**FREQUENTLY ASKED QUESTIONS**

**ABOUT THE 2020 CALIFORNIA BUILDING CODE-COORDINATED FLOODPLAIN MANAGEMENT MODEL ORDINANCES**

In 2020, the Floodplain Management Branch of the California Department of Water Resources released model floodplain management ordinances that are written explicitly to rely on the flood provisions of the California Building Standards Code (Cal. Code of Regs., Title 24) for buildings and structures in flood hazard areas.

Many common questions about the model ordinance are answered in the FAQs that follow. The Instructions & Notes that accompany the model ordinances explain the process to tailor the models for individual communities. One model ordinance is for coastal communities (with flood zones designated with the letters “A” and “V”) and one model ordinance is for communities that have only flood zones designated with the letter “A”. A separate version is available for communities that elect to adopt Appendix G of CCR Title 24, Part 2.

Download materials related to the model ordinance and excerpts of the flood provisions in the California Building Standards Code (CCR Title 24) at the DWR Office of Floodplain Management web site: <https://water.ca.gov/nfip/>

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| Contact DWR or FEMA NFIP staff at DWR\_NFIP@water.ca.gov or FEMA-NFIP-R9@fema.dhs.gov. Please include the community name in the subject line.***Please use <track changes> mode to tailor the Model Ordinance. Allow plenty of time for at least two reviews (longer if you make many changes). At a minimum, provide the first draft at least 8 weeks before you submit it for first reading by the council/commission. At any given time DWR or FEMA may have many draft ordinances under review and cannot guarantee getting back to you in just a few days.*** |

Frequently Asked Questions

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### Are we required to use the DWR floodplain management model ordinance that is written to rely on the building code for buildings in special flood hazard areas?

No, but the model ordinance is carefully crafted to meet NFIP requirements and to explicitly rely on the building code (CCR Title 24). All California communities are required to enforce the building code, which sets up potential conflict with requirements for buildings that are in local floodplain management regulations. Repealing and replacing existing floodplain management regulations with regulations based on the code-coordinated model ordinance eliminates duplication and conflicts with the building code. However, it must be done carefully to ensure individual community-specific requirements are incorporated into the model, especially higher standards that affect the design of buildings (see Questions #9 and #10). Attempting to modify existing regulations to selectively replace requirements for buildings with references to the building code is not recommended.

### Has FEMA approved the building code-coordinated floodplain management model ordinance?

Yes. The FEMA Region IX office approved the model ordinance in April 2020. The NFIP Checklist that documents consistency is available at <https://water.ca.gov/nfip/>.

FEMA’s approval is important: it means communities that use the model as the basis for their local floodplain management regulations will have rules that are both consistent with the NFIP and also coordinated with the building code.

### If we use the building-coordinated ordinance, will we have to modify our floodplain management regulations every time the building code is updated?

No, if your community does not adopt local technical amendments to the building code.

Yes, if your community adopts local technical amendments to the building code then the standard triennial re-adoption is required (see Questions #9 and #10). Whether that re-adoption requires modifying the floodplain management regulations depends on where the building code amendments are located in your community’s code of ordinances.

However, as with every new edition of the California Building Standards Code, local floodplain managers and building officials should pay attention to whether there are any changes in flood provisions in the building code. The flood provisions originate from FEMA’s participation in developing the International Codes on which the California Building Standards Codes are based. DWR Office of Floodplain Management posts the excerpts of the flood provisions in the building code along with a list of changes from the previous edition.

### What are the top six tips that will help us work with the model ordinance?

**Tip #1**. After selecting the correct version of the model ordinance, please download and read the “Instructions & Notes” that go with that version. Many common questions are answered in the “Instructions & Notes.”

**Tip #2.** Please use <track changes> to prepare your Word file and send it to DWR or FEMA NFIP Staff at DWR\_NFIP@water.ca.gov or FEMA-NFIP-R9@fema.dhs.gov for review (please put your community name in the subject line). This will make our review easier and faster.

**Tip #3**. There are many provisions and definitions that cannot be changed, but some that may be changed. Remember the model ordinance was carefully prepared to satisfy all requirements and was approved by FEMA. This makes it very important that you use <track changes> to show all of your proposed changes. We’ll notify you if there is a compliance concern with your changes and help you resolve any problems.

**Tip #4.** Carefully read the instructions for filling in community-specific information. For example, in Section 102-2 of the model ordinance, be sure to insert the name and date of the initial Flood Insurance Study (not the date and title of the FIRMs). Most studies are county-wide, which means the title is the county, not individual municipalities.

**Tip #5.** Renumbering the model to fit within your community’s regulations must be done carefully. DO NOT renumber until after all text edits have been made. Several sections contain cross references to other sections. Do not modify to eliminate section numbers to make cross references generic; vague cross references render regulations unenforceable. We have developed a tool that you can use to help with renumbering the model and the internal cross references to match (<https://water.ca.gov/nfip/>). Please plan to renumber before the DWR or FEMA final technical review, at which time we’ll proof the cross references. Do not want for it to be renumbered when codified (incorrect cross references make ordinance difficult, if not impossible, to administer).

**Tip #6.** Send your draft ordinance to DWR or FEMA NFIP staff well BEFORE you need to submit it first reading by council/commission. We will review it as quickly as possible. Depending on backlog, we try to return drafts within one to two weeks.

### What are the seven most common errors made when customizing the model ordinance?

The most common errors can be avoided by reading the Instructions & Notes and getting in touch with us if you have questions. The model ordinance was carefully prepared and has been approved by FEMA. It, along with the building code, has everything necessary to meet the requirements of the NFIP.

**Error #1.** Adding language from existing regulations to incorporate requirements for buildings – obviating the objective to rely on the building code for buildings in SFHAs. Do not copy text from your existing regulations into the model ordinance. Download excerpts of the flood provisions of CCR Title 24 here <https://water.ca.gov/nfip/>.

**Error #2.** Deleting whereas statements or sections of the ordinance (e.g., Warning, Disclaimer of Liability, Severability). Certain legal elements are required under the NFIP, so even if the ordinance is being adopted as an addendum or as part of a wholesale update to Land Development Regulations for example, we will have to see and approve the adopting language.

**Error #3.** Using another community’s ordinance as the starting point. Please start with the FEMA-approved model ordinance. The exception to this is municipalities that have or will have intergovernmental agreements with another community, in which case there are benefits to having similar regulations. Please contact DWR or FEMA NFIP staff for assistance before you decide to use another community’s ordinance as your starting point. Please note intergovernmental agreements should be in writing.

**Error #4.** Using incorrect dates in the definitions. Follow the instructions to find the correct date for your community. It may or may not be the same as the date adjacent communities joined the NFIP).

**Error #5.** Ignoring DWR or FEMA NFIP staff edits, comments, and questions. Please ask questions if you don’t understand or disagree with our edits and comments. Also, once a draft is started, don’t start a new draft. Remember, our job is to help you produce an ordinance that meets DWR and FEMA requirements.

**Error #6.** Making changes AFTER review by DWR or FEMA NFIP staff and not obtaining another review. What may appear to you or your attorney to be minor changes can easily result in a noncompliant ordinance that could require another visit to council/commission to correct.

**Error #7.** Modifying definitions to try to capture higher standards, inserting language in the wrong places, or not properly formatting building code amendments. Instructions and language for many higher standards are available here <https://water.ca.gov/nfip/>.

### Does the Building Official have to be designated the Floodplain Administrator?

No. Communities should designate the position of a qualified staff member who is knowledgeable about floodplain management to fulfill the broad range of responsibilities of the Floodplain Administrator or who supervises staff performance of those responsibilities. It is common to designate a department head, planning manager, building official, or a town manager, who then delegates functions. By law, the building official is responsible for enforcing the building code. If a building official is also designated as the Floodplain Administrator, the official functions under the authority of the FPM regulations, not the building code.

Communities with intergovernmental agreements with other communities – and communities with private providers of building code services – must designate a position *from their communities* with ultimate authority to enforce the community’s floodplain management ordinance and to fulfill commitments to the NFIP.

### Can we delete provisions in the ordinance that don’t apply to us?

In general, no. The first step is to ensure you’re considering the correct version of the model ordinance based on the flood zones in your community. There are two versions: one for communities with both A Zones and V Zones and another for communities with only A Zones. Do not start with the A&V version and attempt to modify to create an A-only version. If there are other provisions that don’t apply in your community, check with DWR or FEMA NFIP staff before deleting any sections or provisions. Under some circumstances and with proper documentation, we may be able to approved removing some provisions. .

### Many communities, especially those in the NFIP Community Rating System, have previously adopted some “higher standards” that exceed the NFIP minimum requirements. Can they keep those higher standards?

Yes. However, every community that has “higher standards” that exceed the NFIP minimum requirements needs to identify which of those higher standards they wish to retain. CRS communities should pay particular attention to any higher standard that receives credit and decide whether to retain those requirements. Some higher standards can be accomplished by modifying the model ordinance. Some require formatting as local amendments to the building code.

DWR has General Instructions for Higher Standards and instructions for several higher standards available here <https://water.ca.gov/nfip/>. The instructions refer to the Building Commission’s guidance for local amendments. For other higher standards or locally-specific provisions, we will review new ordinance language you prepare or we can help draft new language.

### What are “technical amendments” to the building code?

A technical amendment to the building code is a locally adopted provision that modifies the California Building Standards Code, CCR Title 24. Only local amendments that make the code more restrictive are allowed. State law authorizes local governments to enact ordinances making building standards amendments to the building code. The law includes specific requirements for the basis for a local amendment, how the amendment language and documents must be prepared, and how the amendment must be filed with either the California Building Standards Commission, the Department of Housing and Community Development or other state agencies as required. Building code amendments must be re-adopted every time the California Building Standards Commission adopts a new edition of the code (every three years).

More detail and a link to the California Building Standards Commission web site are included in the General Instructions for Higher Standards.

### If our draft ordinance has already been reviewed, should we send it back if we’ve made additional edits?

Yes. Even minor edits may result in a noncompliant ordinance that will require follow up action to correct. Remember, the model was approved by FEMA – that means care must be taken when making any changes. While we have some degree of flexibility to tailor the ordinance, we must be careful not to modify certain sections and phrasing that are important for NFIP compliance. It is best to allow us to review all edits.

### What do we do after we adopt the floodplain management ordinance (and building code technical amendments, if applicable)?

* Send a copy of the fully executed ordinance to DWR or FEMA NFIP staff: DWR\_NFIP@water.ca.gov or FEMA-NFIP-R9@fema.dhs.gov. We will do a final review to complete the process.
* If you adopted technical amendments to the building code, you must submit the amendments to the California Building Commission. Consult the Building Commission’s [*Guide for Local Amendments of Building Standards*](https://www.dgs.ca.gov/-/media/Divisions/BSC/05-Resources/Guidebooks/Guide-Local-Amend-of-Bldg-Stnds-2019-FINAL-ACC-07-05-19.pdf?la=en&hash=555146F6A644CB4D5E4ABDC3B28301F6F9113F09). Send local ordinances that adopt local building code amendments to OrdinanceFilings@dgs.ca.gov before the local amendments are enforceable. Some amendments must be filed with the Department of Housing and Community Development. Send general questions to cbsc@dgs.ca.gov.

DWR/August 2020