



Nebraska Department of  
Natural Resources  
P.O. Box 94676  
Lincoln, NE 68509-4676  
402.471.2363 <http://dnr.ne.gov>

# Floodplain Management Q&A

## *Permits*

*Most communities issue building permits. Many, however, do not have a permit system for “development.” Development includes activities such as paving, grading and mining. Regulating all actions in floodplains is essential because **any** modification possesses the potential to obstruct flood flows. Because a “building” permit often covers only construction or alterations to buildings, it might be wise to use the term “development” permit. If your community issues building permits, a building permit should not be released unless a floodplain development permit has been secured first. It should also be noted that many smaller Nebraska communities do not issue building permits. This, however, does not relieve you from requiring development permits in the floodplain.*

### Why are permits necessary?

Permits are required to ensure proposed development projects meet National Flood Insurance Program (NFIP) requirements, city ordinances and county resolutions.

### What requires a permit?

All development in a floodplain, whether an addition or a brand new structure, requires a permit. A new structure must meet existing Base Flood Elevation (BFE) requirements. An addition to an existing structure must also meet BFE requirements if it is a “substantial improvement.” Substantial improvement is defined as any reconstruction, rehabilitation, addition or other improvement to a structure the total cost of which equals or exceeds 50 percent of the structure’s market value **before** improvement begins.

### What is defined as “development”?

Development is any human-made change to improved or unimproved real estate. If your permit system does not require permits for these activities, you need to enact a new type of development permit, or otherwise ensure that people apply for a permit for these nonbuilding projects.

***Development includes but is not limited to:***

- \* Construction of new structures.***
- \* Modification to existing structures.***
- \* Repairs to a damaged building.***
- \* Temporary stream crossings.***
- \* Activities by other government agencies such as roads, bridges and school buildings.***
- \* Storage of equipment or materials.***
- \* Dredging, paving, filling, grading.***
- \* Excavating, mining, drilling, driving of piles.***
- \* Land clearing.***

**How is “market value” determined?**

In common parlance, market value is the price a willing buyer and seller agree upon. The market value of a structure reflects its original quality, subsequent improvements, physical age of building components and current condition. For the purposes of determining substantial improvement, market value pertains only to the structure in question. It does **not** pertain to the land, landscaping or detached structures on the property. Any value resulting from the property’s location should be attributed to the value of the land, not the building. Market value should be determined consistently and uniformly.

**What if the structure was built post-FIRM?**

If your community has a Flood Insurance Rate Map, or FIRM, permit regulations must address both pre-FIRM and post-FIRM development. A post-FIRM building should already be properly elevated and compliant with regulations for new construction. However, sometimes a map change has resulted in a higher BFE. Remember, all additions to a post-FIRM building must be elevated at least as high as the BFE in effect when the building was built. But if a new, higher BFE has been adopted since the building was constructed, **lateral** additions that are substantial improvements must be elevated to the new BFE. Under certain circumstances such as adding an additional floor or dormer, the entire house may have to be elevated to the new BFE.

**What if the structure was built pre-FIRM?**

Should a **lateral** addition be added to a pre-FIRM building, the addition must comply with the current BFE. As with a post-FIRM building, if the addition is an added floor or dormer, the entire house may have to be elevated.

## What if my community does not have a FIRM?

If your community does not have a FIRM, you must require a permit for **all** development projects within your boundaries. You must review each project's location to determine if it has a flood risk. If it does, the best way to protect a new building from flood damage is to obtain a BFE for the site and require the building to be elevated or protected to or above that BFE. BFEs can be obtained from NDNR, and this service is provided at no cost to Nebraska communities.

## How should smaller projects be treated?

You have some discretion to exempt obviously insignificant activities from development permit requirements such as planting a garden, farming, putting up a mailbox or erecting a flagpole. You may also want to exempt routine maintenance such as painting or reroofing. However, if a larger project includes reroofing, then the reroofing would be factored into the total cost. Specifying exemptions in your ordinance avoids challenges resulting from arbitrary decisions or builders deciding for themselves.

## Will permits from other agencies be required?

All NFIP communities are required to ensure that other federal and state permits have been obtained. The following development activities may require a state permit:

- \* Stream crossings or projects that affect rivers.
- \* Installation of wells and septic systems.
- \* Subdivision standards, or plat- or lot-filing.
- \* Manufactured housing or tie-down requirements.
- \* Public health facilities.
- \* Operating a landfill or hazardous materials facility.

## Who can I talk to at NDNR?

**Contact: Bill Jones, 402.471.3932**  
**bill.jones@nebraska.gov**

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