

## Substantial Damage: The Bane of Our Existence, OR the Key to Our Resilience?

By Emily Hatcher  
Natural Hazards Program Specialist, FEMA Region VII

Substantial damage can be one of a Floodplain Administrator's (FPA) most challenging responsibilities, but it is also one of the most critical ones we have as floodplain managers.

For those new to the field, substantial damage determinations are required by your local floodplain management ordinance. They are particularly prevalent in the post-disaster environment, but are required any time damage is sustained from any origin. It applies to structures in the Special Flood Hazard Area (SFHA) for which the total cost of damage is equal to 50% or more of the individual structure's market value before the damage occurred. For example, if a structure (structure *only*, not land) is valued at \$100,000 before damage, and the cost of repairs is estimated at \$70,000, that's 70% and the structure is considered substantially damaged. If a structure is determined to be substantially damaged, it must be brought into compliance with local floodplain management regulations. There are many options to bring structures into compliance, which may include: elevating the structure to BFE (plus any applicable freeboard: a minimum of 1 ft in Nebraska), relocating or demolishing the structure, or flood proofing non-residential or historic structures.

While the local Floodplain Administrator is responsible for making the official determination, the homeowner is responsible for bringing their structure into compliance. In some situations, this can be costly.

To account for that, FEMA and the NFIP have implemented several resources to help homeowners defray the cost of coming into compliance. For example, homeowners that have a flood insurance policy through the NFIP may be able to access Increased Cost of Compliance (ICC) funding through their policy. This is up to \$30,000 on top of the claim to assist them with those costs of coming into compliance. The key in this- the homeowner MUST submit an official determination that the structure was substantially damaged to their insurance company to qualify. This is why it is so crucial for the local FPA to complete these determinations accurately and timely, because your citizens may be depending on it. In addition to ICC, there are several grant programs that are focused on mitigating structures in the SFHA that are at risk. One example is FEMA's Hazard Mitigation Assistance (HMA) program.

When it comes specifically to FEMA HMA acquisition projects, structures determined to be substantially damaged in the floodplain are exempt from having to do a Benefit-Cost Analysis- they are automatically considered cost effective. The catch? The project application must include certification that the structure meets this condition. That means the official determination that the structure was substantially damaged from the FPA, just like what is needed for an ICC claim. If you are familiar with

- See [Substantial](#) cont. on page 2.

## Accessory Structure FAQ for FPAs

By Elijah Kaufman, CFM

Accessory structures (commonly called "appurtenant" structures in Nebraska), are small structures that serve a secondary purpose to a principal structure on the same property. FEMA has recently recognized the need for updated guidance on how to permit these structures in the regulatory floodplain. FEMA's new guidance on accessory structures can be found [here](#).

[What do these new regulations mean for NFIP participating communities, and how can they be enforced?](#)

This article will explore those questions and more by posing a hypothetical situation of a new proposal for an accessory structure in a regulatory floodplain: a homeowner is proposing a new garage in the community, and it will exist in the SFHA. Read on for some questions you, the floodplain administrator may have about the permitting process.

- See [Accessory](#) cont. on page 3.

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## Piping Plover

*Charadrius melodus*



Image courtesy Nebraska Game and Parks Commission.

### Biodiversity Spotlight: Piping Plover

By Adele Phillips, CFM

Have you ever seen the courtship display of a male piping plover? Feet drumming, whistling, posturing, aerial circles and figure-eights make up the elaborate routines. Piping plovers are arriving soon to Nebraska's rivers, particularly the Elkhorn, Loup, Missouri, Niobrara, and Platte rivers. Piping Plovers migrate to Nebraska in mid- to late-April and utilize the sandbars of Nebraska's rivers for three to four months to nest, breed, and rear their young. They feed on beetles and soft invertebrates found along the riverine waterline.

You may have seen a piping plover and thought that it was a killdeer. Piping plovers are smaller, with a single black forehead band and breast band. Like killdeer, however, they will feign injury to lead predators and intruders away from nests and chicks.

The piping plover is one of Nebraska's threatened and endangered species and is protected at both the state and federal level. The primary reason

for its decline is human-driven habitat loss through channelization, irrigation, and reservoir construction. These activities have reduced the availability of the sandbar habitats critical to the piping plover's reproduction. They are also threatened by pollution, disease, and predation.

What can you do to help? Holistic floodplain management, such as allowing rivers to perform their natural floodplain functions, limiting development in flood risk areas, preventing vegetation removal, and protecting against waterway modifications and wetland destruction, helps ensure the annual cycles of sediment deposition occur and support maintenance of sandbars.

If you spot a piping plover nest site, do not disturb it, but report it to the Nebraska Game and Parks Commission.

To learn more about these special birds, go to <http://outdoornebraska.gov/pipingplover> . ■

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these "buyout" projects, you might be saying, "but FEMA has pre-calculated benefits for acquisitions projects in the SFHA, so an SD determination isn't needed". While this is true, there is a cap on project cost, and projects over the limit aren't able to use the pre-calculated benefits. This is another reason why it is vital to conduct accurate SD assessments and issue official determinations.

As a local Floodplain Administrator, if you are avoiding conducting SD assessments and determinations or skewing the results in an effort to "save" your citizens from having to come into compliance, you are doing them a disservice. You could be depriving them of access to additional funding to help protect themselves and their property. In addition, this is a requirement of your local ordinance, and if there is ever an audit of your program in the future, you may be asked to produce any recent determinations you've made with supporting documentation. If you are unable to, that could jeopardize your community's standing in the NFIP.

As a Floodplain Administrator, try not look at substantial damage determinations with dread, but rather as the key that unlocks many opportunities to build your community's resilience. Substantial damage is a complex topic, but an important one. If you have any questions about this article, or the related topic of substantial improvement, please don't hesitate to reach out to [Emily.Hatcher@fema.dhs.gov](mailto:Emily.Hatcher@fema.dhs.gov) . ■

#### YOUR SUGGESTIONS WELCOME!

What common permitting situations you have experienced in your community and would like to see discussed in the NeDNR Floodplain newsletter? Please send suggestions to Adele Phillips at [Adele.Phillips@Nebraska.gov](mailto:Adele.Phillips@Nebraska.gov)

**Accessory** cont. from page 1.

### How do I know that it is an accessory structure?

FEMA defines an accessory structure as a small, one-story structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. This means the proposed garage cannot be the lone structure on a parcel.

### How small is “small”?

FEMA does not define a specific size limit for accessory structures, however, states that they can be no larger than a one story, two car garage. Nebraska and FEMA Region VII have agreed that this means 800 square feet or less of floor area.

### What uses are allowed for the structure?

Accessory structures in the floodplain may only be used for storage of materials or parking of vehicles. The structure may not be used for human

habitation in any way. Therefore, this garage may not be used as a workshop, employee housing, or for social events such as weddings or parties.

### What floodplain regulations must the structure adhere to?

Accessory structures are required to follow either the elevation requirements or floodproofing requirements described in your floodplain ordinance. Accessory structures may be dry or wet floodproofed, depending on customer preference. Wet floodproofing language for accessory structures must be in your floodplain ordinance to use this option.

### What if they want the structure to be larger than the size limit defined in the floodplain ordinance?

If the structure is a residential structure, it must have the first floor

elevated 1 foot above the base flood elevation. If the structure is non-residential it also has the option of being dry floodproofed to 1 foot above the base flood elevation.

### What happens if the owner decides to use the structure for something else?

If the use of the structure is changed at any time, pre- or post-construction, it must be brought into full compliance with the minimum standards governing such use.

### How do I know they won't change the use after the structure is built?

It is recommended by NeDNR that communities require a non-conversion agreement with structures of this type to prevent any change of use. An example of a non-conversion

- See [Accessory](#) cont. on page 4.

## Attend an Open House Near You:

### Nebraska's New *Draft* Flood Hazard Mitigation Plan Available for Comment

The *draft* State of Nebraska Flood Hazard Mitigation Plan is available on the [project website](#) for your review and input. The Plan will be available for comment from April 11, 2022 until May 11, 2022.

Open houses will be held across the state from April 26 - 28, 2022, to inform the public of the Plan's contents and collect public comment. Collected comments will be considered for potential revisions and edits to the Plan prior to its final approval.

This is also an opportunity to meet both NeDNR and Nebraska Emergency Management Agency (NEMA) staff in person and have your questions answered. ■

#### Open House Locations

**Lincoln:** April 26, 2022; 11:00 a.m.–1:00 p.m. CDT  
(Public hearing to begin at 12 p.m.),  
[Auld Pavilion, 1650 Memorial Drive, Lincoln, NE 68508](#)

**Kearney:** April 26, 2022; 5:00 p.m.–7:00 p.m. CDT,  
[Environmental Resource Center, Yanney Heritage Park, 2020 W 11th St, Kearney, NE 68845](#)

**Scottsbluff:** April 27, 2022; 11:00 a.m.–1:00 p.m. MDT,  
[Lied Scottsbluff Public Library, 1809 3rd Avenue, Community Room, Scottsbluff, NE 69361](#)

**Norfolk:** April 28, 2022; 11:00 a.m.–1:00 p.m. CDT,  
[Norfolk Public Library, 309 North 5th Street, Meeting Room A, Norfolk, NE 68701](#)

**Fremont:** April 28, 2022; 5:00 p.m.–7:00 p.m. CDT,  
[Fremont City Auditorium, 925 North Broad Street, Community Room West, Fremont, NE 68025](#)

## NeDNR Floodplain Management's Business Plan Update

By Jamie Reinke, PE, CFM

As part of NeDNR's Cooperating Technical Partners (CTP) agreement with FEMA, the Floodplain Management team is tasked with developing a vision for mapping priorities for several years into the future.

NeDNR and FEMA have separate mechanisms for how projects are selected, but often the mapping priorities of the two agencies are well aligned.

NeDNR, by state statute, prioritizes mapping needs by considering the following factors:

1. Potential for future development
2. Potential for flood damage or loss of life
3. Probability that adequate data and maps will be prepared within a reasonable time by other sources
4. Availability and adequacy of any existing maps
5. Availability of flood data and other information necessary to produce adequate maps
6. Degree of interest shown by the local governments in the area in utilizing flood data and maps in an effective flood plain management program.

Similarly, FEMA has identified the following types of projects as the highest priority:

1. On-hold County Wide Projects
2. Levee PMR Projects
3. On-going Watershed Projects
4. Watershed Projects
5. Paper Inventory Reduction Projects

NeDNR uses the data associated with regulatory maps throughout the state often, whether for Base Flood Elevation (BFE) Determinations or for providing technical assistance to communities. It often becomes clear

when using the data which areas of the state need updated regulatory mapping, however, we are still required to consider the state statutes and FEMA's priorities before identifying a project for future funding.

NeDNR works to sequence projects in our business plan in a logical manner to address these mapping needs. Projects are selected at a watershed level and, when possible, NeDNR is leveraging the work of other agencies to avoid overlapping efforts and to maintain cost-efficiency. This allows NeDNR to maximize funding opportunities to provide more of the state with updated, high-quality regulatory products.

The FEMA Fiscal Year 2022 Business Plan update was due in March. Due to changes in FEMA's priorities and workload and staffing issues at NeDNR, there are significant changes to NeDNR's Business Plan and the plan will continue to be modified as we analyze state and federal priorities. NeDNR will also begin funding 2-Dimensional (2D) engineering studies. These studies will be used as Best Available data at first and then will be converted into regulatory products in the future as funding and opportunity permits. The Fiscal Year 2022 Business Plan proposes 2D studies beginning in Fiscal Year 2023.

To view changes to NeDNR's future mapping project sequencing please visit the NeDNR Floodplain Management Website: <https://dnr.nebraska.gov/floodplain>

Questions or comments can be directed to Jamie Reinke at [Jamie.Reinke@Nebraska.gov](mailto:Jamie.Reinke@Nebraska.gov). ■

**Accessory** cont. from page 3.

agreement can be found here: <https://crsresources.org/400-2>.

You should require a signed non-conversion agreement from the applicant prior to signing off on the permit.

If you have additional questions or concerns regarding accessory structures or would like to adopt accessory structure language in your floodplain ordinance, please don't hesitate to reach out to Elijah Kaufman at 402-471-0640 or Chuck Chase at 402-471-9422. ■

### — Mark Your Calendar —

#### 04.19, 04.20 □ CRS Webinar Series

12:00 pm unless otherwise noted

The CRS Webinar Series provides training to communities that do not yet participate in the CRS, local government staff who are new to the CRS, and those with experience in the program. To learn more and to register, [visit this link](#) and choose the "Upcoming" tab to select the course.

- April 19: Preparing an Annual Recertification
- April 20: CRS & Floodplain Species Assessment

Several training videos and resources are available at the [CRS Resources training page](#).

#### 04.21 □ The Letter of Map Change (LOMC): What the FPA Needs to Know

1:00 pm - 2:00 pm

Join Chuck Chase, CFM for a virtual training suitable for both novice and seasoned floodplain administrators. The training will cover the LOMA, LOMR, and LOMR-F; requirements for submitting LOMCs, and the review process. For more information visit NeDNR's [training page](#). 1 CEC for CFMs.



## Mark Your Calendar Cont.

### 04.26 - 04.28 ■ State of Nebraska Flood Hazard Mitigation Plan Open Houses

Times vary

Opportunity to comment on the draft of the 2022 State of Nebraska Flood Hazard Mitigation Plan and to meet NeDNR and NEMA staff. Open houses to be held in Lincoln, Kearney, Scottsbluff, Norfolk, and Fremont. To learn more see page 3 or visit the [project webpage](#).

### 04.28 □ Spring 2022 Flood Insurance Handbook Updates

11:00 am - 12:00 pm

Join FEMA's Chris Parsons and Nebraska Department of Insurance staff to learn about updates to the Spring 2022 Flood Insurance Handbook. Presentation will also include an overview of Risk Rating 2.0 and its implementation over the last 6 months. To register, visit this [link](#).

### 05.15 - 05.19 □ ■ ASFPM 46th Annual Conference

Virtual or in person (Orlando, FL)

ASFPM holds the world's largest and most comprehensive floodplain management conference, covering a wide range of topics from NFIP, to risk communication, to stormwater and urban flooding, and more. To learn more about the event and to register, visit this [link](#).

### 05.25 □ Nebraska CRS Workshop

11:00 am - 12:30 pm

A virtual workshop with representatives from NeDNR, FEMA, and ISO, for communities that are ready to enroll in the CRS program. To request to attend the workshop, contact Adele Phillips at [Adele.Phillips@Nebraska.gov](mailto:Adele.Phillips@Nebraska.gov). Requests should be made 2 weeks prior to allow attendees time to complete the preparatory worksheets.

### 06.12 - 06.14 ■ E0102: Science of Disaster

Emmitsburg, MD

This course gives participants an overview of the scientific principles and concepts that shape our increasingly dangerous world. To apply, fill out the appropriate forms, gather the required signatures, and fax to FEMA's EMI at (301) 447-1658. Applications must be submitted 6 weeks before class starts. To learn more, visit this [link](#). 12 CECs for CFMs.

### 06.13 - 06.16 ■ E0190: ArcGIS for Emergency Managers

Emmitsburg, MD

This course teaches new Geographic Information System (GIS) users how to use ArcGIS for Desktop software to support disaster mitigation, response, recovery, and risk management. To apply, fill out the appropriate forms, gather the required signatures, and fax to FEMA's EMI at (301) 447-1658. Applications must be submitted 6 weeks before class starts. To learn more, visit this [link](#). 12 CECs for CFMs.

## April

Su	M	Tu	W	Th	F	Sa
		19	20	21		
		26	27	28		

## May

Su	M	Tu	W	Th	F	Sa
		15	16	17	18	19
				25		

## June

Su	M	Tu	W	Th	F	Sa
		12	13	14	15	16

## Want More Information?

Visit the NeDNR Floodplain Management website at: <https://dnr.nebraska.gov/floodplain>

Check out our Interactive Floodplain map at: <http://ne.gov/go/floodriskmap>

### Contact:

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Or, stop by! **NeDNR is pleased to announce that our office has relocated.**  
**Please note the address change below and stop in to see our exciting new space.**

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