

KANSAS

FLOODPLAIN MANAGEMENT TIPS



December 2016

Making a Claim for Flood Insurance

Steve Samuelson has flood insurance on his own home. Steve got a packet of information from the Federal Emergency Management Agency (FEMA) about his policy and a flood loss history of the property. Every flood insurance policy holder should have gotten a similar packet. Included with the packet was a copy of the "Flood Insurance Claims Handbook" FEMA publication F-687.

The short easy to read handbook explains the process of filing a flood insurance claim. The booklet is divided in to three main sections.

- What to do before a flood;
- What to do after a flood; and
- Addressing questions about your flood insurance claim.

The handbook has a lot of good advice in it. Here are just a few of the many tips.

Contact your insurance company or agent immediately. Have a copy of your policy number when you make the initial call. Your agent will advise you how to file a written notice of loss.

Take lots of pictures. In the case that you can't save damaged materials for the adjustor then take photos and save 12" square samples of the carpeting and sheetrock that had to be removed.

Make a list of damaged contents including information about brand names and replacement costs. Make another list of damages to the structure.

An Adjustor will contact you about visiting your property. Ask to see the Adjustor's identification and assist the Adjustor in order that he or she may better assist you. The Adjustor will complete a detailed estimate of damages and provide you with a Proof of Loss.

That Proof of Loss is your official claim for damages. The Proof of Loss must be completed, signed and turned in to the insurance company within 60 days after the loss occurs.

A copy of the Flood Insurance Claims Handbook will be sent out with the email version of this newsletter. Review the handbook so you know how to help advise your citizens after a flood event.

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Floodplain Variances

Every community that participates in the National Flood Insurance Program has a Floodplain Manager and has agreed to enforce certain rules and regulations in the floodplain. These rules and regulations are in ordinances in cities, resolutions at the county level or combined in to some sort of local set of codes or zoning regulations. When a property owner disagrees with the Floodplain Manager's determination that a development in the floodplain does not meet the requirements of the floodplain regulations that property owner has the right to request a variance.

In simple terms, a variance is authorization for development in the floodplain that does not meet the requirements of the community's floodplain regulations. It isn't just as easy as someone asking for a variance. Variances must be approved by a locally appointed Floodplain Management Appeal Board. That Appeal Board should not approve a variance unless some very specific criteria are met.

Appeal Boards must not approve variances without considering all relevant factors including:

- Danger to life and property due to flood damage;
- Danger that materials may be swept onto other lands to the injury of others;
- Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- Importance of the services provided by the proposed facility to the community;
- Necessity to the facility of a waterfront location, where applicable;
- Availability of alternative locations, not subject to flood damage, for the proposed use;
- Compatibility of the proposed use with existing and anticipated development;
- Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- Safety of access to the property in times of flood for ordinary and emergency vehicles;
- Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
- Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

After considering those relevant factors the Appeal Board should only approve a variance when:

- There is good and sufficient cause and an exceptional hardship exists;
- The variance will not result in threats to public safety, extraordinary public expense, or victimization of the public; and
- The variance is the minimum action necessary to afford relief.

Only consider conditions of the property and not of the property owner. An exceptional hardship involves unique circumstances of the property that make it impossible to develop the property in compliance with the floodplain regulations. An exceptional hardship should have nothing to do with the people involved.

One man asked for variances because the expense of complying with substantial damage requirements and elevating the structure would have to come from out of his son's college fund. A realtor sold a single wide manufactured home to an elderly woman and also sold her a vacant lot in the floodplain to put the manufactured home on. The work was done without a permit and the manufactured home was not elevated appropriately. The realtor asked for a variance because it would be a hardship on the elderly lady to walk up the steps to get in to the elevated building because of her bad hip. These are hardships of the people involved. Floodplain Managers must remind their Appeal Boards that variances are granted to the property and stay with the property and are not granted to the people involved. The Appeal Board must focus on the circumstances related to the property and not the circumstances of the person requesting the variance.

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Variance story continued from previous page.

There have been cases when a new structure was built in the floodplain without proper permits and did not meet required elevation or flood protection requirements. Floodplain Managers from local communities sent notices of the violation. It is not uncommon for violators in that situation to say they will just get a variance.

There are good reasons for not approving a variance in a situation of a problem that is not caused by any condition of the property. The problem was caused by the developer's own actions in failing to apply for proper permits. Cause for the variance should not be applicant's own actions. Properties that have been granted variances could be sold to someone else. That new buyer may not know that a property has a variance and only know it was approved and permitted by the local community.

Variances are relief from the requirements of the local community's floodplain management regulations. Variances issued at the local level are not variances from mandatory purchase of flood insurance requirements. Upon granting of a variance the community must notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Will the owner of a property with a variance that has expensive insurance always inform a new buyer of the circumstances?

Variances do not grant relief from requirements of State and Federal laws that may also apply. The Division of Water Resources (DWR) permits many types of development in the floodplain. A local community does not want to grant a variance for a property that is in violation of State permit requirements. Appeal Boards may want to table requests for variances until the applicant can provide documentation of a permit determination by DWR. Why grant a variance for something that may have to be removed or altered to comply with a higher standard at State or Federal level?

Variances shall not be issued within any designated floodway if any increase in flood discharge would result. This means that a no-rise encroachment study by a Professional Engineer would have to be done before applying for a variance. Without the study an Appeal Board does not know if an increase would result. There have been cases where a developer inappropriately wanted to ask for a variance from the requirement for no-rise certificate to avoid the expense of hiring an engineer.

There have been cases when variances have been approved in local communities here in Kansas. One approved variance was for a boat house. Boats require access to water and that water is usually found in a floodplain. This would be a functionally dependent use because of the fact that boats can't function without water. It is also appropriate to consider a variance for repair of structures listed on a historic registry. Remember that just because a building is old does not mean it is a historic building. It must be listed on an approved historic registry.

Decisions of the Appeal Board aren't always the final word. Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

To learn more about variances read the variance section of your own community's floodplain management regulations. The Federal Emergency Management Agency publication FEMA P-993 dated July 2014, "Floodplain Management Bulletin, Variances and the National Flood Insurance Program" is a 32 page book that explains variances and variance criteria in more detail. Order free copies of this book by calling 1-800-480-2520. Consider giving a copy of the variance book to every member of your Floodplain Appeal Board.

Training Opportunities

The Floodplain Management Program will host the following training sessions throughout Kansas. If you are interested in any of the no-cost training opportunities, please contact Tom Morey at 785-296-5440 or Steve Samuelson at 785-296-4622. A training registration form is in this newsletter.

Elevation Certificates and Letters of Map Amendment

This free class is designed for community officials responsible for administering floodplain management as well as surveyors and engineers who complete Letters Of Map Amendment (LOMA) and Elevation Certificate forms. The course will focus on accurate completion of Federal Emergency Management Agency (FEMA) technical forms, building diagrams and base flood elevation. Approved 3.5 hours toward CFM. Limited to 20 participants.

•Topeka– Jan. 19, 2017 8:30 a.m.-12:30 p.m.

•Manhattan– Feb. 8, 2017 8:30 a.m.-12:30 p.m.

Violations and Enforcement in Floodplain

This free class is intended for community officials responsible for enforcing floodplain management regulations. The course will focus on various types of violations, how to correct violations and enforcement procedures. Allowed 3.5 hours toward CFM. Limited to 20 participants.

• Eureka– Feb. 9, 2017 8:30 a.m.-12:30 p.m.

Basics of the National Flood Insurance Program

This class is for officials responsible for administering their local floodplain management ordinance. The focus is on the National Flood Insurance Program (NFIP) and concepts of floodplain management, maps and studies, ordinance administration, and the relationship between floodplain management and flood insurance. Allowed 3.5 hours toward CFM. Limited to 20 participants.

•Oskaloosa - Mar. 9, 2017 8:30 a.m.-12:30 p.m.

Find more information about floodplain management from Kansas Department of Agriculture
Division of Water Resources on line at:
<http://agriculture.ks.gov/divisions-programs/dwr/floodplain>

Email saves money on postage. The electronic newsletter also has links and the photos are in color. If you are getting this newsletter by postal mail and would prefer email please contact Steve Samuelson at steve.samuelson@ks.gov.

Mark your calendar. The Kansas Association for Floodplain Management 2017 conference will be September 6 and 7 in Lawrence. More information will be posted at the website: www.kafm.org. Registration will be done through a link on the website. If you have questions about registration please contact Don Slone, Chairman, at 913-667-1708.

Kansas Department of Agriculture
Division of Water Resources
Floodplain Program
Training Registration Form

Name _____

Title _____

Organization _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Fax _____

E-mail _____

Name, date and location of training you will attend _____

*Please share this invitation with anyone else who could benefit from the training.

**Classroom locations will be sent to registered participants one week before the training.

Please mail or fax your registration to:

KANSAS DEPARTMENT OF AGRICULTURE
FLOODPLAIN MANAGEMENT PROGRAM
6531 SE Forbes Ave., Suite B
TOPEKA, KS 66619
Fax to: 785-296-7155

For questions about training, please contact Steve Samuelson by email at steve.samuelson@ks.gov or by phone 785-296-4622, or contact Tom Morey at tom.morey@ks.gov and 785-296-5440.

Please help us keep our records current. If the name that appears on this newsletter is for an individual no longer with your organization, please call 785-296-4622, or email steve.samuelson@ks.gov to report the change.

046-17
Kansas Department of Agriculture
Division of Water Resources
Topeka Field Office
Floodplain Management
6531 SE Forbes Ave., Suite B
Topeka, KS 66619

ASFPM 2017 National Conference in Kansas City

The 2017 Association of State Floodplain Managers National Conference will be April 30 to May 5, 2017 in Kansas City, Missouri. This conference is an excellent opportunity for floodplain managers to receive training on mapping technologies, regulations, permitting, outreach and best practices. It is estimated the conference will be attended by more than 1,000 floodplain management professionals. This conference is a great chance to meet people for networking and to learn the latest news in floodplain management. Don't miss out on this opportunity for this conference when it is so close. Contact Tom Morey to find out about scholarships to attend this conference.

KDA/DWR Water Structures Floodplain Program Staff

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