

LOCAL

Current Asheville floodplain rules make city 'vulnerable' to losing federal flood insurance



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ASHEVILLE - If a series of floodplain ordinance amendments are not adopted by the city of Asheville, the city's status in the National Floodplain Insurance Program — which provides insurance to property owners who otherwise would not be able to obtain it and reduces government costs after floods — could be in jeopardy, city leaders say.

After Tropical Storm Helene destroyed parts of Asheville on Sept. 27, primarily damaging buildings in Biltmore Village and the River Arts District, a series of proposals from city staff have come before the Planning and Zoning Commission and City Council for approval. The proposals have been described by Assistant City Manager Ben Woody as mostly technical, "transactional changes" that look to clarify language in city development law, but some are critical to maintaining opportunities for affordable federal flood insurance.

Two ordinance updates have been singled out by staff as being "substantive," said city of Asheville Public Works Department Interim Director Amy Deyton during a Jan. 14 City Council meeting. Those amendments consider the requirement of a 2-foot freeboard, known as the regulatory flood protection elevation, and the removal of a clause that allows non-conforming buildings to rebuild without adhering to modern floodplain standards.

While property owners can apply for a variance to get around the 2-foot freeboard, which will be considered on a "case-by-case basis," the non-conforming clause is "null" due to it being superseded by state building code, Deyton said.

If kept as city laws, both of the clauses could put the city "out of compliance" with the NFIP, Woody said during a presentation at the Jan. 17 Council of Independent Business Owners meeting.

If Asheville left the NFIP or if its status was impacted by the dubious rules, city property owners could lose access to federally backed flood insurance, reduced premiums, federal grants or loans for development in flood areas and federal disaster assistance for buildings damaged in the flood, Deyton said.

"The thing about the NFIP is it gives us access to federally backed flood insurance and we can get discount premiums," Woody said.

Policy changes target insurance, streamlining processes

Most of the proposed changes have been described as "technical" or acting as the "foundation" for future changes, but the process of adopting them has been somewhat slow. After getting the green light from the city's Planning and Zoning Commission, City Council has seen the ordinance changes hit their desk twice, deferring the vote to a later date both times, citing outlying questions and waiting to hear more input from property owners.

After the storm, insurance has become a major priority. Some property owners and project managers have noted that increased costs to insure buildings after Helene may have an impact on previously proposed developments in the floodplain while many have been working with the Federal Emergency Management Agency to receive aid in lieu of rebuilding after the storm. Federal flood insurance through the NFIP only covers a fraction of the county despite Buncombe County's history of floods.

In Buncombe County, 1,132 NFIP policies are currently in force, according to data released by FEMA, covering over \$345 million worth of property. With the U.S. Census Bureau reporting that there were roughly 137,123 households in Buncombe County in 2023, the number of NFIP policies indicates that around .8% of all homes in the county have NFIP policies. Woody said that people who routinely see disasters "seem to take more advantage of NFIP."

Communities can be suspended from the program as well if FEMA finds that it has failed to adopt regulations or if it repeals or amends previously compliant floodplain management measures, according to FEMA.

Even if the non-conforming clause is kept in, it is superseded by North Carolina Building Codes that dictate buildings in the floodplain include certain specifications, Woody said. The non-conforming clause had been in the floodplain ordinance since the 80s, he said, and allows property owners who had older buildings destroyed in a flood to rebuild back to old standards if the replaced building does "not result in an increase of the regulatory flood level."

As for the 2-foot freeboard, a Jan. 14 city staff report indicates that not instituting the revision would impact the city's status in FEMA's Community Rating System program, likely meaning insurance policy holders would only receive a 5% reduction on flood insurance premiums rather than a 10% reduction. Other major cities in North Carolina, including Raleigh, Durham and Wilmington, all have 2-foot freeboard requirements, according to the city of Asheville.

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The non-conforming clause is important when it comes to repairing or rebuilding damaged buildings, as many critically damaged buildings will have to entirely rebuild and may have been built before recent floodplain ordinances were developed.

Under current federal guidelines, when the cost to repair a building within a Special Flood Hazard Area is 50% or more than its market value the building is considered "substantially damaged" by FEMA and property owners must bring buildings up to current floodplain development guidelines, according to a November FAQ sheet about North Carolina Floodplain Regulations by UNC School of Government Professor Adam Lovelady and State NFIP Coordinator Steve Garrett.

The goal is to clarify that everyone, even those who have older buildings, must rebuild to modern standards if their building was destroyed.

"There's not a way that you can be substantially damaged and just build back out of compliance with floodplain regulations," Woody said.

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