



Save Our Communities: Ban “Fill and Build”

Fill and build is the widespread practice of clearing a flood-prone site, piling up dirt, and putting buildings on top. It slows storm water absorption, deposits dirty runoff from highways, farms and factories on both residential neighborhoods and natural areas, and causes flooding.¹ It should be banned.



A fill and build development in Gulf Breeze, Florida.

If fill and build is harmful, why is it so common? The answer is greed: Building sites in floodplains are cheaper than those elsewhere, allowing for bigger profit. (Indeed, between 2000 and 2016, there was more development in floodplains than outside.²) And much of the risk of fill and build – what economists call the “negative externalities” – is borne not by developers but taxpayers in the form of flood barriers, disaster relief, insurance payouts, long-term medical payments and a diminished tax base.

1. The latest edition of the [CRS Coordinators Manual](#) produced by the Federal Emergency Management Agency (FEMA) discusses the problems associated with fill within the floodplain. The CRS (Community Rating System) is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum federal requirements. See page 430-2 and then the series of pages beginning at 430-6 for information on fill and build.

2. See [Risky Waters](#), Governing Magazine, August 2018.

April O’Leary is long-time resident of Conway, South Carolina, and she’s seen first-hand the impact of fill and build: “Our little family home flooded over a year ago and yet I continue to see county representatives approve development in areas that typically flood. They do it by bringing in fill, increasing the flood risk for everybody else!” Lots of other people too have started speaking out – folks from Kingswood, Port Arthur and Houston, Texas; Gulf Breeze and Pensacola, Florida, Charleston, South Carolina and many other of places. The communities cited are [Higher Ground](#) members. They’ll tell how filling in floodplains has damaged their lives.

Stopping fill and build won’t be easy. Real estate developers deploy an army of lobbyists and a well- funded [PAC](#) to influence the politicians and administrators who write the laws about who can build and where. But things are changing. Flood survivors themselves and their allies are marching in protests, and storming city halls, state capitols and the halls of Congress. They also talk to the press, are also active on social media, and file lawsuits.³ As Larry Larson, Director Emeritus of the Association of State Floodplain Managers says: “To fix this problem you need local leaders who look at the problem and decide to do the right thing.”

Banning fill and build will do more than just reduce flooding. It will also lower insurance premiums for residents in communities that participate in the National Flood Insurance Program’s Community Rating System.⁴ And it will do this without hindering the growth of new housing. Most communities have ample developable land outside the floodplain, but even if they don’t, there are ways to build safely in already developed areas prone to flooding. These include these use of post and pile foundations, tall crawlspaces and the placement of homes or businesses on top of garages.

3. See [No Adverse Impacts and the Courts: Protecting the Property Rights of All](#) for a good summary of the law as it relates to flooding and development. It concludes that best practice floodplain management (also known as No Adverse Impacts) is "consistent with common law rights and duties, and will reduce the potential for successful lawsuits against communities (e.g., nuisance negligence) by private landowners for increasing flood and erosion hazards on private lands.

4. The Community Rating System is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum federal requirements. [See link](#) for more information. You can advocate for your community to participate in the program if it isn’t already.



These homes near the city of Snoqualmie, WA, are built on full story enclosures i.e. garages or tall crawlspaces.

Higher Ground is working with our chapters to end fill and build. You can help:

Gather evidence: Take cell phone, drone or other photos, and make maps, diagrams or even sketches to expose fill and build and document flooding. Attend local planning board meetings and contact your planning department to find out what fill and build developments have recently been finished and what are planned. Reach out to the geology, geography, biology or engineering departments of local universities for advice and expertise.



Build public support: Politicians will need your backing if they are to take on developers. Use email, Facebook and Twitter to alert local politicians to your concerns and post photos using the hashtag #BanFillandBuild. And if a politician helps you, publicly thank them and offer them help in their campaign!

Attend city or county council meetings wearing t-shirts with “Ban Fill & Build” slogans, or [order online](#) our “I Flood and I Vote” t-shirts. Organize community meetings on the topic and be sure to invite your local elected officials.

Start and publicize a petition on Change.org to stop fill and build in your area. Remember, you will need to promote the petition widely and doggedly in order to get signatures. Post it in local Facebook groups. You may also want to use Facebook advertising to spread information about the petition.

Support the introduction of an ordinance or law: Ask a sympathetic town councilor or county commissioner to introduce an ordinance to ban fill and build. For more information on how to write and pass a local ordinance see below.

Help your legislator understand that banning fill and build is necessary to prevent flooding (made worse by global warming). Remind them that there are plenty of sound, sustainable alternatives to the practice, and that more and more individuals and communities are rejecting it.

If all we work together, we can end fill and build and protect our neighborhoods and natural areas for generations to come! [Share your fill and build story](#) and receive campaign updates.

Model language for Ordinances to Ban Fill and Build

Ordinance language can be simple, for example:

The use of fill is prohibited in all special flood hazard areas (100-year floodplain) shown on Flood Insurance Rate Maps (FIRM)

To avoid loopholes, add some clarifying language, such as the following:

For any stream or body of water not identified by the FIRM, including intermittent streams, the developer shall determine the 100-year flood plain through a certified engineering analysis. These elevations shall be determined in accordance with FEMA's recognized methods and be based on future conditions.

Developers should be given options for calculating “future conditions” using methods informed by climate science, building two feet above the 100-year flood plain, or building to the 500-year flood plain.