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HOUSE BILL 122

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Daniel Foley

AN ACT

**RELATING TO MUNICIPALITIES; PROVIDING FOR FLOOD PLAIN
REGULATION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 3-18-7 NMSA 1978 (being Laws 1975,
Chapter 14, Section 1) is amended to read:**

**"3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS-- FLOOD
AND MUDSLIDE HAZARD AREAS-- BUILDING AND FLOOD PLAIN PERMITS--
LAND USE CONTROL-- JURISDICTION-- AGREEMENT. --**

**A. For the purpose of minimizing or eliminating
damage from floods or mudslides in federal emergency
management agency and locally designated flood-prone areas,
and for the purpose of promoting health, safety and the
general welfare, a county or municipality may by ordinance:**

- (1) designate and regulate flood plain areas**

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1 having special flood or mudslide hazards;

2 (2) prescribe standards for constructing,
3 altering, installing or repairing buildings and other
4 improvements under a permit system within a designated flood
5 or mudslide hazard area;

6 (3) require approval by the local flood plain
7 manager for development within a designated flood or mudslide
8 hazard area;

9 [~~(3)~~] (4) review subdivision proposals and
10 other new developments within a designated flood or mudslide
11 hazard area to [assure] ensure that:

12 (a) all such proposals are consistent
13 with the need to minimize flood damage;

14 (b) all public utilities and facilities
15 such as sewer, gas, electrical and water systems are designed
16 to minimize or eliminate flood damage; and

17 (c) adequate drainage is provided so as
18 to reduce exposure to flood hazards;

19 [~~(4)~~] (5) require new or replacement water
20 supply systems or sanitary sewage systems within a designated
21 flood or mudslide hazard area to be designed to minimize or
22 eliminate infiltration of flood waters into the systems and
23 discharges from the systems into flood waters and require on-
24 site waste disposal systems to be located so as to avoid
25 impairment of them or contamination from them during flooding;

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1 and

2 [~~(5)~~] (6) designate and regulate floodways
3 for the passage of flood waters.

4 B. [~~Any~~] A flood plain ordinance adopted pursuant
5 to this section shall substantially conform to the minimum
6 standards prescribed by the federal insurance administration,
7 regulation 1910 issued pursuant to Subsection 7(d), 79 Stat.
8 670, Section 1361, 82 Stat. 587 and 82 Stat. 575, all as
9 amended.

10 C. A county or municipality that enacts a flood
11 plain ordinance shall designate a person, certified pursuant
12 to the national flood insurance program, as the flood plain
13 manager to administer the flood plain ordinance.

14 [~~C.~~] D. A county or municipality shall have
15 exclusive jurisdiction over flood plain permits issued under
16 its respective flood plain ordinance and in accordance with
17 this section and so long as it is enforced by an approved
18 inspector pursuant to the Construction Industries Licensing
19 Act. Notwithstanding Section [~~14-17-5 NMSA 1953~~] 3-18-6 NMSA
20 1978, when a municipality adopts [~~an~~] a flood plain ordinance
21 pursuant to Paragraph (2) of Subsection A of this section, the
22 municipality's jurisdiction under [~~this~~] the flood plain
23 ordinance shall take precedence over a respective county flood
24 plain ordinance within the municipality's boundary and within
25 the municipality's subdividing and platting jurisdiction.

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[D-] E. A county or municipality shall designate flood plain areas having special flood or mudslide hazards in substantial conformity with areas identified as flood- or mudslide-prone by the federal insurance administration pursuant to the national flood insurance program.

[E-] F. A municipality or county adopting ~~any~~ a flood plain ordinance pursuant to this section may enter into reciprocal agreements with any agency of the state, other political subdivisions or the federal government in order to effectively carry out the provisions of this section.

[F-] G. Within their respective jurisdiction, ~~the environmental improvement agency~~ the department of public safety, the department of environment or the construction industries [commission] division of the regulation and licensing department may assist counties or municipalities when requested by a county or municipality to provide technical advice and assistance. "