

## FLOODPLAIN MANAGEMENT ORDINANCE UPDATE - 1997

A revised State Model Floodplain Management Ordinance was introduced at the February 1997 Floodplain Management Workshops presented by the State Floodplain Management Coordinator, in conjunction with the Code Enforcement Officer Training and Certification Program. Over the years the model ordinance has not been a static document. It has frequently required changes or additions to keep pace with changes in Federal or State regulations. In other instances changes have been made based on feedback we receive from local officials who, in using the ordinance, can offer recommendations for the improvement of its administration or enforcement. Lastly, the staff of the Floodplain Management Program has continued to identify areas where the ordinance can be improved to more effectively address the Federal and State goals of sound floodplain management.

The Federal Emergency Management Agency and the State Coordinator's Office recognize the effort required on the part of communities to keep abreast of the changes in the model ordinance. There is no demand for immediate action, or a date by which all communities must update their ordinances. Instead, the adoption process will be initiated when a community is notified by the staff of the Maine Floodplain Management Program that their ordinance must be revised to meet the new standards.

The state maintains three different model ordinances due to the different level of mapping detail contained on community's flood maps. Communities with more detail on their maps have more complex ordinances which contain paragraphs that are not found in the ordinances of communities with less detailed maps. It has been necessary to accommodate for these differences in this article. For this reason, there will occasionally be an alternate numbering reference, indicated in brackets, for particular sections of the ordinance.

The following list highlights the most recent changes and their rationale. (There are a few minor corrections or changes that have been made to some of the ordinances that are not reflected in this listing.) This document should assist communities in their review process by indicating the areas of significant change.

Article I - Purpose and Establishment: The previous preface page entitled "Statement of Purpose and Intent" is now included within Article I.

*[Change based on opinion of Attorney General's office that the community's legal authority to administer and enforce the ordinance is stronger if stated within an Article of the ordinance and not in a preface.]*

Article III - Application: Paragraph A. is expanded; D. has been amended; there is a new E.; the old E. - L. are amended to be F. - M.; G. and I. have been amended.

Important Note: Due to the “renumbering” of items within this Article, all past references to Article III.G. have been changed throughout the new ordinance to Article III.H., and references to Article III.J. have been changed to Article III.K.

*[Changes based on recommendations of local officials and Program staff who recognize the need for the new information requested. There is now a better correlation between the information required under Article III and the questions asked on the Flood Hazard Development Permit Application.]*

Article V - Review of Permit: 1). Paragraph F. has been expanded into three parts to more clearly specify which type of Flood Hazard Development Permit to use for different types of development.

*[Previously, Article V. only addressed the two part permit required for the new construction or substantial improvement of elevated structures. However, Article II. has always required permits for all development. Local officials and the Program staff felt the ordinance should specifically address the permitting criteria for minor development and floodproofing projects.]*

2). Paragraph G. has also been expanded to specify additional documents which must be maintained, as a permanent record, by the community.

*[Some changes based on requirements of the NFIP and others made in support of Program’s goals for effective administration of the ordinance by community officials. Accurate and complete record keeping encourages and supports accountability.]*

Article VI - Development Standards: 1). The standards specified in Paragraph A.1.-4. now apply to **all development**, not just to new construction or substantial improvements. The end of the first line should now read “ ... of any structure and all other development shall:”

*[This change is in support of the Maine Floodplain Management Program’s goal to reduce the risk of flood damage by applying the most basic development standards to all types of development in special flood hazard areas.]*

2). The ending of the last sentence in Paragraph G.1.c. [or G.3. if your community has no Flood Insurance Study and a (b) model ordinance] has been corrected to read:

“...above mean sea level to which the structure is floodproofed.”

*[This change corrects the wording to be consistent with the requirements of the NFIP.]*

3). Subsections within Paragraph H. have been reformatted. Previously there were four anchoring requirements which have been condensed into three.

*[ Change eliminated duplicative language.]*

4). The FEMA publication “*Flood Insurance Study - Guidelines and Specifications for Study Contractors*” referenced in Paragraph J.2.b. [or I.2. if your community has no Flood Insurance Study and a (b) model ordinance] has recently been revised, resulting in the need to correct the chapter reference and edition date.

*[Change based on FEMA’s revision of referenced publication.]*

5.) For communities which have a Flood Insurance Study, Paragraph J.3. has been amended to include Zones A1-30 and AE.

*[Change clarifies the determination of the regulatory floodway when none is officially designated on the Flood Insurance Rate Map or Flood Boundary and Floodway Map. This supports the Maine Floodplain Management Program’s goal to reduce the risk of flood damage by applying the NFIP’s regulatory floodway standards to all riverine floodplains. (The definition of Regulatory Floodway in Article XIII has been amended to be consistent with the above change.)]*

6). The previous standard contained in Paragraph K.1. [or J.1. if your community has no Flood Insurance Study and a (b) model ordinance] regarding the 3’ supporting wall restriction has been removed.

*[Local officials and Program staff supported the removal of this restriction which has never been a requirement of the National Flood Insurance Program (NFIP).]*

Article VII - Certificate of Compliance: 1). Paragraph A.2. has been eliminated as the flood-proofing certificate containing the necessary elevation information must be submitted during the application process as stated in Article V.F.2.

*[Change based on requirements of the NFIP]*

2). The previous requirement in Paragraph B. for an application for a Certificate of Compliance has been replaced with a requirement for a written notification.

3). Paragraph C. has been reworded based on the changes in Paragraph B.

*[Changes based on the efforts of the Program staff to make this Article consistent with the format and requirements of other land use ordinances which contain similar Certificate of Occupancy or Certificate of Compliance sections.]*

Article IX - Appeals and Variances: 1). Paragraph E., which addresses Historic Structures, has been rewritten and made more restrictive.

*[Program staff, with the assistance of legal council, determined that the previous model ordinance was inconsistent with NFIP regulations and needed to be amended.]*

2). The initial sentence in Paragraph F. has been extended to say “... in writing over the signature of the Chairman of the Board of Appeals that:”

*[Change based on requirement of the NFIP]*

Article XIII - Definitions: The formatting throughout this article has been corrected to make it consistent with the rest of the document.

1). Breakaway Wall - this definition can be deleted in communities that do not have Coastal High Hazard Areas (V Zones) delineated on their Flood Insurance Rate Maps.

*[Change based on standards for breakaway walls only being contained in coastal (e) ordinances.]*

2). Elevated Building - this definition no longer contains the 3’ supporting wall restriction.

*[This change was necessitated by the removal of the same restriction from Article VI.K. (discussed above).]*

3). Minor Development - this is a new definition and corresponds to the new permitting section outlined in Article V.F.3. (discussed above).

*[This was added after the Program staff carefully considered the many requests received from local officials for the ordinance to give a specific name to development that was previously referred to as “not new construction or substantial improvement”. The name of the permit for this type of development has also been changed to “Permit for Minor Development”. Development that falls under this definition is not permitted any differently than it previously was ( there are no new development standards).]*

4.) Regulatory Floodway - For communities with a Flood Insurance Study, the beginning of Part b. of this definition has been amended to read:

“when not designated on the community’s Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel ...”

*[This definition has been amended to be consistent with the development standards for floodways contained in Article VI.J.3.]*

5). Substantial Improvement - The exclusion previously afforded Historic Structures under this definition has been limited by the added requirement that a variance be obtained from the community’s Board of Appeals.

*[This has been added in an effort to make the state model ordinance more consistent with the intent of the NFIP regulations.]*