

## 2022 Updates to the State Model Floodplain Management Ordinance

Department of Agriculture, Conservation & Forestry/Floodplain Management Program

December, 2022

This document outlines the 2022 changes to the state model ordinance for communities that have Digital Flood Insurance Rate Maps and those communities that do not yet have digital maps. The cleanest way for communities to adopt is usually to repeal and replace your current ordinance. If your community chooses to make amendments only, you will need to review the model ordinance language section by section and word for word against your current ordinance to make sure that small wording changes, punctuation, and minor errors will be corrected.

The Program is unable to provide a strikethrough/underline version of all the changes. Municipal ordinance adoption dates vary widely, so the community should rely on the update sheets that have been created each time changes have been made.

Please note that there are several versions of the model ordinance and they are dependent on the zones on the community's FIRM so the numbering system may be slightly different than the model we created for the community.

### **Article II – Permit Required**

The federal NFIP regulations at 44 CFR 59.22.b.1. require the community designate a local official or board to act as the Floodplain Administrator. It is recommended that this be same as the permitting authority named in the second paragraph. FEMA identified this as a deficiency in the state model ordinance, so this is a required change.

### **Article III – Application for Permit**

**H.4.** “lowest machinery and equipment servicing the building;”

### **Article VI – Development Standards**

Two new paragraphs have been added:

**F. Utilities.** This clarifies that all mechanicals and utilities servicing newly constructed and substantially improved buildings must be elevated. If a community participates in the Community Rating System, this language must be in the ordinance.

**G. Physical Changes to the Natural Landscape.** The federal NFIP regulations at 44 CFR 65.3 states that “a community’s base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions”. Our model ordinances have historically not contained language addressing these types of projects and the potential need to obtain a Letter of Map Revision.

Practical guidance for meeting this section is based on one of two scenarios:

(1) P.E. certification that the development will not change the base flood elevation, flood zone designation, or the boundary of the special flood hazard area, or

(2) An engineering analysis must be completed to show any change in the base flood elevation or boundary of the special flood hazard area. The integrity of the map must be preserved by submitting a Letter of Map Revision (LOMR) request so the map can be revised to reflect the new conditions at a site.

**L. Accessory Structures.** FEMA issued new policy guidance in February 2020 (FEMA Policy #104-008-03). This was followed up with a new Floodplain Management Bulletin P-2140 in July 2020 titled

*Floodplain Management Requirements for Agricultural Structures and Accessory Structures.* The new bulletin supersedes previous guidance. The FEMA guidance limits the size to a one story two car garage so the State was required to reinstate a size-limit. Agricultural Structures are now defined and are allowed to use hydraulic openings/flood vents by variance only.

**N. Hydraulic Openings/Flood Vents.** The heading of this paragraph has been changed from “Enclosed Areas Below the Lowest Floor”. The standards remain the same.

#### **Article X – Appeals and Variances**

**F.** This is a new paragraph that allows a variance to use hydraulic openings/flood vents in Agricultural Structures. This is required in the 2020 FEMA policy and guidance.

**G.** The cross references have been updated.

#### **Article XIV – Definitions**

**Agricultural Structure.** A definition has been added.

**Containment Wall.** A definition has been added to clarify the intended use of these walls around above ground tanks as a means to contain spills or leaks.

**Existing Manufactured Home Park or Subdivision.** A definition has been added as this is a required definition in the federal regulations at 44 CFR 59.1.

#### **Article XVI – Disclaimer of Liability**

This section has been added at the request of the FEMA Regional Office.

## **2023 Updates to the State Model Floodplain Management Ordinance**

### **August 2023**

Revisions have been made that require elevation certificates to be signed by Professional Land Surveyors only. The model ordinance is affected by this language change in the following articles:

Article III.J. - Application for Permit

Article V.F.1 - Review Standards for Flood Hazard Development Permit Applications

Article VIII.A. - Certificate of Compliance

Article XIV – Definitions

DFIRM: Digital Flood Insurance Rate Map has been deleted as all maps are referred to as “Flood Insurance Rate Maps” or “Flood Hazard Boundary Maps”.

Elevation Certificate – delete subsection “b. is required for purchasing flood insurance”; collapse remaining text into one sentence.

Elevation Certificate and Floodproofing Certificate have been updated and the form number has been changed.