model floodplain management ordinance in Appendix A was developed by the NMFMA. It meets all of the requirements of the statutes and the NFIP. The NMFMA has developed different ordinances based on the types of flood maps a community has. The ordinance in Appendix A is tailored for your community.

The Floodplain Administrator and the attorney should go through this draft carefully to see if revisions are needed for the benefit of the community.

Read Chapters 8 through 14 of the Handbook for New Mexico Floodplain Managers for a detailed discussion of the community floodplain management ordinance.

Throughout the process of developing ordinance language, remember that your ordinance must ultimately be accepted by the Federal Emergency Management Agency (FEMA) as compliant with the minimum requirements of the NFIP, Prior to presenting the ordinance to your elected officials or the public, you should send it to FEMA Region VI for review.

Dolores LeVinus
FEMA Region VI
FRC 800 North Loop 288
Denton, TX 76209

(940) 898-5357
dolores.levinus@dhs.gov

3. Public Hearings and Adoption of the Ordinance:

Once the attorney, the Floodplain Administrator and FEMA Region VI are satisfied with the ordinance language, it should be presented to, and explained to, the governing body of the community. It is suggested that this be done during a workshop so that their questions can be answered and any issues they raise can be resolved before any public hearing.

The attorney must then make sure that the community's requirement for public hearings is satisfied before the ordinance is adopted.

APPLYING FOR PARTICIPATION IN THE NFIP

1. NFIP Application Form

Once the community has adopted an ordinance that has been accepted by FEMA, joining the National Flood Insurance Program (NFIP) is the next step. Fill out the NFIP application form that is included in Appendix B. If you have any questions about how to fill out the application, you can call the FEMA Region VI representative for New Mexico, Dolores LeVinus, at 940-898-5753.

2. Count the Number of Buildings in Your Community's Floodplain:

The NFIP application asks for estimates of the total area, population, and number of structures in the floodplains within the community. The area of your community in acres or square miles should be available from the community's public works, highway or streets departments. The population of your community from the 2000 US census can be used unless your community has a more recent estimate.

In communities with small floodplain areas, the best way to estimate the number of buildings in the floodplain is to drive around and count them. In larger communities with larger floodplains, it may be easier to estimate the number of floodplain buildings using a geographic information system (GIS) or recent aerial photos of your community.

- Cities, towns and villages should only report on the area, population and floodplain buildings in the incorporated area.
- Counties should only report on the area, population and floodplain buildings in the unincorporated area.
- Count single family residences, buildings with multiple residences and non-residential buildings separately.
- Count only insurable buildings. Do not count small buildings that are used primarily for storage, such as detached garages, sheds behind residences, barns, etc. Do count warehouses and other large storage facilities.

This building count does not have to be perfect, but it should be pretty close. An examination of the floodplain will help familiarize the Floodplain Administrator with the areas where the ordinance applies, so it serves two purposes.

3. Resolution

FEMA requires that a Resolution be adopted by the governing body along with the floodplain ordinance. The ordinance sets the standards for new development in flood hazard areas and sets forth the enforcement procedures and guidelines for variances and appeals. The resolution is a formal agreement the elected officials make with FEMA to carry out the steps

necessary to enforce the floodplain ordinance. The resolution form can be found in Appendix B. Each community should adopt the form to their own resolution format, as long as the body of the resolution doesn't change. The resolution, which should be adopted during an open public meeting, could be on the same agenda with and following the adoption of the ordinance.

4. Community Assistance Visit (CAV)

When the NFIP membership application, ordinance, and resolution are submitted to FEMA, a CAV will be required. Someone from FEMA Region VI, or the state floodplain manager, or both will come to your community to make sure that your floodplain manager knows what he is supposed to do to enforce your ordinance and help resolve any deficiencies in your program.. If the floodplain manager has been certified, the local program should be in compliance with FEMA regulations.

5. Notification from FEMA

Once your NFIP application, ordinance, and resolution have been approved by FEMA and the CAV is completed, your community will receive notice from FEMA that you are now a member of the NFIP. You should make an effort to inform local insurance agents, lenders, builders, realtors, etc of the new NFIP status and that new standards for development are now in place in your community.

SETTING UP A FLOODPLAIN MANAGERS OFFICE

The NMFMA has developed a packet to assist the Floodplain Administrator in setting up his/her office. This packet can be printed from the compact disk (CD) provided with this packet.

1. Print the file “setupfpmoffice.doc” on three-hole paper.
2. Print the file “setuptabs.doc” on labels for index tabs for a notebook. Put these labels on dividers and assemble a loose-leaf manual from the pages and the dividers.
3. Print the file “setupfiles.doc” on labels for file folders. Put the labels on standard file folders.

This manual, along with the *Handbook for New Mexico Floodplain Managers*, should assist the new Floodplain Administrator in getting a quick start in performing his/her duties under your new floodplain management ordinance.

APPENDIX A. MODEL ORDINANCE

Inserted in the cover of the packet.

APPENDIX B. FORMS

1. Resolution
2. Application to join the NFIP

RESOLUTION R-04-XXX
AGREEMENT TO ENFORCE A FLOODPLAIN ORDINANCE

WHEREAS, certain areas of _____ (City or County) _____, are subject to periodic flooding, causing serious damages to properties within these areas; and

WHEREAS, it is the intent of this (Commission/Council) to require the recognition and evaluation of flood hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, this (Commission/Council) has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Section 3-18-7 NMSA,1978.

NOW, THEREFORE, BE IT RESOLVED, that the (County Commissioners or City Council) hereby:

1. Assures the Federal Emergency Management Agency (FEMA) that it will enact as necessary, and maintain in force, in those areas having flood hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 60 of the National Flood Insurance Program (NFIP) Regulations; and

2. Vests _____ (department) _____ with the responsibility, authority and means to:

(a) Assist the (NFIP) Administrator, at his/her request, in the delineation of the limits of the area having special flood hazards.

(b) Provide such information concerning present uses and occupancy of the floodplain, mudslide (i.e., mudflow) or flood-related erosion areas as the Administrator may request.

(c) Maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM), any certificates of floodproofing, and information on the elevation (in relation to mean sea level) of the level of the lowest flood (including basement) of all new construction or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed.

(d) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map and identify floodplain, mudslide (i.e., mudflow) or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain, mudslide, (i.e., mudflow) and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

(e) Upon occurrence, notify the Administrator in writing whenever the boundaries _____ of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all FHBM's and FIRM's accurately represent the community's boundaries,

include within such notification a copy of the map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

(f) Submit an annual report to the Administrator concerning the community's participation in the program, including, but not limited to the development and implementation of floodplain management measures.

3. Appoints _____ (floodplain manager) _____ with the responsibility, authority, and means to implement the commitments as outlined in this Resolution.

4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the adopted floodplain management measures.

APPROVED: _____

(Mayor or County Commission Chair)

DATE PASSED: _____

CERTIFICATION

I, the undersigned, _____, do hereby certify that the above is a true and correct copy of a resolution duly passed by _____ at a regular meeting duly convened on _____.

(Secretary or Responsible Person)

(SEAL)

FEDERAL EMERGENCY MANAGEMENT AGENCY
**APPLICATION FOR PARTICIPATION IN THE NATIONAL FLOOD
 INSURANCE PROGRAM**

O.M.B. NO. 3067-0020
 Expires December 31, 2005

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 4 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing, reviewing, and submitting the form. You are not required to submit to this collection of information unless a valid OMB control number appears in the upper right corner of this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, Paperwork Reduction Project (3067-0020). Please do not send your completed form to the address above.

1. APPLICANT COMMUNITY NAME (City, town, etc.)	DATE
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COUNTY, STATE

2. COMMUNITY OFFICIAL - CHIEF EXECUTIVE OFFICER (CEO)	E-MAIL ADDRESS	TELEPHONE NO. (Include area code)
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ADDRESS (Street or box no., city, state, zip code)

3. PROGRAM COORDINATOR (Official, if different from above, with overall responsibility for implementing program)	E-MAIL ADDRESS	TELEPHONE NO. (Include area code)
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ADDRESS (Street or box no., city, state, zip code)

4. LOCATION OF COMMUNITY REPOSITORY FOR PUBLIC INSPECTION OF NFIP MAPS

ADDRESS

5. ESTIMATES FOR THOSE AREAS PRONE TO FLOOD AND/OR MUDSLIDE AS OF THE DATE OF THIS APPLICATION

AREA IN ACRES	POPULATION	NO. OF 1-4 FAMILY STRUCTURES	NO. OF ALL OTHER STRUCTURES

6. ESTIMATES OF TOTALS IN ENTIRE COMMUNITY

POPULATION	NO. OF 1-4 FAMILY STRUCTURES	NO. OF ALL OTHER STRUCTURES

7. FOR FEMA REGIONAL OFFICE USE ONLY

1. FEMA REGIONAL OFFICE	2. NAME OF CONTACT	3. TELEPHONE NO.
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4. LEVEL OF 44 CFR 60.3 REGULATION ADOPTED (Check one) <input type="checkbox"/> 60.3(a) <input type="checkbox"/> 60.3(b) <input type="checkbox"/> 60.3(c) <input type="checkbox"/> 60.3(d) <input type="checkbox"/> 60.3(e)	5. CHECK APPROPRIATE BOX: <input type="checkbox"/> EMERGENCY PHASE <input type="checkbox"/> REGULAR PHASE
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IF REGULAR PROGRAM, SPECIFY FIRM INDEX DATE. IF USING ANOTHER COMMUNITY'S FIRM, GIVE COMMUNITY NAME, CID, FIRM INDEX DATE AND MAP PANEL NUMBER DEPICTING COMMUNITY.

APPENDIX C. THE COMPACT DISK

(Inside front cover of this packet)

1. *Handbook for New Mexico Floodplain Managers*. This 400+ page manual is a major resource for New Mexico floodplain managers. It explains floodplain management, the National Flood Insurance Program, flood hazard mitigation and much more. The entire *Handbook* can be printed from the Adobe© Acrobat© files, or individual chapters can be printed.
2. *Ready Reference*. This companion to the Handbook is a condensation of the most common issues a community floodplain manager deals with on a day-to-day basis. 32 pages.
3. Model Ordinance. There are five model ordinances for New Mexico communities. Select the one for your community's floodplains. These are in MS Word©, so your community can immediately modify them to meet your needs.
4. Model Resolution. Download this document in MS Word© and modify it as necessary to present to your community's governing body for adoption with your ordinance.
5. NFIP Application. This Adobe© Acrobat© file can be printed and completed to send to FEMA.
6. Setting Up a Floodplain Management Office. See the instructions on page 9 of this packet.
7. NMFMA Constitution and Bylaws. See what NMFMA is all about and how it operates.
8. *Floodplain Management in New Mexico: A Call for Action*. A discussion of the status of floodplain management in New Mexico, our most immediate needs, and the actions needed to be taken by the NMFMA, community floodplain managers, communities, the New Mexico Legislature, state and federal agencies and others. Revised from the earlier version. 28 pages.
9. *A History of Floods and Flood Problems in New Mexico*. A compilation of the history of flooding and flood problems in New Mexico taken from Flood Insurance Studies, plus a transcript and related documents from a 1941 flood task force meeting in Santa Fe. 30+ pages.

