type utilities and security devices, and has no permanently attached additions), or

(iii) meet the requirements for "manufactured homes" as stated earlier in this.

(7) **Accessory Structures.** Relief to the elevation or dry flood proofing standards may be granted for accessory structures. Such structures must meet the following standards:

a) Shall not be used for human habitation.

b) Shall be constructed of flood resistant materials.

c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

d) Shall be firmly anchored to prevent flotation.

e) Service facilities such as electrical and heating equipment shall be elevated or flood proofed to or above the FPG.

f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Chapter 5, Section B. (4).

(8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

C. Standards for Subdivision Proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

(5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

D. Critical Facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

E. Standards for Identified Flood ways.

Located within SFHAs, established in Chapter 3, Section B, are areas designated as flood ways. The flood way is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified flood way, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a flood way. Under the provisions of IC 14-28-1 (as may be amended, replaced or recodified) a permit for construction in a flood way from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the flood way. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river flood way. (IC 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river flood way without obtaining a permit for construction in the flood way from the Indiana Department of Natural Resources.

Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the flood way. Once a permit for construction in a flood way or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Chapter 5 of this Article 3 have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a flood way issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the flood way. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) Adams County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

F. Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Chapter 5 of this Article 3 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

G. Standards for SFHAs without Established Base Flood Elevation and/ or Flood ways/Fringes.

(1) Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the flood way and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a flood way (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a flood way (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Chapter 5 of this Article 3 have been met.

(2) Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the flood way and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Chapter 5 of this Article 3 have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development shall not adversely affect the efficiency of, or unduly restrict the capacity of the flood way. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

H. Standards for Flood Prone Areas.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Chapter 5.

Chapter 6 - Variance Procedures.

3-6-1 All variances under this Article shall occur pursuant to the provisions of this Chapter.

A. Designation of Variance and Appeals Board.

The Adams County Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this Article 3.

B. Duties of Variance and Appeals Board.

Pursuant to IC 36-7-4-918.1, the board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this Article 3. Any person aggrieved by the decision of the board may seek judicial review of such decision according to the provisions of IC 36-7-4-1600 Series

C. Variance Procedures.

In making decisions on a variance request pursuant to the criteria established in IC 36-7-4-918.5 , the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Article 3, and:

(1) The danger of life and property due to flooding or erosion damage.

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(3) The importance of the services provided by the proposed facility to the community.

(4) The necessity of the facility to a waterfront location, where applicable.

(5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(6) The compatibility of the proposed use with existing and anticipated development.

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. Conditions for Variances.

(1) Variances shall only be granted when the board can make positive findings of fact based on the evidence submitted at the hearing on the variance for the criteria in IC 36-7-4-918.5, and also for the following criteria in terms of variances from the provisions of this Article 3:

a) A showing of good and sufficient cause.

b) A determination that failure to grant the variance would result in exceptional hardship as defined in Chapter 2 above.

c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

d) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief

(2) No variance for a residential use within a flood way subject to Chapter 5, Section E or Section G (1) of this Article 3 may be granted.

(3) Any variance granted in a flood way subject to Chapter 5, Section E or Section G (1) of this Article 3 will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of Chapter 5, Section B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures. (Refer to Chapter 6, Section F.)

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Chapter 6, Section E).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Chapter 6, Section E).

E. Variance Notification.

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and;

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Adams County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

F. Historic Structure.

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

G. Special Conditions.

Upon the consideration of the factors listed in Chapter 6, and the purposes of this Article 3, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article 3.

Chapter 7. Severability.

If any, clause, sentence, or phrase of the Article 3 is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Article 3.

Chapter 8. Effective Date.

This Article 3 shall become effective sixty (60) days following the date of the execution by the Adams County Board of Commissioners as set forth below.

Chapter 9. Citation to other Law.

Any citation within this Article 3 to any provision of the United States Code, federal regulations adopted thereunder, Indiana Code, Indiana Administrative Code, or other section of the Adams County Land Use ordinance shall be deemed to refer to any amendment, repeal, replacement or recodification of the cited sections.

The text from this line and below this line will be included in the amendment to be signed by the Commissioners, in substantially the same form as below.

ADOPTION

Part of County Code of Ordinances. Upon this Article 3 becoming effective, the same shall thereupon and thereafter be an amendment to portions of Article 3 of "The Code of the County of Adams, Indiana" and shall then be and become a part of the Adams County Code of Ordinances.

Repealer. All ordinances or parts of ordinances in conflict the provisions of this Article 3 herewith are to the extent of such conflict hereby repealed.

PASSED AND ENACTED by the Board of Commissioners of the County of Adams, State of Indiana on this 30th day of June, 2020.

The Board of Commissioners
of the County of Adams, State of Indiana

Kim Fruechte, Commissioner, District #1
Rex Moore, Commissioner, District #2
Doug Bauman, Commissioner, District #3

Attest: Mary B. Beery
Auditor, Adams County