

# 24 CFR PART 55: FLOODPLAIN MANAGEMENT FOR MULTIFAMILY AND OFFICE OF RESIDENTIAL CARE FHA PROGRAMS

MAY 12, 2020, 1PM-3PM EST

“FLOODS ARE ACTS OF GOD, BUT FLOOD LOSSES ARE LARGELY ACTS OF MAN.”  
–Gilbert White, Ph.D., Father of Floodplain Management

Dial in number: 1-929-205-6099 | Webinar ID: 979-6820-5019#

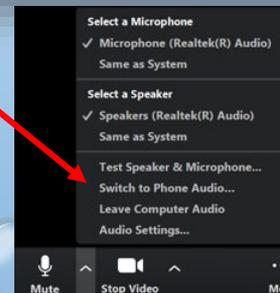
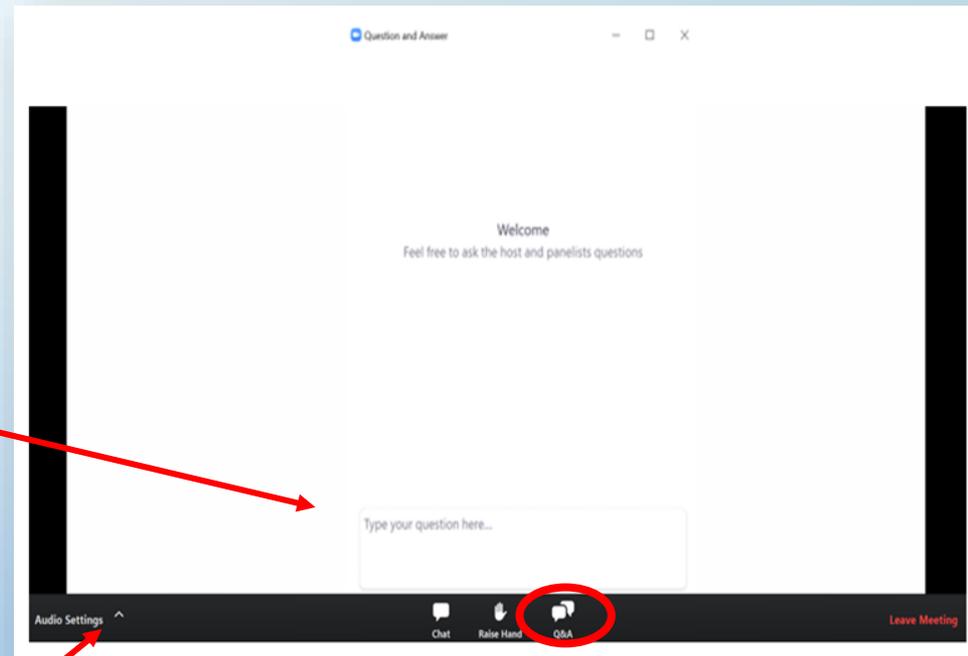
Sara Jensen, Office of Housing Program Environmental Clearance Officer  
Liz Zepeda, Office of Environment and Energy Senior Environmental Specialist  
TA Provider: Enterprise Community Partners, Inc

# WELCOME

- WEBINAR INFORMATION

- **DIAL IN NUMBER: 1-929-205-6099 | WEBINAR ID: 979-6820-5019#**

- Thank you for joining us!
- The webinar will begin **promptly at 1pm EST.**
- All attendees will be muted.
- Please use the **Q&A panel** on the bottom of your screen to ask questions.
- For **best audio quality**, please listen to the webinar **via phone line** by using the dial-in number provided.
- To switch from computer audio to phone audio, follow these steps and enter your participant ID:



# AGENDA



Introduction to Part 55, MAP Guide and 232 Handbook Requirements



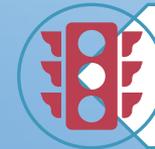
Floodplain terminology & overview



*How to:* Map the floodplain (FIRM and Preliminary)



Flood insurance requirements



*How to:* Determine next steps



*How to:* Conduct the 8-Step Process

- Questions submitted through the Q&A panel will be answered *after* the webinar has ended
- For questions about specific projects, contact the MF office processing your application or for ORCF, at [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov).

# HUD'S FLOODPLAIN AND WETLAND REGULATIONS

24 CFR Part 55 “Floodplain Management and Wetland Protection”

- Implements Executive Order 11988 for Floodplain Management
- Implements Executive Order 11990 for Protection of Wetlands
  - Updated in 2013 to include Protection of Wetlands

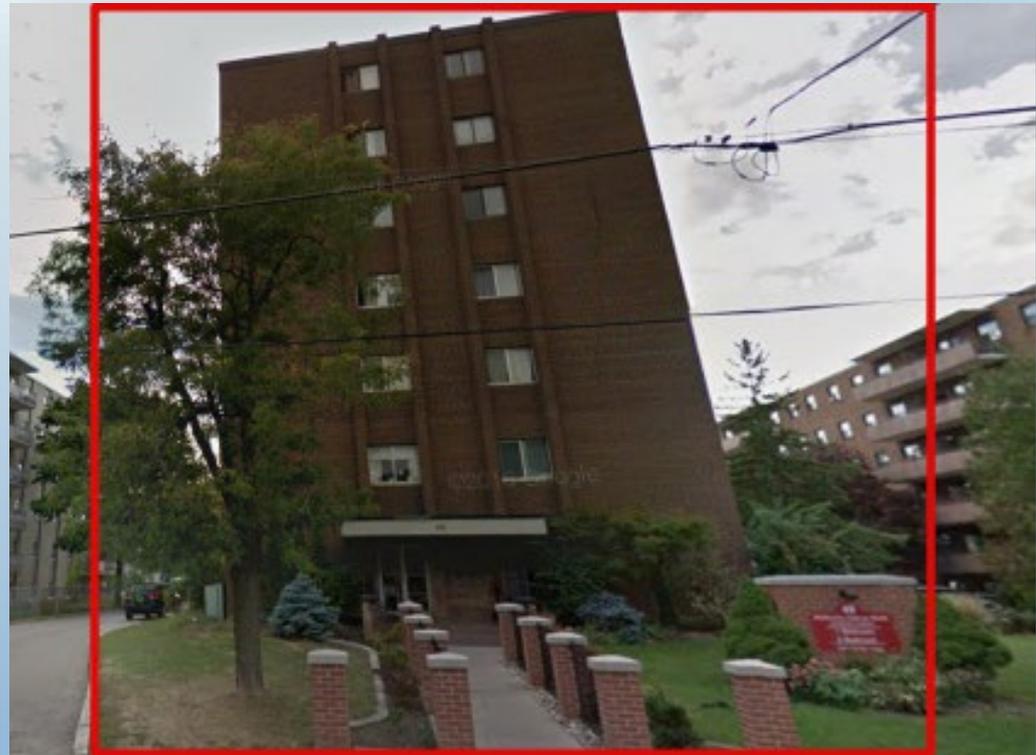


# PURPOSE OF PART 55

To avoid the long- and short- term adverse impacts associated with:

- Occupancy and modification of floodplains
- Destruction or modification of wetlands

Avoid direct or indirect support for floodplain development or new construction in wetlands wherever there is a *practicable alternative*



# FULL COST OF FLOODING



- Direct economic losses: buildings, contents
- Indirect losses: relocation costs, temporary housing, lost wages, health risks
- Low-income Americans are more likely than the middle class to live in floodplains
  - They are also less likely to recover from the loss of their home or job

# MULTIFAMILY AND OFFICE OF RESIDENTIAL CARE FHA REQUIREMENTS

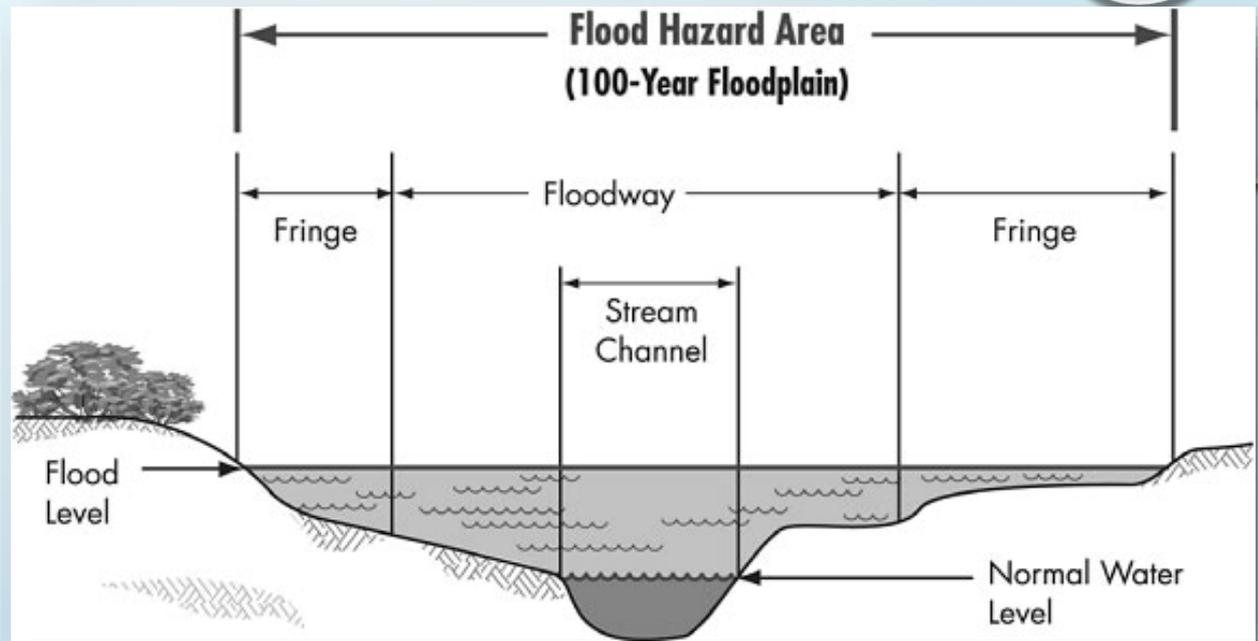
- In addition to complying with Part 55, FHA has higher standards to protect Multifamily and Office of Residential Care Facilities (ORCF) projects from flood risk
  - Chapter 9.5.E of the MAP Guide
  - Chapter 7.5.C of the 232 Handbook

# FLOODPLAIN TERMINOLOGY

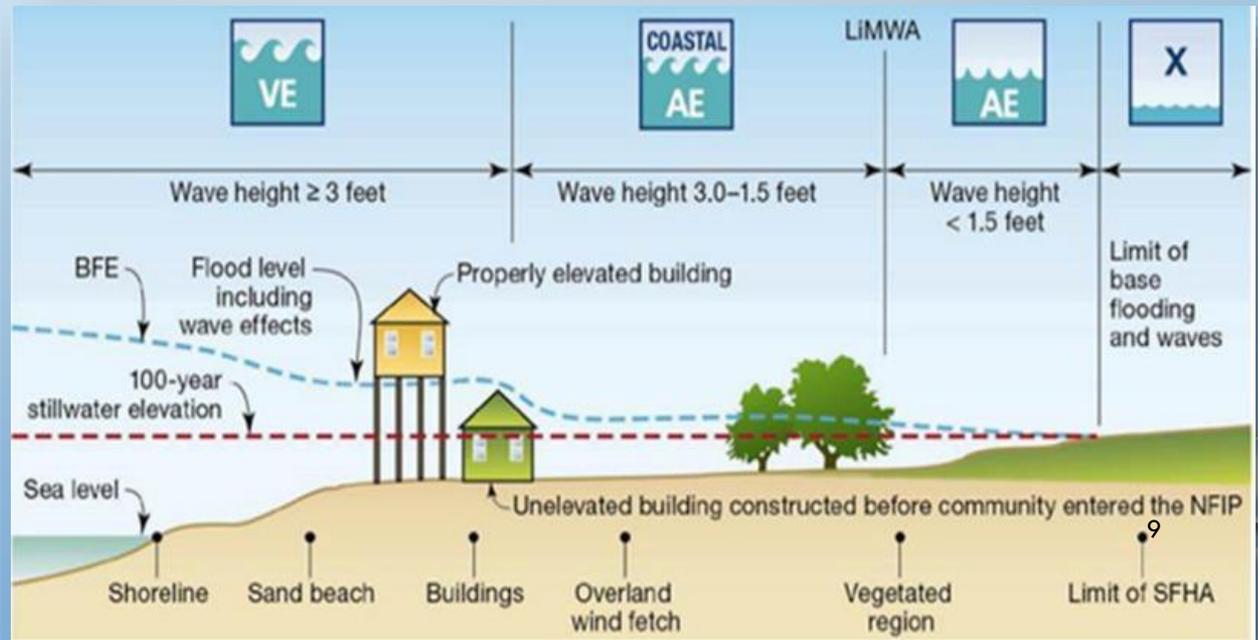


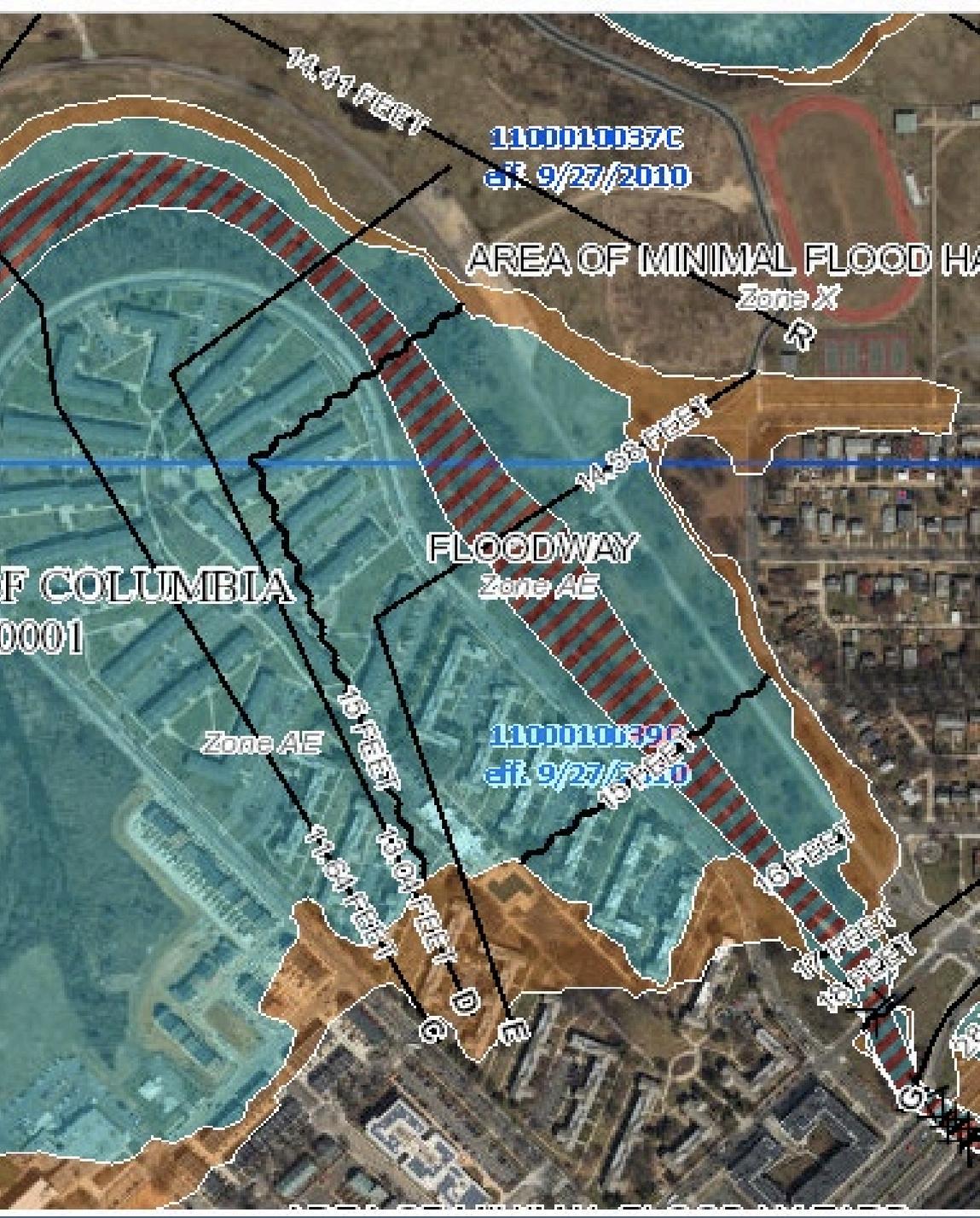
Reminder: questions submitted through the Q&A panel will be answered after the webinar has ended

# Riverine Floodplains



# Coastal Floodplains





# IDENTIFYING FLOODPLAINS

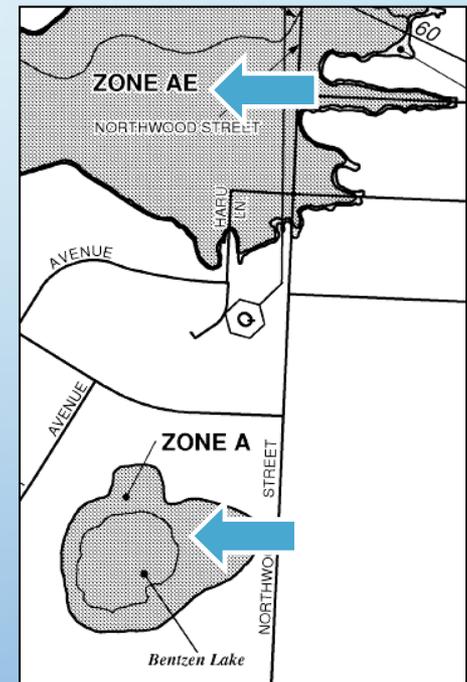
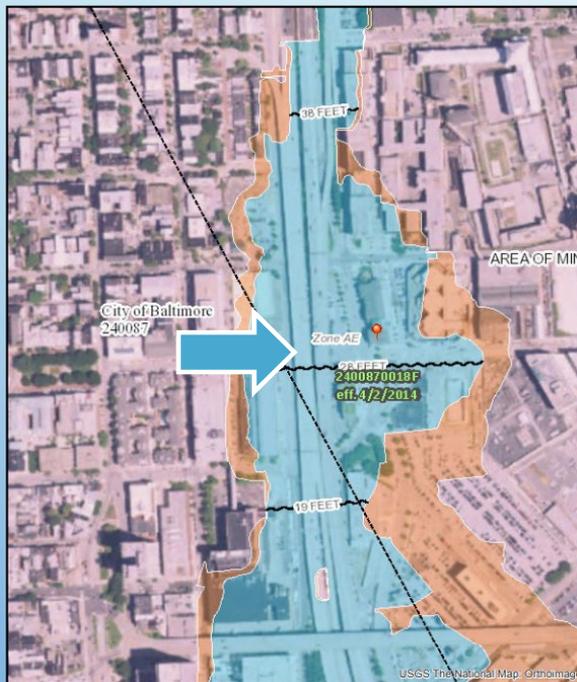
- HUD relies on the Federal Emergency Management Agency (FEMA) to identify floodplains
- FEMA generates Flood Insurance Rate Maps (FIRMs) that map floodplains
- See 24 CFR 55.2 for HUD's definitions

# 100-YEAR FLOODPLAIN

100-year floodplain = an area with at least a one percent chance of inundation from flood in any given year

- Also known as 1% annual chance flood
  - These areas have at least a 26% chance of flooding over the life of a 30-year mortgage
- The minimum floodplain of concern for most FHA MF projects
- FEMA designates as Zone A, AE, A1-A30, AO, AH, or A99
- Current FEMA maps are not forward-looking: future effects of population growth and climate change are not taken into consideration
  - Actual risk may increase as maps age

# 100-YEAR FLOODPLAINS

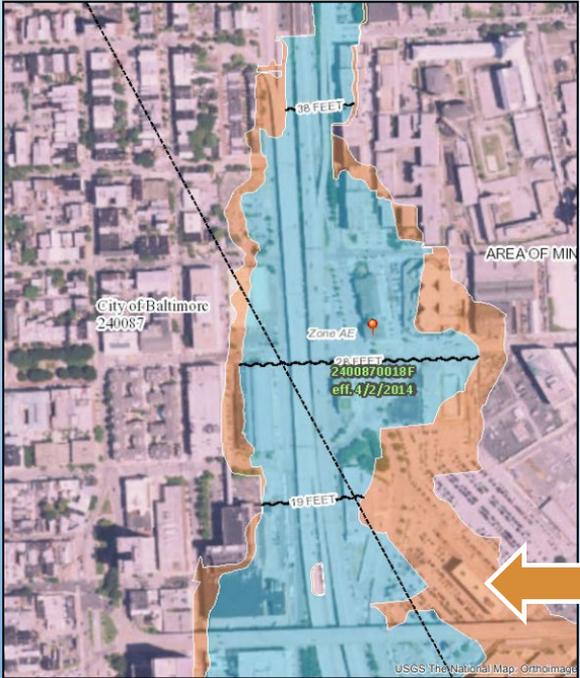


# 500-YEAR FLOODPLAIN

500-year floodplain = an area with at least a .2 percent chance of inundation from flood in any given year

- Also known as .2% annual chance flood
  - These areas have at least a 6% chance of flooding over the life of a 30-year mortgage (if maps perform accurately)
- The minimum floodplain of concern for “critical actions” (including all ORCF Section 232 and 242 projects)
- FEMA designates as Zone B or X (shaded)

# 500-YEAR FLOODPLAINS



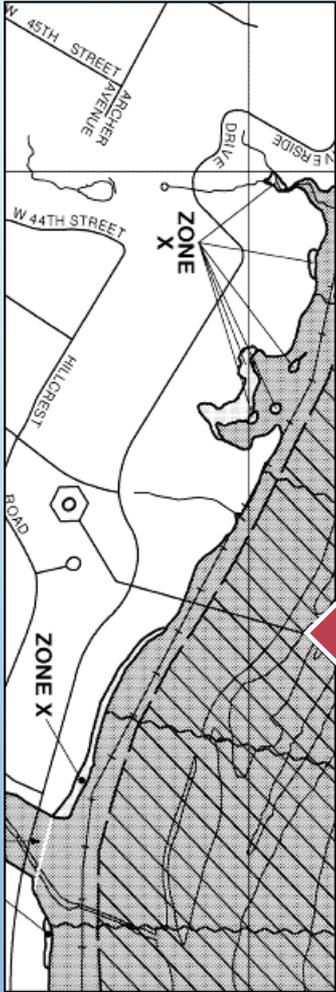
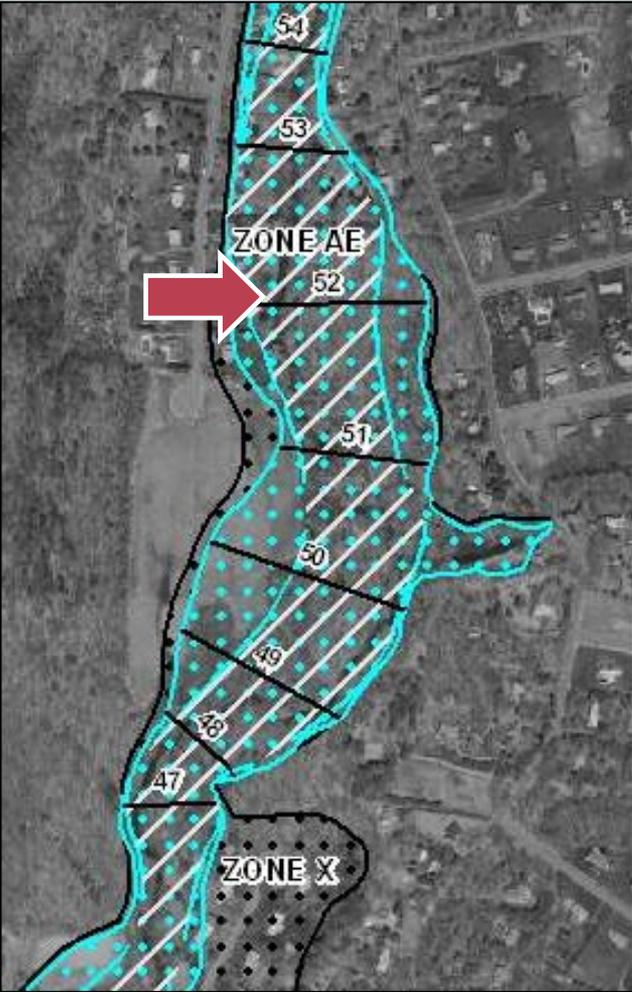
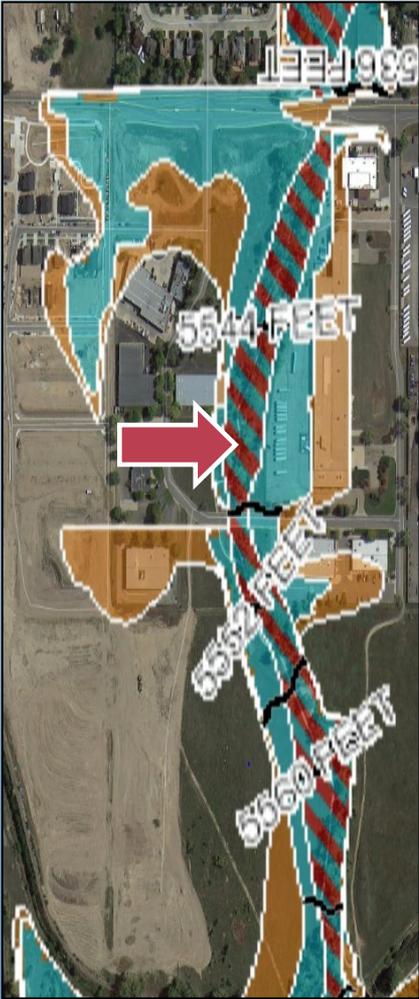
# FLOODWAYS

Floodway = the portion of the floodplain which is effective in carrying flow, where flood hazards are generally greatest, and where water depths and velocities are the highest

- FEMA designates as Zone AE hatched
- **No HUD assistance** may be approved for use in a floodway, except in very limited circumstances



# FLOODWAYS



# COASTAL HIGH HAZARD AREAS

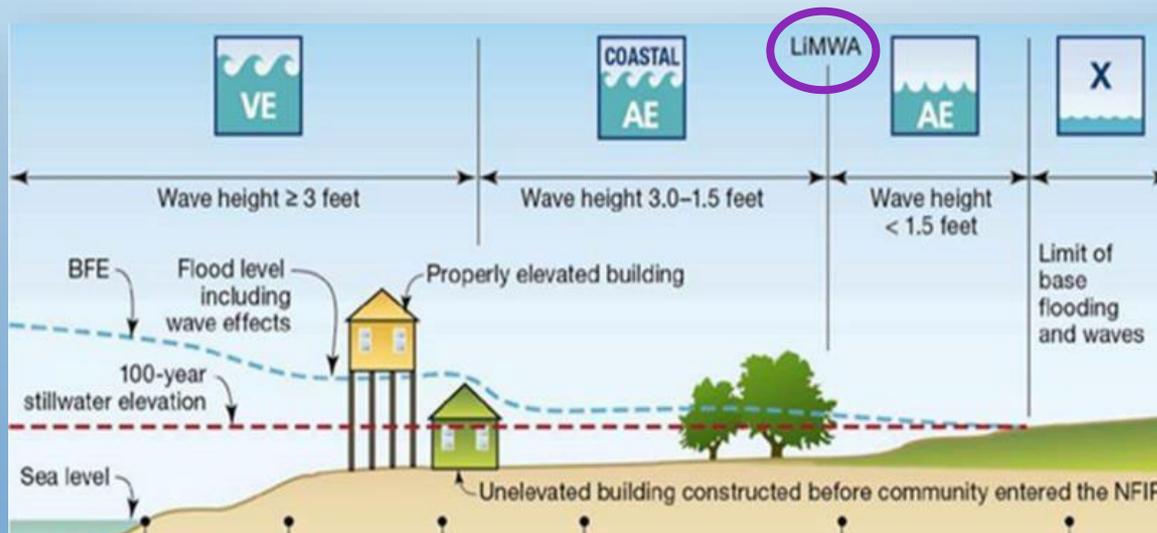


Coastal High Hazard Area = the area subject to high velocity waters, including – but not limited to – hurricane wave wash and tsunamis

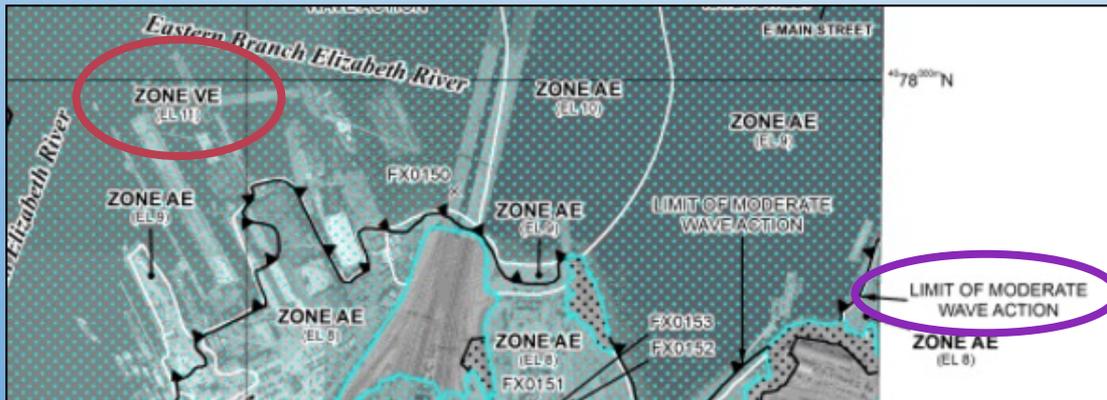
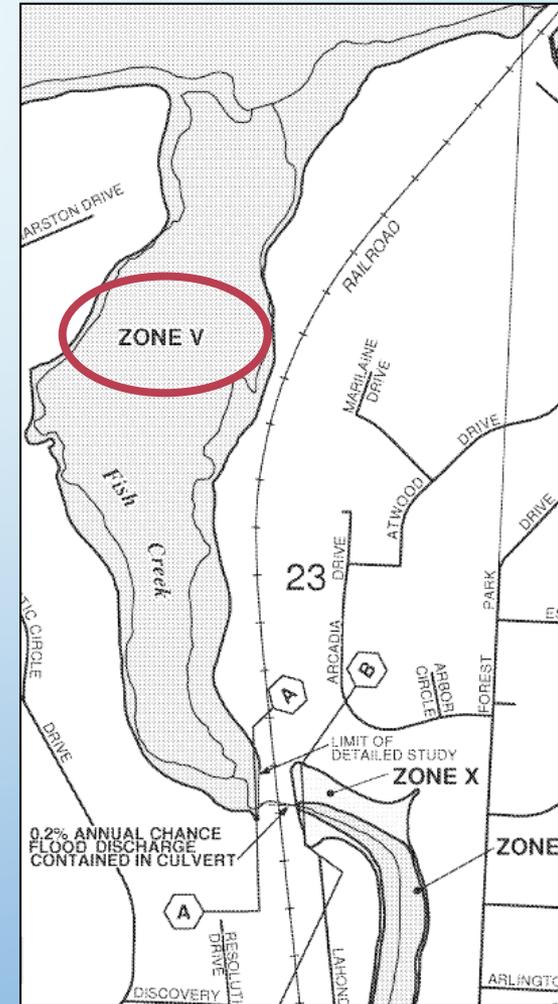
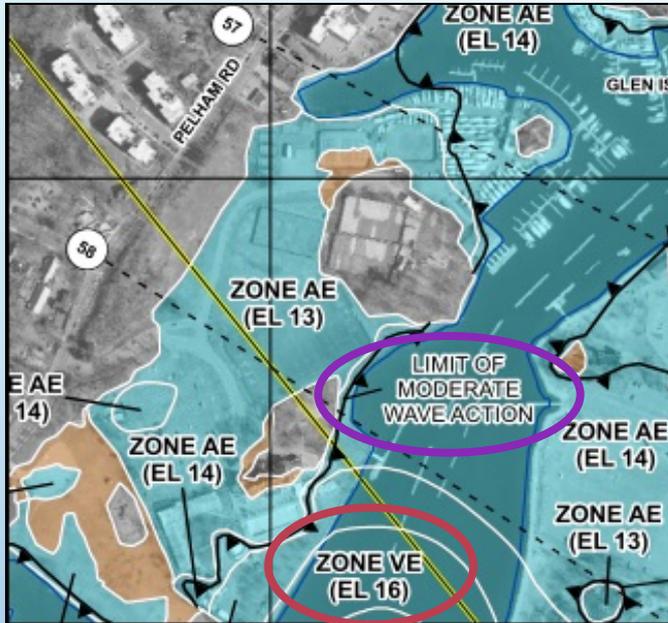
- FEMA designates as Zone V
- Also known as “V Zones”

# LIMIT OF MODERATE WAVE ACTION

- Limit of Moderate Wave Action (LiMWA): A line that has been added to recent FIRMs in coastal areas to give more information on flood risks
  - The line indicates areas that are outside of the V Zone but which may be affected by breaking waves higher than 1.5 feet



# COASTAL HIGH HAZARD AREAS



# OTHER FLOOD ZONES

## Moderate Risk

- Zone B or X (shaded)
- 500-year or areas with lesser hazards (e.g. protected by levee or subject to shallow flooding)

## Minimal Risk

- Zone C or X (unshaded)

## Undetermined Risk

- Zone D
- Areas with possible but undetermined or unstudied flood hazards

Areas of Moderate and Minimal Risk submit more than 20% of NFIP insurance claims and receive 1/3 of federal disaster assistance for flooding

# CRITICAL ACTIONS



Critical action (§ 55.2(b)(3)) - any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property

Critical actions include projects that:

- Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials
- Provide essential and irreplaceable records or utility/emergency services
  - e.g. utility lines, fire and police stations, roadways providing sole egress
- Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events
  - e.g. hospitals, nursing homes
  - Housing for independent living for the elderly is not considered a critical action

# FUNCTIONALLY DEPENDENT USE

Functionally dependent use (§55.2(b)(6)) - a land use that must necessarily be conducted in close proximity to water

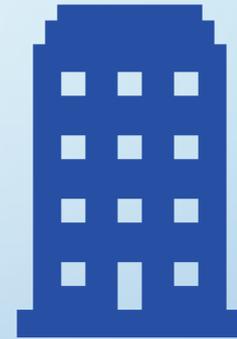
- Dams, marinas, port facilities, water-front parks, and many types of bridges
- Floodplain function restoration activities
- Does not apply to uses that are incidental to housing projects



# SUBSTANTIAL IMPROVEMENT



## Substantial Improvement



### (§ 55.2(b)(10))

Repairs/rehab/reconstruction where the cost of improvements  $\geq$  50% of market value of structure either:

- Before improvements started, or
- Before damage occurred (if structure has been damaged)

**OR**

Repairs/rehab/reconstruction that results in  $>$  20% increase in dwelling units or customers/employees on site

# OVERVIEW FLOODPLAIN REQUIREMENTS FOR MF AND ORCF



Reminder: questions submitted through the Q&A panel will be answered after the webinar has ended

# 24 CFR 55.21

## §55.21 Notification of Floodplain Hazards

- Any current or prospective tenants and private parties participating in the transaction must be informed of the hazards before the transaction is executed
- MAP and 232 Handbook require all new and renewal leases to contain acknowledgements signed by the residents that the property is in the floodplain and that flood insurance is available for their personal property.



# HUD ASSISTANCE IN 100-YEAR FLOODPLAIN

**All actions** are permitted in the **100-year floodplain** if 8-Step Process is completed and no practicable alternatives are found

- FHA strongly discourages new construction and substantial rehab projects in the 100-year floodplain, and HUD may reject any project within the floodplain



# HUD ASSISTANCE IN 500-YEAR FLOODPLAIN

- **Non-critical actions** (e.g. FHA MF) are allowed in the **500-year floodplain** without the 8-step process
- All ORCF projects are considered critical actions, and HUD strongly discourages new construction and substantial rehab in the 500-year floodplain.
- **Critical actions** are allowed in the **500-year floodplain** if:
  - 8-step process is completed; *and*
  - New construction is designed and built at or above the 100-year floodplain (§55.20(e)(3)); *and*
  - Mitigation includes special provisions in §55.20(e)(3)

# REQUIRED MITIGATION FOR CRITICAL ACTIONS

1. Preparation of & participation in an early warning system
  - ORCF: indicate methods used to monitor weather conditions and flooding alerts
2. An emergency evacuation and relocation plan
  - ORCF: identify like facilities with agreement to serve as temporary relocation site
3. Identification of evacuation route(s) out of the 500-year floodplain
  - ORCF: provide road maps and flood zone of relocation sites (outside the floodplain)
4. Identification marks of past or estimated flood levels on all structures.
  - ORCF: marks should be permanently installed on the building exterior

See ORCF's [Lender's Environmental Checklist](#) for details & info on estimating flood levels

# HUD ASSISTANCE IN FLOODWAY

HUD assistance is prohibited in a floodway for all projects except:

- Functionally dependent uses (8-Step Process required)
- Floodplain function restoration activities
- Projects exempt from part 55 under 55.12(c)



# HUD ASSISTANCE IN COASTAL HIGH HAZARD AREA

**Applications for MF and ORCF**  
are prohibited in the Coastal High  
Hazard Area



# HUD ASSISTANCE IN LIMWA

- MF and ORCF are extremely concerned about proposed projects in this zone.
- Current policy is to conduct a thorough and conservative 8-step. Rejection likely.

## **Proposed** MAP language:

- HUD will not approve applications for any new construction or substantial rehabilitation project in the LiMWA.
- HUD strongly discourages approving currently uninsured 223(f)s or currently insured 223(f)s with repairs at Level Two or above in the LiMWA and will only do so if the work meets the current standards for coastal high hazard areas in FEMA regulations (44 CFR 60.3(e)).
- HUD will consider on a case by case basis approving currently insured refinance transactions that do not exceed Level One repairs or currently assisted projects with minor rehabilitation.

# HUD ASSISTANCE IN ZONE X



- Check for nearby offsite floodplains, particularly ingress/egress
  - Even if floodplain or floodway is incidental or entirely off site, HUD will reject sites where the sole egress is unsafe during a flood

# OFFSITE FLOODPLAINS

- HUD will evaluate offsite floodways and other flood hazards
  - Unacceptable proximity to hazards may result in rejection of the application



# CASE STUDY

2008 site plan with flood overlay



Floodway

2008: HUD  
endorses  
221(d)(4)  
using 1983  
FIRM

2012: FEMA  
updates  
FIRM

2014: HUD  
closes on  
223(a)(7)

2019:  
Application  
for 223(f)  
with rehab



# LESSONS

- Always consult preliminary, pending, and advisory base flood elevation (ABFE) maps
- Look into other federal, state or local data sources to get the best available information and future trends
- HUD is prohibited from approving financial assistance (including mortgage insurance) for project sites in the floodway (except CENST 223(a)(7) and 223(f) projects and where exceptions at 55.12(c) apply)

CENST = categorically excluded, not subject to the related laws and authorities

# HOW TO: MAP THE FLOODPLAIN



Reminder: questions submitted through the Q&A panel will be answered after the webinar has ended

# FLOOD INSURANCE RATE MAPS (FIRMS)

Flood Insurance Rate Map (FIRM) : official map used to determine flood insurance requirements and rates

- Flood Insurance Study (FIS): background analysis and more precise elevation information
- Letters of Map Revision (LOMR): official revision to the effective FIRM

MF and ORCF FHA projects must comply with Part 55 if any part of the site or *integral offsite development* (e.g. ingress, egress, parking) is located within floodplain

# BEST AVAILABLE INFORMATION

- If FEMA has provided interim flood hazard data (e.g. advisory base flood elevations, preliminary maps, or pending maps), Part 55, the MAP Guide and the 232 Handbook require the use of the map with the highest standards
  - See 55.2(b)(1) (the definition of *coastal high hazard area*) for best available information requirements
- HUD will consider history or evidence of flooding even if site is not in a FEMA-designated floodplain

# UNMAPPED AREAS

If project area is **unmapped** by FEMA, utilize “*best available information*”

- FEMA community status book  
<https://msc.fema.gov/>
- U.S. Corps of Engineers
- Community flood administrators
- U.S. Geological Survey maps
- Soils maps (e.g., alluvial soils) -  
USDA natural resources
- Conservation service
- State departments of water  
resources
- County public works
- Local flood control or levee districts
- Contract survey or study by licensed  
consulting engineer
- Supplement above with aerial  
photos, topographic maps, site visit
- **Preliminary FIRMs must be used  
except where it can be  
demonstrated that they are  
insufficiently detailed**

# FLOODPLAIN DESIGNATIONS

## 100-Year

Zone A (A, AE, A1-A30, AO, AR, A99)

## Floodway

Zone AE  
hatched

## Not in Floodplain

Zone C, Zone X  
unshaded

## 500-Year

Zone B, Zone X  
shaded

## Coastal High Hazard Area

Zone V

## Undetermined

Zone D



# National Flood Hazard Layer FIRMette



## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

|                                    |  |   |
|------------------------------------|--|---|
| <b>SPECIAL FLOOD HAZARD AREAS</b>  |  | Without Base Flood Elevation (BFE)<br>Zone A, V, A99  |
|                                    |  | With BFE or Depth<br>Regulatory Floodway Zone AE, AO, AH, VE, AR  |
| <b>OTHER AREAS OF FLOOD HAZARD</b> |  | 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X |
|                                    |  | Future Conditions 1% Annual Chance Flood Hazard Zone X  |
|                                    |  | Area with Reduced Flood Risk due to Levee. See Notes. Zone X  |
|                                    |  | Area with Flood Risk due to Levee Zone D  |
| <b>OTHER AREAS</b>                 |  | NO SCREEN Area of Minimal Flood Hazard Zone X   |
|                                    |  | Effective LOMRs   |
| <b>GENERAL STRUCTURES</b>          |  | Area of Undetermined Flood Hazard Zone D  |
|                                    |  | Channel, Culvert, or Storm Sewer  |
| <b>OTHER FEATURES</b>              |  | Levee, Dike, or Floodwall   |
|                                    |  | 20.2 Cross Sections with 1% Annual Chance Water Surface Elevation<br>17.5   |
| <b>MAP PANELS</b>                  |  | Coastal Transect  |
|                                    |  | Base Flood Elevation Line (BFE)   |
|                                    |  | Limit of Study  |
|                                    |  | Jurisdiction Boundary   |
|                                    |  | Coastal Transect Baseline   |
|                                    |  | Profile Baseline  |
|                                    |  | Hydrographic Feature  |
|                                    |  | Digital Data Available  |
|                                    |  | No Digital Data Available   |
|                                    |  | Unmapped  |

40°34'40.30"N



73°51'16.71"W

73°50'39.26"W

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The base map shown complies with FEMA's base map accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/4/2018 at 1:59:56 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: base map imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

0 250 500 1,000 1,500 2,000 Feet 1:6,000 40°34'12.97"N

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

# Search Results—Products for NEW YORK, CITY OF



[Show ALL Products »](#)

The flood map for the selected area is number **3604970378F**, effective on **09/05/2007** ?

## DYNAMIC MAP



## MAP IMAGE



## Changes to this FIRM

- Revisions (0)
- Amendments (16)
- Revalidations (1)

You can choose a new flood map or move the location pin by selecting a different location on the locator map below or by entering a new location in the search field above. NOTE: Please be sure to enable popups for this site.



POWERED BY **esri**  
New York State, USDA FSA

|  |   |   |
|--|---|---|
| <p><b>MAP PANELS</b></p> <ul style="list-style-type: none"> <li> Digital Data Available</li> <li> No Digital Data Available</li> <li> Unmapped</li> </ul> <p> <b>NO SCREEN</b> Area of Minimal Flood Hazard Zone X</p> | <p><b>SPECIAL FLOOD HAZARD AREAS</b></p> <ul style="list-style-type: none"> <li> Without Base Flood Elevation (BFE) Zone A, V, A99</li> <li> With BFE or Depth</li> <li> Regulatory Floodway Zone AE, AO, AH, VE, V</li> <li> 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drains</li> </ul> | <ul style="list-style-type: none"> <li> <b>20.2</b> Cross Sections with 1% Annual Chance Water Surface Elevation</li> <li> <b>17.5</b> Coastal Transect</li> <li> Base Flood Elevation Line (BFE)</li> <li> Limit of Study</li> <li> Jurisdiction Boundary</li> <li> Coastal Transect Baseline</li> </ul> |
|--|---|---|

# Search Results for NEW YORK, CITY OF

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**Please Note:** Searching All Products by county displays all products for all communities within the county. You can refine your search results by specifying your specific jurisdiction location using the drop-down menus above.

Effective Products (562) ?

Preliminary Products (122) ?

▼ Preliminary FIRM Panels (120)

DL ALL

**Please note:** Searches often result in many map files listed under a given section. You can determine the Product ID for the individual map panel needed by looking at the Map Index file. The index map files have "IND" within the Product ID and appear at the start of the list. These index files show an overview of a jurisdiction and how it is subdivided into map panels with the Product ID for each panel shown.

Show  entries

Showing 1 to 100 of 120 entries

Previous

1

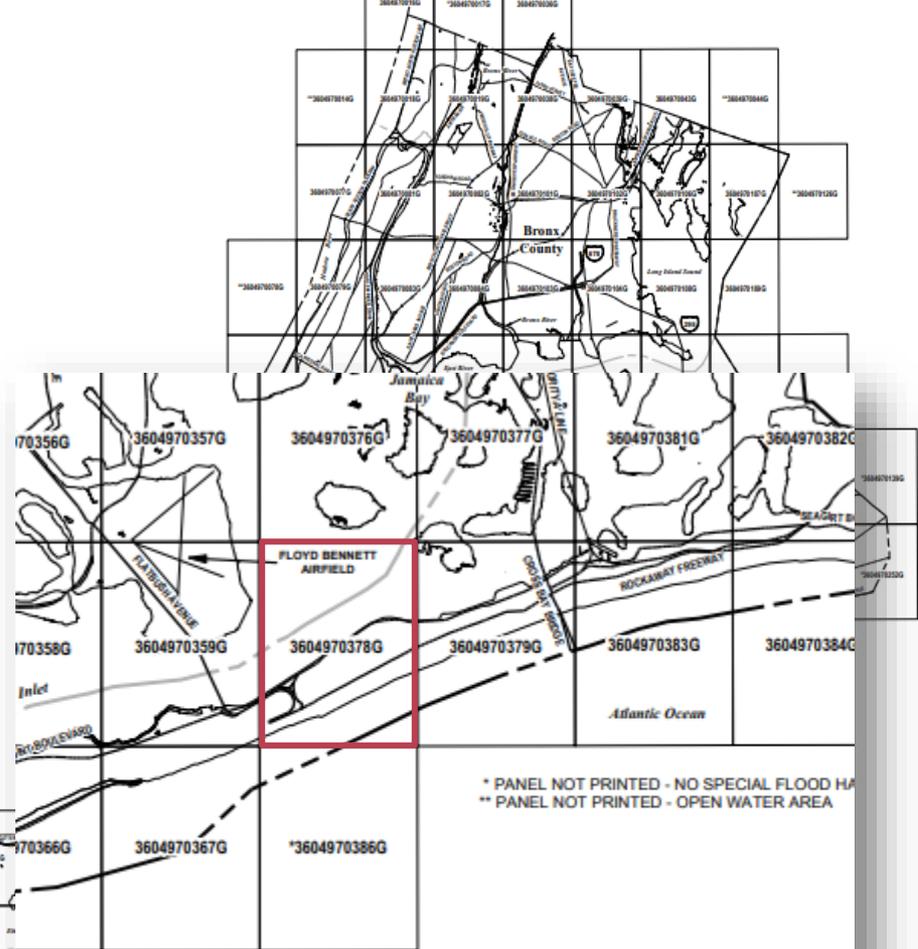
2

Next

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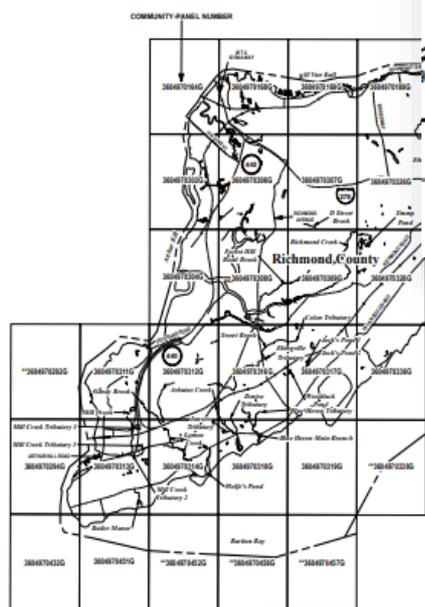
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New York City Department of City Planning,  
Hazardous Division  
32 Rector Street  
New York, New York 10007
- BRONX COUNTY:  
New York City Department of Buildings,  
Bronx Borough Office  
1522 Arthur Avenue, 5th Floor  
Bronx, New York 10457
- KINGS COUNTY:  
New York City Department of Buildings,  
Brooklyn Borough Office  
210 Anderson Street, 5th Floor  
Brooklyn, New York 11201
- NEW YORK COUNTY:  
New York City Department of Buildings,  
Manhattan Borough Office  
280 Broadway, 3rd Floor  
New York, New York 10007
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New York City Department of Buildings,  
Queens Borough Office  
120-51 Queens Boulevard, 1st Floor  
New Gardens, New York 11424
- RICHMOND COUNTY:  
New York City Department of Buildings,  
Staten Island Borough Office  
10 Richmond Terrace  
Borough Hall, 2nd Floor  
Staten Island, New York 10301



**NOTE TO USERS**  
FEMA maintains information about map features, such as street locations and names, in or near designated flood hazard areas. Requests to revise flood information in or near designated flood hazard areas may be provided to FEMA during the community review period, at the final Consultation Coordination Officer's meeting, or during the statutory 90-day appeal period. Approved requests for changes will be shown on the final printed FIRM.

\* PANEL NOT PRINTED - NO SPECIAL FLOOD HAZARD AREAS  
\*\* PANEL NOT PRINTED - OPEN WATER AREA

- NOTE -  
Designated coastal barriers are located on panels 210, 230, 239, 243, 244, 254, 356, 357, 358, 359, 366, 367, 374, 377, 378, 379, 381, and 382.



MAP INDEX

**FIRM**  
FLOOD INSURANCE RATE MAP

CITY OF NEW YORK,  
NEW YORK  
BRONX, RICHMOND, NEW YORK,  
QUEENS, AND KINGS COUNTIES

**MAP INDEX**

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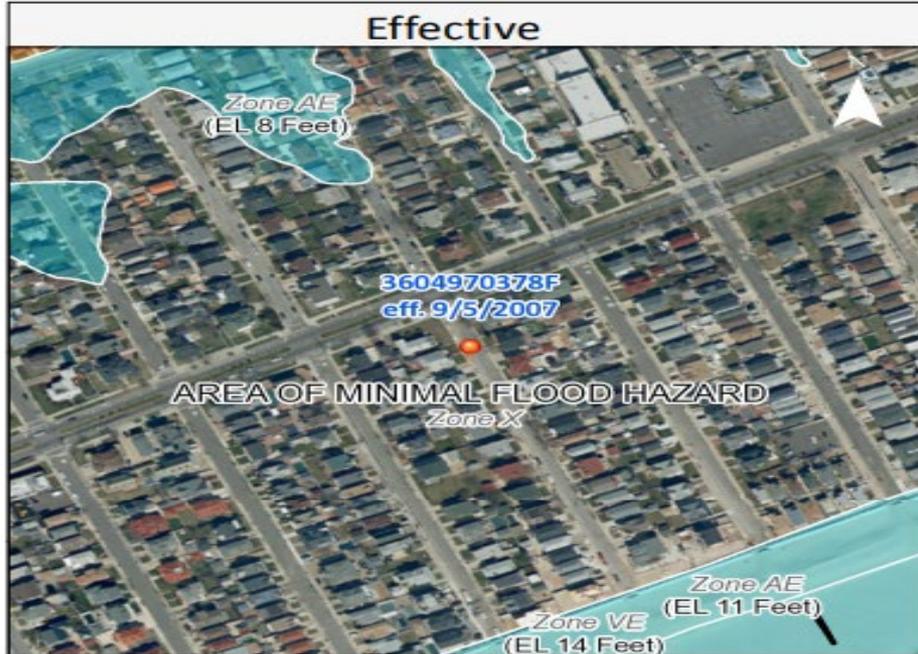


# Comparison of Flood Hazard

Effective & Preliminary Flood Risks



FEMA



**Effective**

|                        |                   |
|------------------------|-------------------|
| POI Longitude/Latitude | -73.8494, 40.5749 |
| Effective FIRM Panel   | 3604970378F       |
| Effective Date         | 9/5/2007          |
| Flood Zone             | X                 |
| Static BFE*            | Not Available     |
| Flood Depth            | Not Available     |
| Vertical Datum         | Not Available     |

**Preliminary**

|                        |                   |
|------------------------|-------------------|
| POI Longitude/Latitude | -73.8494, 40.5749 |
| Preliminary FIRM Panel | 3604970378G       |
| Preliminary Issue Date | 1/30/2015         |
| Flood Zone             | AE                |
| Estimated Static BFE*  | 10.0 Feet         |
| Estimated Flood Depth  | Not Available     |
| Vertical Datum         | NAVD88            |

\* A Base Flood Elevation is the expected elevation of flood water during the 1% annual chance storm event. Structures below the estimated water surface elevation may experience flooding.

**Risk Level**  
High Flood Risk

**Flood Hazard Zone**

AE, A, AH, AO, VE and V Zones. Properties in these flood zones have a 1% chance of flooding each year. This represents a 26% chance of flooding over the life of a 30-year mortgage.

Moderate Flood Risk

**Shaded Zone X.** Properties in the moderate flood risk areas also have a chance of flooding from storm events that have a less than 1% chance of occurring each year. Moderate flood risk indicates an area that may be provided flood risk reduction due to a flood control system or an area that is prone to flooding during a 0.2% annual chance storm event. These areas may have been indicated as areas of shallow flooding by your community.

# IF PROJECT IS IN A FLOODPLAIN...

**If any part of the proposed HUD-insured site or integral off-site development is in a special flood hazard area, HUD has three options:**

- **Reject** project site – avoid the flood hazard
- Apply to FEMA for letter of **map amendment or map revision** (LOMA or LOMR) – remove the entire project from the flood hazard.
- Continue the **8-Step Process** – hard look at alternative sites, minimize flood hazards, restore beneficial values of the floodplain

# INTERMISSION



WEBINAR WILL RESUME IN 5 MINUTES

Reminder: questions submitted through the Q&A panel will be answered after the webinar has ended

# FLOOD INSURANCE REQUIREMENTS



Reminder: questions submitted through the Q&A panel will be answered after the webinar has ended

# FLOOD DISASTER PROTECTION ACT



The Flood Disaster Protection Act of 1973 requires that projects receiving federal assistance and located in an area identified by the FEMA as being within a Special Flood Hazard Area (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP).

# NATIONAL FLOOD INSURANCE PROGRAM

- NFIP is a voluntary program, based on mutual agreement between the federal government and the local community.
  - In exchange for adopting and enforcing a floodplain management ordinance, federally backed flood insurance is made available to property owners throughout the community.
- If the community is not participating, or if its participation has been suspended, **federal assistance including loan guarantees may not be used** in a SFHA.

# APPLICABILITY OF NFIP

## If:

- Project located in a SFHA, and
- Project involves:
  - Construction
  - Rehabilitation
  - Refinance or acquisition of a mobile home, building, or insurable personal property
  - Purchase of machinery, equipment, fixtures, or furnishings that are insurable under NFIP

## Then:

- Insurance is required on the building (not land) and machinery, equipment, fixtures, and furnishings contained within the building.

# FLOOD INSURANCE COVERAGE FOR MF FHA LOANS

For MF FHA loans flood insurance:

- Required during construction when the property becomes insurable and upon completion
- Must continue for the life of the loan
- In the amount required by the Flood Disaster Protection act. At least equal to the development or project cost less estimated land value, the outstanding principal balance of the loan, or the maximum available coverage (whichever is least).
- Application contains proof that the new mortgagor has a commitment for flood insurance effective at closing.

# FLOOD INSURANCE COVERAGE FOR MF FHA LOANS

## Proposed MAP updates on Flood Insurance Provisions, Chapter 3:

- HUD insurance requirements may go beyond the statutory minimum
- HUD requires flood insurance in an amount at least equal to the **greater** of:
  - The maximum flood insurance available for that type of property under the NFIP; or
  - The replacement cost of the bottom two stories above grade

# FLOOD INSURANCE COVERAGE FOR MF FHA LOANS

## **Proposed** MAP updates on Flood Insurance Provisions, Chapter 9:

- HUD will require flood insurance on any building in the SFHA on a preliminary FIRM or Advisory Base Flood Elevation
- HUD has discretion to require flood insurance for buildings located in:
  - Moderate Flood Hazard Area (e.g. 500-year floodplain)
  - Parcel that includes a SFHA
  - Coastal areas not in a SFHA but subject to tidal flooding, tsunami, wave action or storm surge
  - Area where topography or past flooding create a high risk for flood events

# FLOOD INSURANCE COVERAGE FOR OHP FHA LOANS

For ORCF Projects:

- Flood insurance required for any building fully or partially located in SFHA and major movables that are part of the mortgage security
- HUD or the Lender may require flood insurance for projects located outside of an SFHA if conditions warrant (e.g. area is subject to flooding due to storm water or within close proximity to SFHA)
- Application must include proof that the Borrower has a commitment for flood insurance effective at closing
- Insurance must be maintained for the life of the loan

# FLOOD INSURANCE COVERAGE FOR OHP FHA LOANS

- Flood insurance for ORCF projects must cover:
  - 100% of replacement cost of Improvements located in an SFHA, and
  - Business income coverage for actual loss sustained or a minimum of most recent 12 months net income plus ongoing expenses and other ongoing obligations, including the full mortgage payment, MIP and reserve deposits plus a 180-day extended period of indemnity (as otherwise specified in this Program Guidance) for Improvements located in an SFHA.
- Full replacement cost of the property can be achieved by either a standalone policy or NFIP policy plus an Excess Flood or Difference in Condition (“DIC”) insurance

# PART 55 VERSUS FLOOD INSURANCE

## Floodplain Management in Part 55

- Implements EO 11988
- HUD's framework to avoid floodplain impacts
- Does not apply to CENST projects

## Flood Insurance

- The National Flood Insurance Program (NFIP) implements the Flood Disaster Protection Act
- HUD-assisted projects must comply with requirements set by FEMA, the state, and the locality
- Applies to all levels of review including for 223(a)(7) and 223(f) that are CENST in HEROS

# HOW TO: DETERMINE IF THE 8-STEP IS REQUIRED



Reminder: questions submitted through the Q&A panel will be answered after the webinar has ended

# EXCEPTIONS TO PART 55

## §55.12(a)

- Activities that may complete the **Modified 5-Step** Process instead of the full 8-Step

## §55.12(b)

- Activities that are not required to complete the 8-Step Process

## §55.12(c)

- Activities that are not required to comply with Part 55

## §55.28

- Non-floodplain wetlands activities that may complete the **Modified 3-Step** Process

Always check the regs for specific requirements

# PART 55.12(c) INCIDENTAL FLOODPLAIN EXCEPTION

§55.12(c)(7): Part 55 does not apply to a site in which an **incidental portion** is situated in an adjacent floodplain or wetland, **but only if:**

- Proposed activities do not occupy or modify the floodplain;
- Provisions are made for site drainage that would not have an adverse effect on any wetland; **and**
- A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland.

# PART 55.12(c) INCIDENTAL FLOODPLAIN EXCEPTION

HUD does not consider improvements to be incidental.

Improvements=buildings, roads, sidewalks, parking lots, permanent recreational areas with impervious surfaces or other man-made structures or impervious surfaces other than landscaping

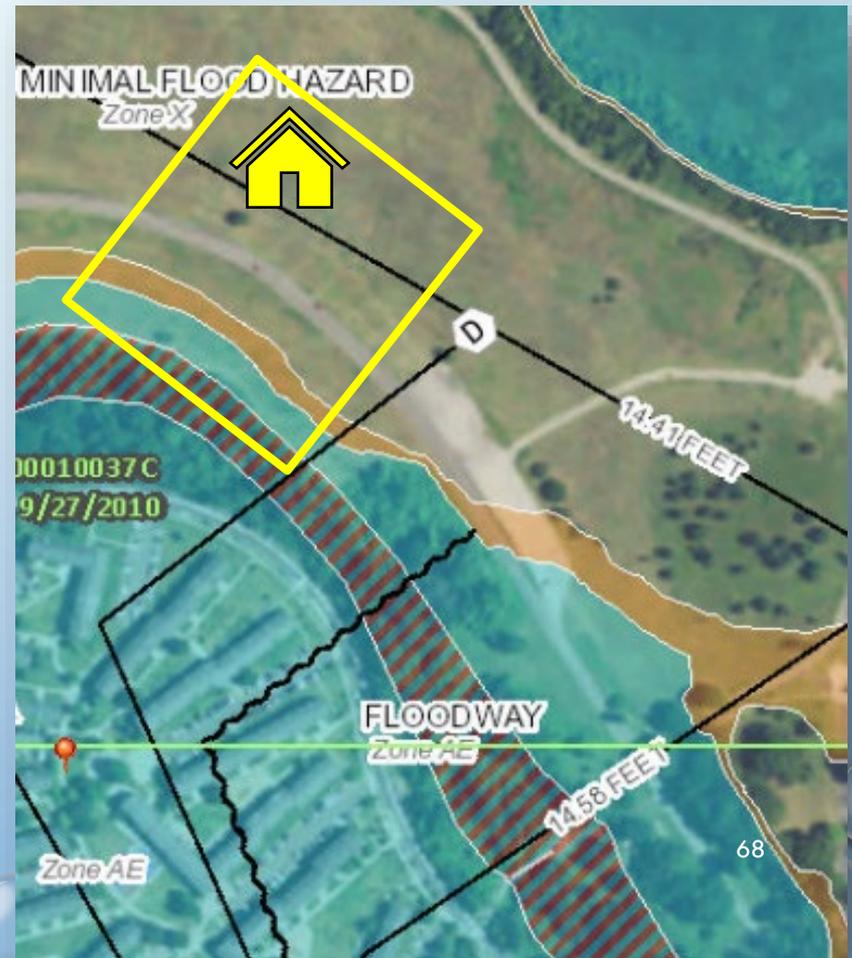
The incidental exception does not apply to sites that plan to bring in fill for a LOMR

# PERMANENT COVENANT

- [Model Covenant](#)
  - Prepared to satisfy the condition in Sec. 55.12(c)(7)(iii) for “a permanent covenant or comparable restriction ... on the property’s continued use to preserve the floodplain or wetland.”
  - Model covenant available at:  
<https://www.hudexchange.info/resource/4053/sample-restrictive-covenant-for-floodplains-and-wetlands/>
  - Must be recorded prior to the HUD-insured mortgage.
- Covenant must run with the land to permanently preserve the floodplain, and may not be dependent on the mortgage instrument
- Restrictions recorded after the HUD-insured mortgage are not “permanent” and therefore do not satisfy the regulation.

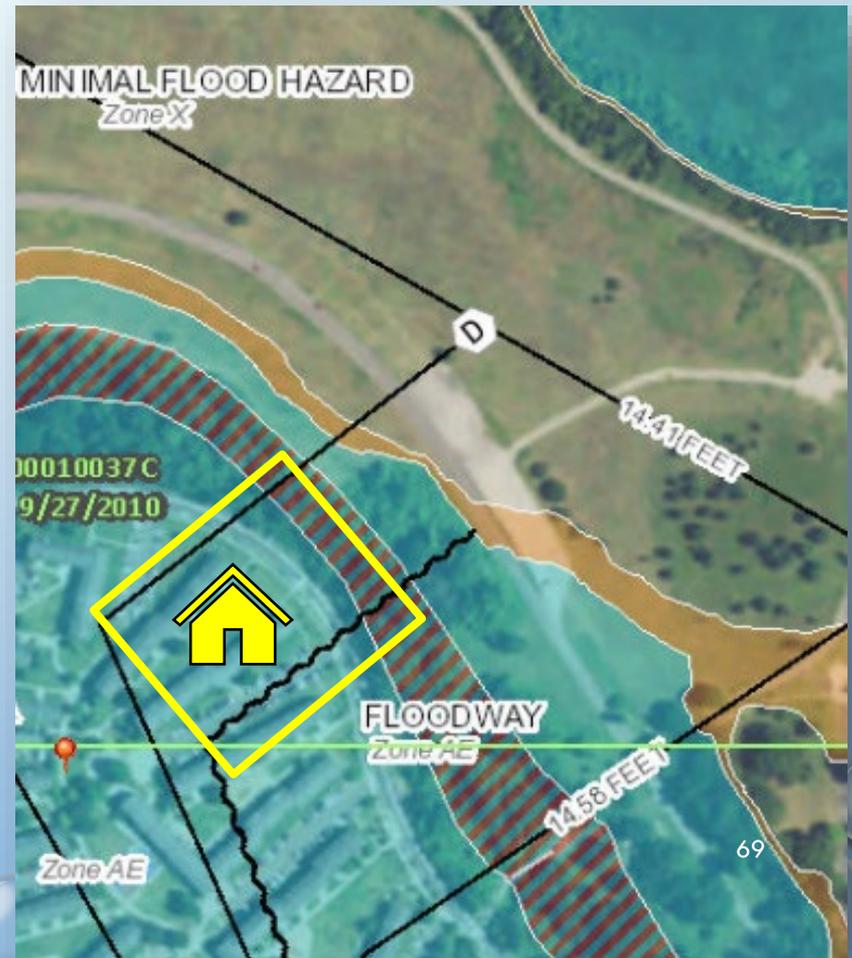
# INCIDENTAL FLOODPLAINS, CONT.

- Site contains floodway, 100-year floodplain, and 500-year floodplain
- However, floodplain is incidental
- Project may proceed IF all conditions in § 55.12(c)(7) are met:
  - No construction or improvements in the floodplain
  - Permanent covenant protects floodplain from future development
  - Adequate drainage in place for any wetlands



# INCIDENTAL FLOODPLAINS, CONT.

- Site contains floodway and 100-year floodplain
- Floodplain is **NOT** incidental
- Project **must** be rejected



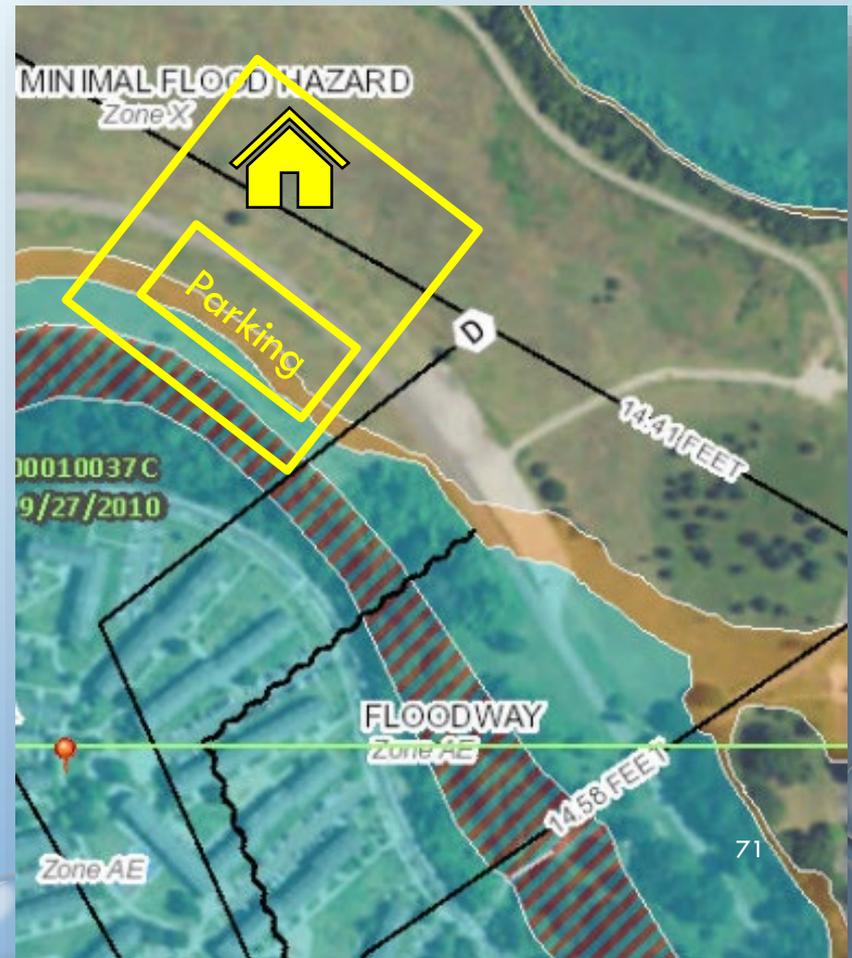
# INCIDENTAL FLOODPLAINS, CONT.

- Site contains 100-year floodplain and 500-year floodplain
- Floodplain is incidental
- Project may proceed either:
  - By meeting conditions in § 55.12(c)(7), OR
  - By completing 8-Step Process



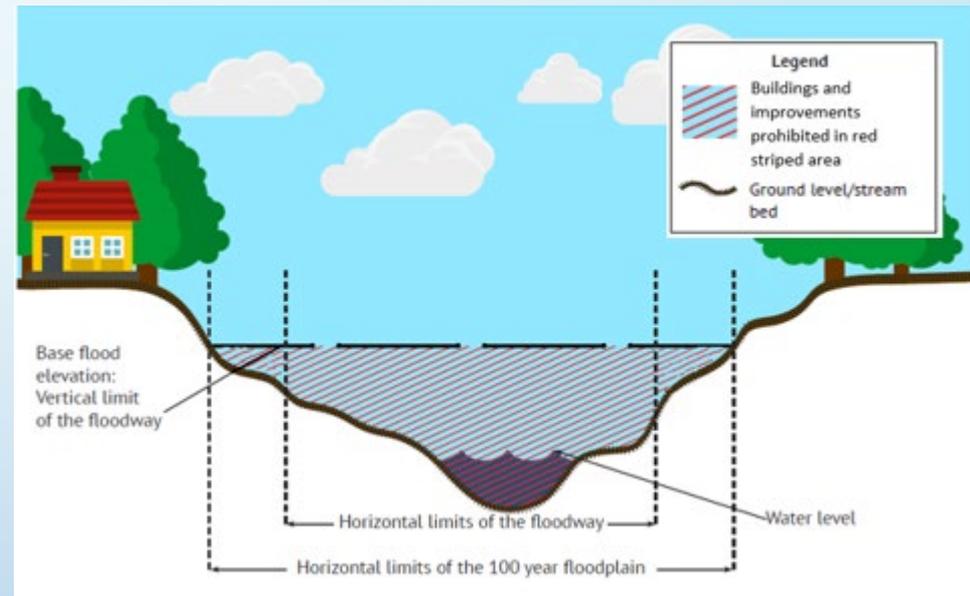
# INCIDENTAL FLOODPLAINS, CONT

- If site includes a parking lot in the floodplain, the incidental floodplain exception **does not apply**

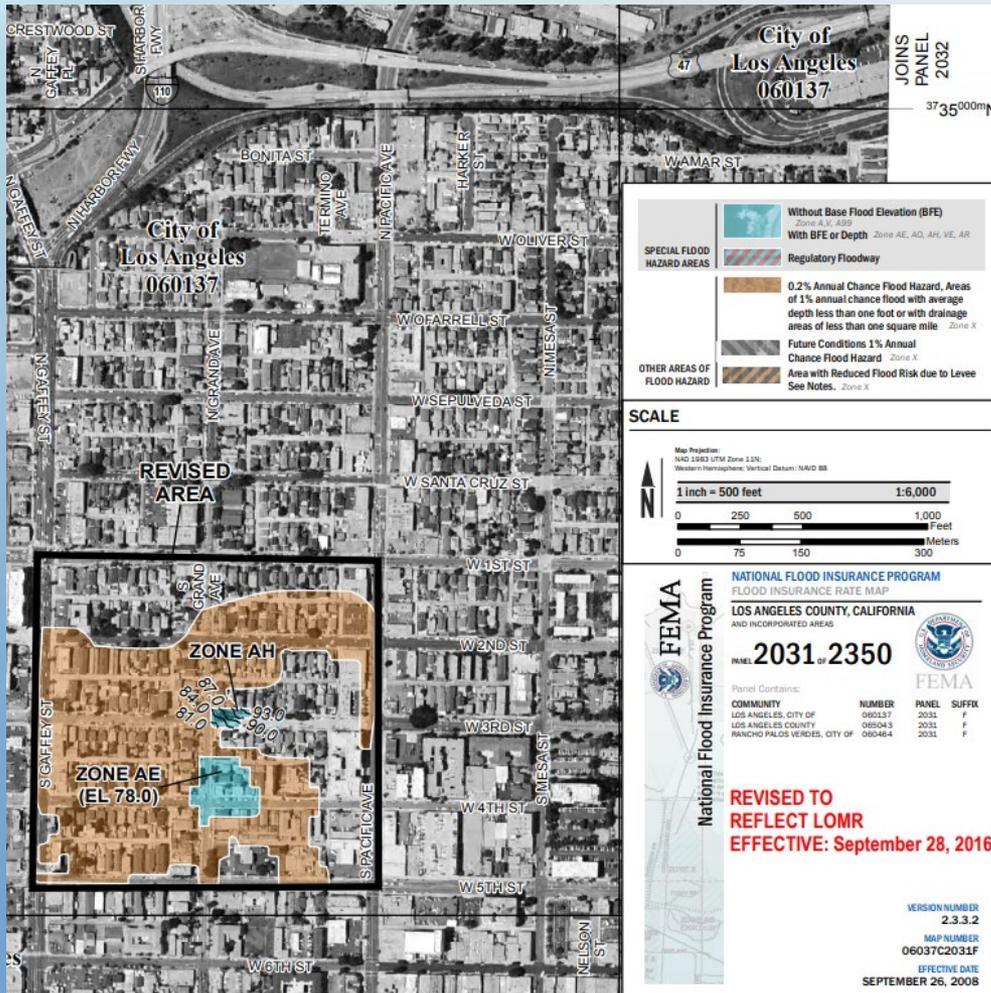


# WHAT ABOUT INFRASTRUCTURE?

- Vertically, HUD defines the floodplain as the area between ground/riverbed level and base flood elevation (BFE)
- New or existing infrastructure that will not modify the floodplain may pass below an incidental floodplain



# PART 55.12(c) LOMA/LOMR



Any non-wetland site for which FEMA has issued:

- A final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) that removes the **entire** property from a FEMA-designated floodplain, or
- A conditional LOMA or conditional LOMR if the Firm approval is subject to the requirements and conditions of the conditional LOMA or conditional LOMR

## MODIFIED 5-STEP PROCESS APPLIES TO...

Under **§55.12(a)**, certain activities may skip Steps 2 (early notice), 3 (alternatives) and 7 (final notice)

- 5-Step Process applies to...
  - **Purchase or refinance** of existing multifamily housing, hospitals, & nursing homes (under certain circumstances)
  - **Rehab** of existing multifamily housing, hospitals, nursing homes, and nonresidential structures (under certain circumstances, including that the project may not include *substantial improvement*)

Always check the regs for specific requirements

## MODIFIED 5-STEP PROCESS APPLIES TO...

### **Refinance actions:**

HUD's actions under the National Housing Act for the purchase or refinancing of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, and intermediate care facilities, in communities that are in good standing under the NFIP.

# MODIFIED 5-STEP PROCESS APPLIES TO...

## Rehabilitation actions:

HUD's actions involving the repair, rehabilitation, modernization, weatherization, or improvement of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, intermediate care facilities, and one- to four-family properties if all the following are met:

- In communities that are participating in good standing in the NFIP,
- The number of units is not increased more than 20 percent,
- The action does not involve a conversion from nonresidential to residential land use,
- The action does not meet the thresholds for “substantial improvement” under §55.2(b)(10), and
- The footprint of the structure and paved areas is not significantly increased.

# HOW TO: CONDUCT THE 8-STEP PROCESS



Reminder: questions submitted through the Q&A panel will be answered after the webinar has ended

# THE 8-STEP PROCESS

The decision making process outlined in 55.20 provides framework for:

- Taking a “hard” look at the site
- Minimizing flood hazards and impacts to wetlands
- Restoring beneficial values of the floodplain and wetlands



# RESPONSIBILITIES

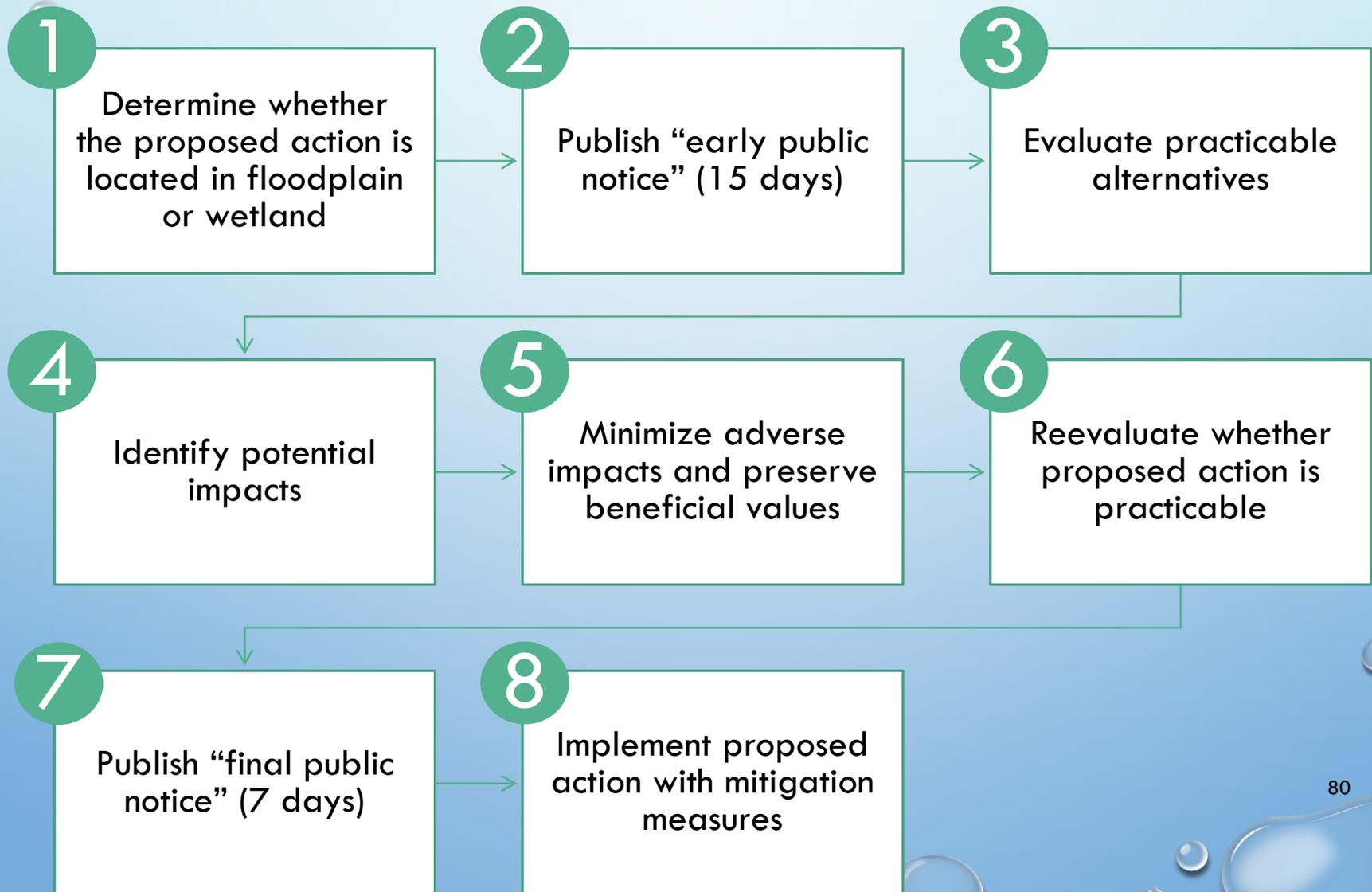
## HUD responsibility

- Completes the 8-step process
- Ultimately responsible for compliance with Part 55
- Monitor approved projects and ensure that required mitigation is implemented

## Applicant responsibility (55.3(d))

- Supply HUD with all available, relevant information necessary to comply with Part 55
- Cover the costs of notice publication
- Implement mitigation measures required by HUD or choose an alternate site

# 8-STEP PROCESS (§ 55.20)



# 8-STEP FOR WETLANDS

## 8-Step required for **new construction** in **wetlands**

- New Construction (55.2(b)(8)) = draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities
- Wetlands (55.2(b)(11)) = areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. This includes:
  - Swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, natural ponds, and constructed wetlands
  - Wetlands subject to **and not subject to Section 404** of the Clean Water Act
  - Does not include artificial retention/detention ponds unless they otherwise meet HUD's definition of a wetland

# STEP 1: MAP FLOODPLAINS AND WETLANDS

## Floodplain Identification

- Rely on FEMA maps
- Interim/preliminary FEMA data must be used *unless* they are less protective than the current map
- If FEMA information is unavailable or insufficiently detailed, use “best available information”

## Wetlands Identification

- Use National Wetlands Inventory (NWI) maps from FWS as a preliminary screening tool
- If there is reason to question NWI maps, attempt to consult with FWS, refer to secondary sources
- Wetlands delineation may be necessary

\* Always mark the site on all maps \*

# STEP 1: WHAT'S NEXT?



- If no floodplains or new construction in wetlands, stop here



- Check if an exception in 55.12 applies



- Otherwise, continue to Step 2
- If site contains floodplains *and* wetlands, complete a combined 8-Step or 5-Step

## STEP 2: EARLY PUBLIC NOTICE

**Notify public of proposal at earliest possible time in local printed news medium**

- Also send to agencies and individuals with interest in the proposed action
- 15-day minimum comment period
- Must include:
  - Project name, location, and description
  - Total number of acres in floodplain/wetland
  - Functions and values of floodplain/wetland that may be adversely impacted
  - HUD approving official and office hours
  - Phone number and website (if any) for further information

# STEP 3: ALTERNATIVES

## **Identify and evaluate practicable alternatives to locating project in floodplain or wetland**

- Action as proposed
- Modifications within the aggregated project site,
- No action (rejecting project in floodplain/wetland)

Practicable = measured by general concept of site feasibility considering natural, social, economic, and legal factors.

# STEP 4: IMPACTS

## Identify potential direct and indirect impacts

- Consider impacts to:
  - Lives and property
  - Floodplains and wetlands
- Three types of impact:
  - Positive & negative
  - Concentrated & dispersed
  - Short- and long-term
- Does project encourage future development in floodplains or wetlands?



# STEP 4: IMPACTS TO CONSIDER

## Floodplain Impacts

Focus on:

1. Adverse impacts to lives and property, and
2. Natural and beneficial floodplain values, including –
  - Water resources: natural flood moderation, water quality maintenance, groundwater recharge
  - Living resources: flora, fauna
  - Cultural resources: archaeological, historic, recreational
  - Agriculture, aquaculture, forestry

## Wetland Impacts

Consider the project's potential effect on the survival and quality of the wetland:

- How impacts to water supply/quality, pollution, flood/storm hazards, and sediment/erosion will affect public health, safety, welfare
- Impacts to existing natural systems, e.g. species and habitat diversity/stability, hydrologic function, food resources
- Extra cost to minimize impacts
- Impacts to recreational, scientific, cultural resources

# SUNNY DAY FLOODING

- High tide flooding & nuisance flooding: flooding caused by high tides or regular rain unrelated to a strong storm
- Regular impacts include flooded roads and parking lots, disruptions to local businesses and transportation, deteriorating infrastructure, and saltwater spilled to farmlands
- HUD does not have any requirements related specifically to these types of floods
- For data and projections, see:

<https://tidesandcurrents.noaa.gov/tideOutlook2019/>



# STEP 5: MITIGATION



## Minimize, restore, preserve

- **Minimize** – “reduce harm to smallest possible degree” (rigorous, demanding standard beyond mitigate or alleviate)
- **Restore** – re-establish environment in which the natural & beneficial floodplain/wetland values can operate
- **Preserve** – prevent modification to natural floodplain/wetland or maintain as closely as possible to its natural state

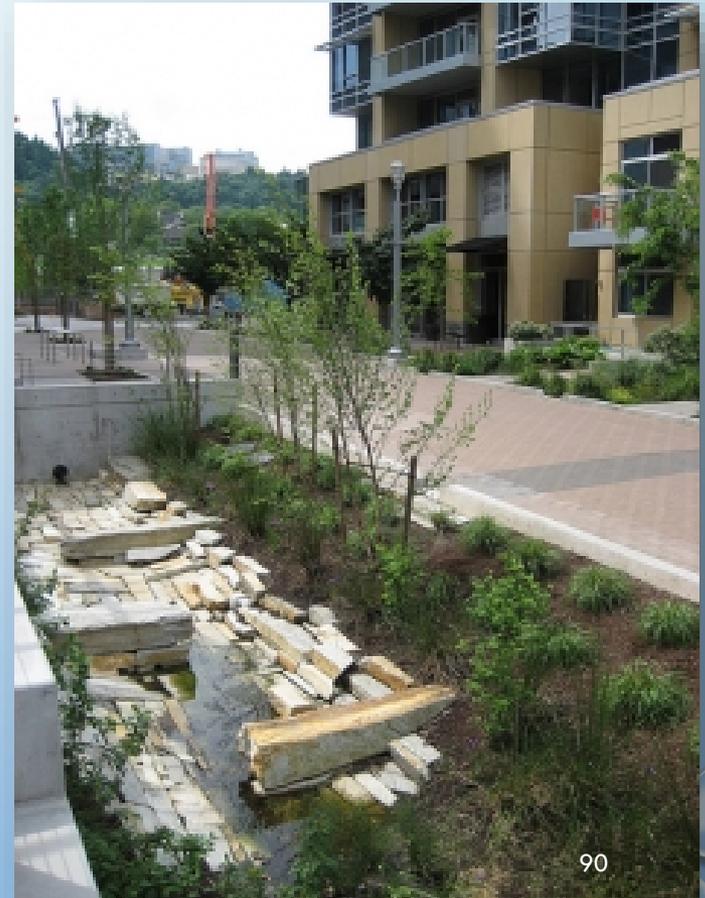
# STEP 5: MITIGATION OPTIONS

## For floodplains and wetlands:

- Minimizing fill, using permeable surfaces
- Landscape enhancements to maintain/restore natural hydrology/drainage
- Using native plant species, minimizing tree/plant cutting
- Stormwater capture & reuse
- Green/vegetative roofs with drainage provisions
- Conservation easements
- Scale back size of project/construction area

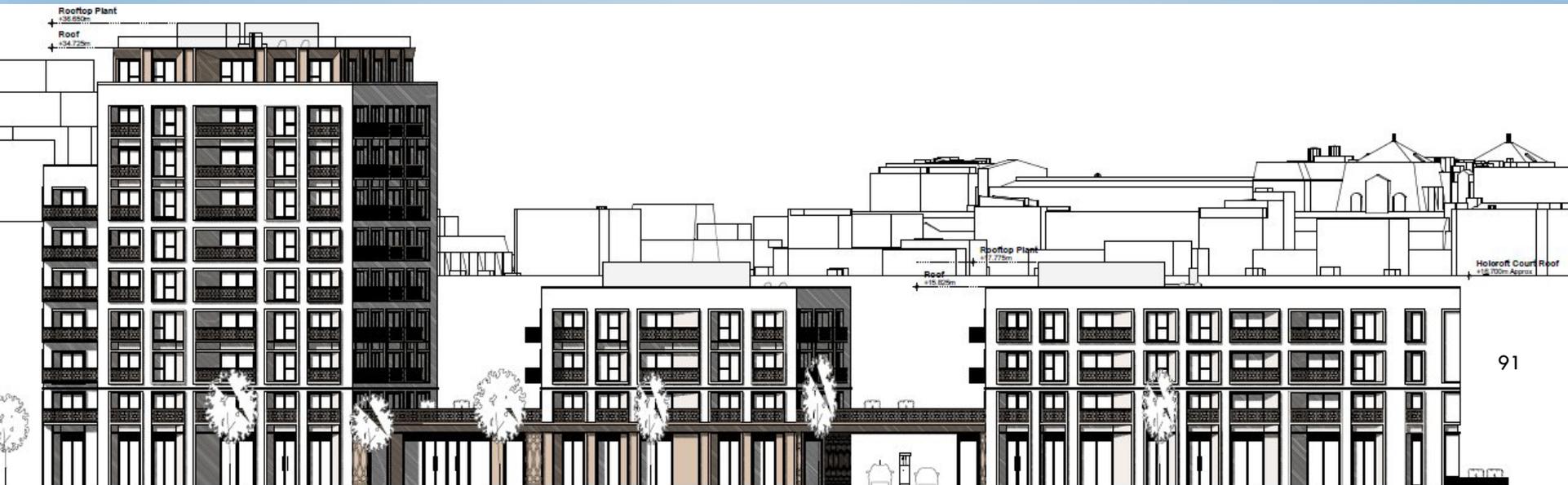
**For floodplains:** elevating or floodproofing structures

**For wetlands:** compensatory mitigation



# ELEVATION

- The National Flood Insurance Program (NFIP) requires all new construction and substantial improvement projects to elevate to base flood elevation (BFE)
- HUD-assisted projects must comply with NFIP rules, local elevation rules and program specific requirements.



# FREEBOARD

- Freeboard = a margin of safety added to BFE
  - 1 foot of freeboard translates to elevating 1 foot above BFE
- FHA Multifamily requires 1 foot of freeboard for new construction projects.
- Benefits:
  - Significant savings on flood insurance premiums
  - Safer homes with less damage during floods

Proposed MAP updates require 2 feet of freeboard for new residential construction projects.

# FLOODPROOFING



# MITIGATION FOR CRITICAL ACTIONS

55.20(e)(3) includes certain *required* mitigation measures for critical actions in the 100-year or 500-year floodplain:

- New construction must be designed and built at or above the 100-year floodplain
- Prepare an early warning system
- Implement an emergency evacuation/relocation plan
- Identify evacuation routes
- Mark past or estimated flood levels on all structures

# COMPENSATORY MITIGATION

Compensatory Mitigation = restoration, establishment, enhancement, and/or preservation of resources to offset unavoidable adverse impacts

- Recommended for unavoidable adverse impacts to more than one acre of wetland
- Not a substitute for avoiding and minimizing impacts to the maximum extent practicable

Options include: permittee-responsible mitigation, mitigation banking, in-lieu fee mitigation, use of preservation easements or protective covenants or other forms of mitigation promoted by state or federal agencies



# STEP 6: REEVALUATION

## Reevaluate proposal and alternatives

- Is project still feasible considering...
  - Exposure to flood risks (Step 4)
  - Potential adverse impacts to floodplain/wetland and loss of natural functions and values (Step 4)
  - Minimization measures and opportunities to restore & preserve floodplain/wetland values (Step 5)
- In light of Steps 4 & 5, do alternatives rejected in Step 3 appear feasible?
  - Best practice: Prepare table to compare adverse impacts of alternatives
- If neither proposed project nor alternatives are acceptable, the alternative is no action

# STEP 6: REEVALUATION

Consider potential impacts caused or avoided inside and outside floodplain/wetland

- Discussion should include potential impacts to human life, real property, and functions/values of floodplain/wetland

Discuss economic costs in this step

- Floodplains: discussion should include costs of flood insurance (costs and savings), elevation/floodproofing, replacement of services/functions that may be lost due to flooding
- Wetlands: discussion should include cost of filling wetland, mitigation

# STEP 7: FINAL NOTICE

## **Public explanation**

- If no practicable alternative, inform the public
  - Publish in newspaper with same procedures as Step 2
  - 7-day minimum comment period
- Notice must include:
  1. Reasons why project must be located in floodplain/wetland
  2. List of alternatives considered in Step 3
  3. All mitigation measures to be taken and actions to restore and preserve natural and beneficial values

# STEP 8: IMPLEMENTATION

## Implement project

- HUD and applicant have a **continuing obligation** to ensure that mitigation measures described in Final Notice are implemented
- Documentation (§55.27) must show:
  - Justification for determination that there are no practicable alternatives
  - Minimization measures have been applied to the project design





# WRAPPING UP: HIGHLIGHTS

- MF and ORCF FHA prohibits nearly all HUD assistance in floodways and coastal high hazard areas
- Requires an 8-step decision-making process to demonstrate that there are no practicable alternatives for:
  - Most projects in a 100-year floodplain
  - Critical actions in the 100- or 500-year floodplain
  - New construction impacting a wetland
- Provisions to modify or skip the 8-step process for some activities

# FHA HIGHLIGHTS

- Project must comply with Part 55 if any part of the site or *integral offsite development* (e.g. ingress, egress, parking) is located within floodplain
  - 8-Step Process is required unless an exception applies
- HUD must consider risks from offsite floodways and other flood hazards.
- HUD will consider history or evidence of flooding even if site is not in a FEMA-designated floodplain
- All 232 (and 242) projects are considered Critical Actions

# FHA HIGHLIGHTS

- MF and ORCF strongly discourage new construction and substantial rehab projects in the 100-year floodplain (and 500-year for ORCF)
- MF and ORCF discourage purchase/refinancing/improvement actions when the lowest floor, life support facilities, or egress and ingress are below the 100-year flood elevation
- **Elevation:**
  - MF new construction must be elevated at least 1 foot above the base flood elevation (BFE)
  - ORCF new construction must be built at or above the 100-year floodplain BFE

# ONLINE RESOURCES

- See the HUD Exchange for more:

<https://www.hudexchange.info/programs/environmental-review/floodplain-management/> and <https://www.hudexchange.info/programs/environmental-review/flood-insurance/>

- Resources include:

- Overview of requirements
- Links to external resources and mapping tools
- Model 8-Step processes, covenants, and public notices

- Office of Housing page: <https://www.hudexchange.info/programs/environmental-review/housing/>

- See Housing Environmental Guidance tab for links to MAP Guide and 232 Handbook

# FOR MORE ON WETLANDS

- On the HUD Exchange:

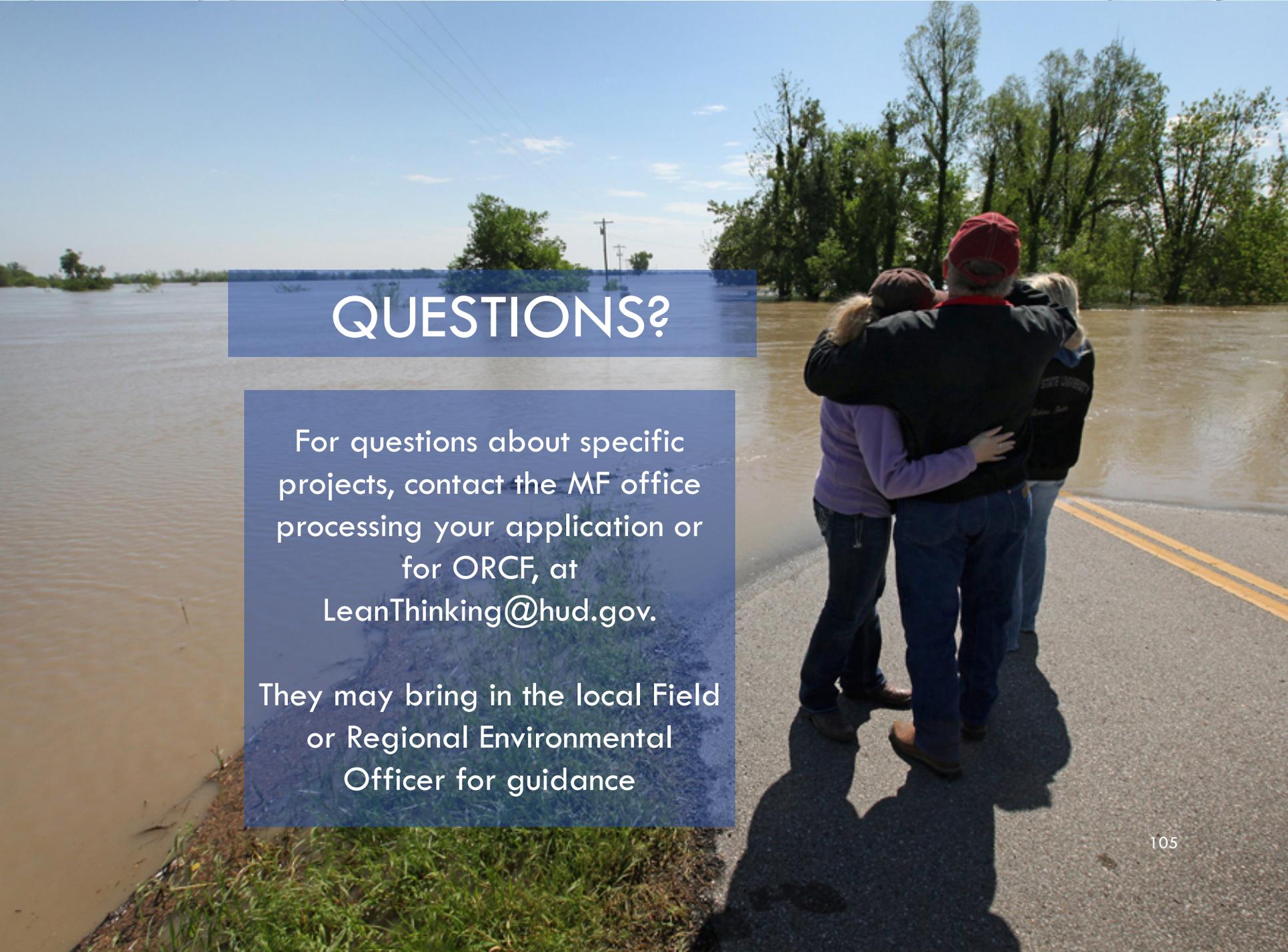
<https://www.hudexchange.info/programs/environmental-review/wetlands-protection/>

- 3/31/20 webinar:

<https://www.hudexchange.info/trainings/courses/24-cfr-part-55-floodplain-management-and-wetlands-protection-rules-webinar/>

- Water Elements module in WISER:

<https://www.hudexchange.info/trainings/wiser/>

A photograph of a group of people hugging on a road that is completely flooded with muddy water. The people are seen from behind, and their shadows are cast on the asphalt. The background shows trees and a clear blue sky. A blue semi-transparent box is overlaid on the left side of the image, containing text.

# QUESTIONS?

For questions about specific projects, contact the MF office processing your application or for ORCF, at [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov).

They may bring in the local Field or Regional Environmental Officer for guidance

# UPCOMING WEBINARS

- Section 106 Programmatic Agreements (July 15, 2020)
- Section 106 Historic Preservation Training for FHA Partners (July 23, 2020)
- Noise Training for FHA Partners (August TBD, 2020)
- HEROS Training for FHA Partners (September 22, 2020)



# QUESTIONS

SUBMIT QUESTIONS USING THE Q&A PANEL AND THEY  
WILL BE ANSWERED AFTER THE WEBINAR HAS ENDED

