

# **Flood Control Committee Meeting Agenda January 22<sup>nd</sup>, 2020 @ 6:00pm**

**DATE:** January 22<sup>nd</sup>, 2020 (Wednesday)

**TIME:** 6:00 p.m.

**PLACE:** City Hall Conference Room

- 1. Elect Chairperson**
- 2. Request of Citizens/Public Comment**
- 3. Committee Member Comments**
- 4. Discussion on Violation at 1415 N. 6<sup>th</sup> Street, Miles City, MT**
- 5. Adjournment**

Public comment on any public matter that is not on the agenda of this meeting can be presented under "Request of Citizens" provided it is within the jurisdiction of the City to address. Public comment will be entered into the minutes of this meeting. The City Council cannot take any action on a matter unless notice of the matter has been made on an agenda and an opportunity for public comment has been allowed on the matter. Public matter does not include contested cases and other adjudicative proceedings.

*Please Publish Monday, January 20<sup>th</sup>, 2020*



FEMA

R8-MT

January 17<sup>th</sup>, 2020

The Honorable Mr. John Hollowell  
City of Miles City – City Hall  
17 South 8<sup>th</sup> Street  
Miles City, Montana 59301

Re: Development within the Special Flood Hazard Area

Dear Mayor Hollowell:

The National Flood Insurance Program (NFIP) is a Federal program created by Congress to mitigate future flood losses nationwide through sound, community-enforced building and zoning ordinances and to provide access to affordable, federally backed flood insurance protection for property owners. Participation in the NFIP is based on an agreement between local communities and the Federal Government that states that if a community will adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas (SFHAs), the Federal Government will make flood insurance available within the community as a financial protection against flood losses.

Since February 2<sup>nd</sup>, 1980, the City of Miles City has been a participating member of the NFIP. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and the community's ordinance for any development that occurs within the SFHA.

44 Code of Federal Regulations 59.1 defines 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.*

A regulatory floodway, which is adopted into a community's floodplain management ordinance, includes the stream channel plus the portion of the floodplain outside of the channel banks. That portion must be kept free from encroachment so that water flows may pass without increasing flood levels. The intention of the floodway designation is not to preclude development. Rather, it is intended to assist communities in managing floodplain development and its impacts on other property owners. The community is responsible for prohibiting encroachments including fill, new construction, and substantial improvements within the floodway unless hydrologic and hydraulic analyses show it will not increase flood levels within the community.

This requirement is defined in 44 Code of Federal Regulations 60.3 (d)(3) which states:

*Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge;*

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Failure to comply with ensuring all development adheres to the locally adopted ordinance and all development within a regulatory floodway does not increase the base flood discharge jeopardizes the city's continued participation in the NFIP. FEMA would be required to begin enforcement procedures under 44 C.F.R 59.24(b), which may include placing the City of Miles City on Probation or Suspension from the NFIP.

Probation entails formal notification that FEMA regards a jurisdiction's floodplain management program as noncompliant and deficient under the NFIP. When a jurisdiction is placed on Probation, FEMA sends notification of noncompliant status to all current NFIP policy holders in the jurisdiction. Additionally, all NFIP policy holders will be charged additional \$50.00 probation surcharge.

The ramifications of Suspension from the NFIP are severe. When a jurisdiction is suspended from the NFIP, residents are unable to purchase new NFIP insurance policies, existing NFIP policies cannot be renewed, no Federal grants or loans for development may be made in identified flood hazard areas under programs administered by Federal agencies, and no Federal mortgages insurance or loan guarantees may be provided in identified flood hazard areas. This includes loans written by Federal Housing Administration, Veterans Affairs and others. Additionally, no Federal disaster assistance may be provided to repair insurable buildings located in an identified flood hazard area for damages caused by flood.

To help ensure that the City of Miles City remains in good standing within the NFIP and to prevent FEMA from taking enforcement proceeding, FEMA is requesting that the city provide all necessary documentation demonstrating the development at 1415 North 6<sup>th</sup> is being constructed compliantly. This should include any issuance of a floodplain development permit, floodway encroachment analysis and elevations of the structure being built. If the development is non-compliant, please provide documentation on what actions the City of Miles City has taken to bring the development into compliance as well as a corrective action plan to remedy the situation. This information must be submitted and received by FEMA by close of business on February 28<sup>th</sup>, 2020.

We look forward to working with you and your staff to resolve this issue. Should you have any questions or need assistance during this process, please do not hesitate to contact me at [Thomas.Birney@FEMA.DHS.gov](mailto:Thomas.Birney@FEMA.DHS.gov) or 303-235-4802.

Sincerely,

**THOMAS G  
BIRNEY** Digitally signed by  
THOMAS G BIRNEY  
Date: 2020.01.17  
10:27:02 -07'00'

Tom Birney, CFM  
National Flood Insurance Specialist  
Supportive Action Group  
FEMA Region VIII, Mitigation Division

cc: Ms. Samantha Malenovsky, CFM – Miles City Floodplain Administrator  
Ms. Traci Sears – Montana State NFIP Coordinator