

<Place on your Community Letterhead>

DATE

PROPERTY OWNER
ADDRESS LINE 1
ADDRESS LINE 2

Subject: Notice of Enforcement Procedures for Floodplain Violation

Dear XXXX,

[Community] participates in the National Flood Insurance Program (NFIP) which offers the community many benefits, including that all [COMMUNITY]'s citizens can purchase reasonably priced flood insurance and have access to federal disaster assistance funds.

[COMMUNITY] notified you that [DEVELOPMENT] is in violation of Floodplain Management Ordinance Number [#] Section(s) [#,#,#, etc] on [DATE]. In the initial notification, you were provided several options to work toward the resolution of the violation and a timeframe of [XX] days to correct the issue. The timeframe for resolution has now passed and [COMMUNITY] will activate enforcement procedures. To date, the following activities have occurred:

<Describe communication / steps that have occurred to date>

As defined in the [COMMUNITY] floodplain management ordinance Section 4.8 C. Penalties:

“Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \${fine amount}, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.”

It is important to note, this violation has impacts outside of the referenced property.

[COMMUNITY] has been a participant in the NFIP since [Date] and has floodplain regulations that meet the standards of Title 44 Code of Federal Regulations Section 60.3 paragraph b (44 CFR § 60.3(b)). [COMMUNITY]'s effective Flood Insurance Rate Maps (FIRMs), dated [Date], identify Special Flood Hazard Areas (SFHAs) throughout the [CITY/VILLAGE/COUNTY].

A floodplain development permit is required for all development that occurs within the 1% annual chance floodplain, defined as Zone A or Zone AE SFHAs on [COMMUNITY]'s FIRMs. 44 CFR § 59.1 and [COMMUNITY]'s local floodplain management ordinance define “development” as “any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials”. No development in the 1% annual chance floodplain shall be permissible except through the issuance of a floodplain development permit, approved by the community’s floodplain administrator. If the development involves a structure,

defined as a walled and roofed building, a follow-up compliance document must be completed by a Nebraska Professional Engineer, Land Surveyor, or Architect. The follow-up compliance document is either in the form of an "Elevation Certificate", or, if referencing a nonresidential structure, a "Dry Floodproofing Certificate for Non-Residential Structures" and must be retained in [COMMUNITY]'s files along with all floodplain development permits issued.

It is the responsibility of the local floodplain administrator to ensure compliance with the NFIP in accordance with 44 CFR § 60.3(d). All citizens of [COMMUNITY], but especially those with NFIP policies, likely realize how important it is for the floodplain management ordinance to be enforced. NFIP-participating communities that knowingly or unknowingly allow violations of their floodplain regulations or have program deficiencies may be subject to Federal Emergency Management Agency (FEMA) enforcement actions. In this instance, a violation is defined by 44 CFR § 59.1 as "the failure of a structure or other development to be fully compliant with the community's floodplain management regulations".

If [COMMUNITY] fails to act toward resolving this violation, FEMA enforcement procedures will be activated. These procedures may include:

- **Probation:** Per 44 CFR § 59.24(b), a community that fails to adequately enforce floodplain management regulations meeting the minimum requirements of 44 CFR § 60.3, and their local Floodplain Management Ordinance shall be subject to probation. Probation shall represent formal notification to the community indicating the local program is not compliant with NFIP requirements. An additional \$50 premium will be charged on all policies sold or renewed during the probation period. This added premium will apply as long as the community remains on probation.
- **Suspension:** Per 44 CFR § 59.24(c), a community that fails to adequately enforce floodplain management regulations meeting the minimum requirements of 44 CFR § 60.3 and their local Floodplain Management Ordinance and does not correct its program deficiencies and remedy all violations to the maximum extent possible in accordance with compliance deadlines established during a period of probation shall be subject to suspension of its program eligibility. In the event of suspension, flood insurance policies issued in the community will be non-renewable, however, homeowners with federally backed loans will still be required to meet the mandatory purchase requirement without access to the federally backed policies that were previously available through the NFIP.
- **Subrogation:** Per the NFIP Claims Manual, subrogation is the right of the insurer to pursue legally a third party that caused the loss as a means of recovering the amount of the claim paid by the insurer to the policyholder for the loss. Pursuant to 44 CFR § 62.23(i)(8), FEMA has the right of first recovery in the event of any subrogation claim under the NFIP. Subrogation should be considered on every flood claim, which often requires the use of an expert to confirm causation and to verify the potential at fault party. Through the investigations the team works to identify a potentially responsible third party and characterize how their actions may have caused or worsened flood damage.

[PROPERTY OWNER NAME]

[DATE]

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A community that has withdrawn or is suspended from the NFIP faces the following sanctions:

- Federal flood insurance will not be available. No resident will be able to purchase an NFIP flood insurance policy.
- Existing flood insurance policies will not be renewed.
- No federal grants or loans for the acquisition or construction of buildings may be made in identified flood hazard areas under programs administered by federal agencies including the U.S. Department of Housing and Urban Development (HUD), U.S. Environmental Protection Agency (EPA), and Small Business Administration (SBA).
- No federal disaster assistance may be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
- No federal mortgage insurance or loan guarantees may be provided in identified flood hazard areas. This includes policies written by Federal Housing Administration (FHA), Department of Veterans Affairs (VA), and others.
- Federally insured or regulated lending institutions, such as banks and credit unions, must notify applicants seeking loans for insurable buildings in flood hazard areas that:
 - There is a flood hazard.
 - The property is not eligible for federal disaster relief.

These sanctions can be severe on any community with a substantial number of buildings in the floodplain. Most communities with flood history have joined the NFIP and comply with their regulatory obligations.

It is vital that [PROPERTY OWNER] continue working with [COMMUNITY] to resolve this violation. If [COMMUNITY] does not see any progress toward item resolution within the next ten business days <INSERT APPLICABLE COMMUNITY ENFORCEMENT PROCEDURE.>

If you have any questions, please do not hesitate to reach out. You can reach me at [PHONE #] or [FPA EMAIL]. [COMMUNITY] is available to help you as you work through this violation. It is our goal assist you in correcting the issue and avoid FEMA enforcement actions.

Sincerely,

[COMMUNITY FPA]

[TITLE]