

**ariance** is a grant of relief from the requirements of this Article 3, which permits construction in a manner otherwise prohibited by this Article 3 where specific enforcement would result in a hardship as defined in this Article 3.

**Violation** means the failure of a structure or other development to be fully compliant with this Article 3. A structure or other development without the elevation, other certification, or other evidence of compliance required in this Article 3 is presumed to be in violation until such time as that documentation is provided.

**Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equalled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

**Zone** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

**Zone A** (see definition for A zone)

**Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

## CHAPTER 3 - General Provisions.

*3-3-1 The following general provisions apply throughout this Article.*

### A. Lands to Which This Article 3 Applies.

This Article 3 shall apply to all SFHAs and known flood prone areas within the jurisdiction of Adams County, Indiana.

### B. Basis for Establishing Regulatory Flood Data.

This Article 3's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, flood way, and fringe limits for the studied SFHAs within the jurisdiction of Adams County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Adams County, Indiana and Incorporated Areas dated September 29, 2010, and the corresponding Flood Insurance Rate Map dated September 29, 2010, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, flood way, and fringe limits for each of the SFHAs within the jurisdiction of Adams County, delineated as an "A Zone" on the Adams County, Indiana Flood Insurance Rate Map dated September 29, 2010, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, flood way, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.

(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

### C. Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required prior to the commencement of any development activities in areas of special flood hazard, and the development, structure, or substantial improvement to which the permit pertains shall conform to the requirements of this Article 3.

### D. Compliance.

No structure shall be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this Article 3 and other applicable regulations. No land or stream within the SFHA shall be altered without full compliance with the terms of this Article 3 and other applicable regulations.

### E. Abrogation and Greater Restrictions.

This Article 3 is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article 3 and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the flood way, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

### G. Interpretation.

In the interpretation and application of this Article 3 all provisions shall be:

(1) Considered as minimum requirements.

(2) Liberally construed in favor of the governing body.

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

### H. Warning and Disclaimer of Liability.

The degree of flood protection required by this Article 3 is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this Article 3 does not create any liability on the part of Adams County, the Adams County Plan Commission, the Zoning Administrator, The Adams County Planning and Zoning Department, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this Article 3 or any administrative decision made lawfully thereunder.

### I. Penalties for Violation.

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this Article 3. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Adams County. All violations shall be punishable by a fine not exceeding \$2500 per day.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The Adams County Plan Commission by and through the Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(3) Nothing herein shall prevent Adams County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

## CHAPTER 4 - Administration.

*3-4-1 The provisions of this Article shall be administered pursuant to the following provisions.*

### A. Designation of Administrator.

The County Commissioners of Adams County hereby appoints the Zoning Administrator to administer and implement the provisions of this Article 3 and is herein referred to as the Floodplain Administrator.

### B. Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. The Floodplain Administrator may use the forms and processes established for the issuance of an Improvement Location Permit for purposes of the Floodplain Development Permit, it is not inconsistent with the provisions of this Article 3. Specifically the following information is required:

(1) Application Stage.

a) A description of the proposed development.

b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

c) A legal description of the property site.

d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.

f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be flood proofed.

g) Description of the extent to which any watercourse will be altered or

relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Chapter 4, C. (6) for additional information.)

(2) Construction Stage.

Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor, professional engineer or architect and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

Upon establishment of the flood proofed elevation of a flood proofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a flood proofing certificate. The flood proofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by the same. The Floodplain Administrator shall review the flood proofing certification submitted. The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the flood proofing certificate or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 086-0-33 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a flood proofing measure, flood proofing certification (FEMA Flood proofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

### C. Duties and Responsibilities of the Floodplain Administrator.

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this Article 3. The Floodplain Administrator is further authorized to render interpretations of this Article 3, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this Article 3 have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development project subject to Chapter 5, E and G (1) of this Article 3, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the flood way.

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and flood proofing data for all buildings constructed subject to this Article 3.

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Chapter 4, B.

(12) Verify and record the actual elevation to which any new or substantially improved structures have been flood proofed in accordance with Chapter 4, B.

(13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized County officials shall have the right to enter and inspect properties located in the SFHA. In addition to the three inspections above, the Floodplain Administrator has the authority to require certified survey information from a licensed Indiana surveyor to confirm compliance with this subsection.

(14) Stop Work Orders

a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this Article 3 shall immediately cease.

b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(15) Revocation of Permits

a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this Article 3, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Article 3.

## Chapter 5 - Provisions for Flood Hazard Reduction.

*3-5-1 Provisions for hazard reduction for Special Flood Hazard Areas shall be as follows.*

### A. General Standards.

In all SFHAs and known flood prone areas the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this Article 3 shall meet the requirements of "new construction" as contained in this Article 3.

(10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

(11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

a) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.

c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

d) The fill or structure shall not obstruct a drainage way leading to the floodplain.

e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.

f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this Chapter.

### B. Specific Standards.

In all SFHAs, the following provisions are required:

(1) In addition to the requirements of Chapter 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

a) Construction or placement of any structure having a floor area greater than 400 square feet.

b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This Article 3 does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

f) Reconstruction or repairs made to a repetitive loss structure.

g) Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since January 1, 2010.

(2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Chapter 5, Section B (4).

(3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be flood proofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Chapter 5, Section B (4). Structures located in all "A Zones" may be flood proofed in lieu of being elevated if done in accordance with the following:

a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in Chapter 4, Section C (12).

b) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.

(4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

g) Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of Chapter 5, Section B. (4). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded, along with the deed, in the office of the Adams County Recorder.

(i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Adams County Recorder.

(5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

a) The fill shall be placed in layers no greater than 1-foot-deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.

c) The fill shall be protected against erosion and scour during flooding by vegetative cover, rip rap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

e) The top of the lowest floor including basements shall be at or above the FPG.

f) Fill shall be composed of clean granular or earthen material.

(6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:

(i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and 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).

(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and 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).

(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

c) Recreational vehicles placed on a site shall either:

(i) be on site for less than 180 days, and

(ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect