ORDINANCE 17 - 2021
ORDINANCE AMENDING ADAMS COUNTY FLOODPLAIN ORDINANCE NO. 10-1987

WHEREAS: The Adams County Board of Supervisors adopted the amended Floodplain Ordinance on October 20, 1987; amended 6-21-1988; 11-6-1990; 10-18-2005 by Ord. No. 10-62-2005; 11-14-2006 by Ord. No. 57-2006; 9-19-2007 by Ord. No. 21-2007; 5-20-2008 by Ord. No. 12-2008; 10-16-2012 by Ord. No. 8-2012, which was effective upon publication on 10-20-1987; and

WHEREAS: The Adams County Planning & Zoning Committee conducted a public hearing on the proposed amendments to the Floodplain Ordinance on March 3, 2021 and after evaluating all data and evidence presented at the hearing, the Planning & Zoning Committee moved to recommend approval as stated below.

Now therefore, the Adams County Board of Supervisors does hereby ordain as follows:

This Ordinance Amendment is to be effective as of the date of its publication, following enactment by the Adams County Board of Supervisors.

Recommended for enactment by the Adams County Planning and Zoning Committee on this 3rd day of March, 2021.

Barbara A. Morgan

Rocky Gilner

Larry Borud

Jodi Schappe

Randy Theisen

Charles Quick

Bruce Nachreiner

Enacted X
Defeated ____ by the Adams County Board of Supervisors
Tabled ____ this 16 day of March, 2021

John West, Board Chair

Cheryl Kroening, County Clerk

☒Reviewed by County Manager / Administrative Coordinator
☒Reviewed by Corporation Counsel

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 370
Floodplain Zoning

[HISTORY: Adopted by the Board of Supervisors of Adams County 10-20-1987; amended 6-21-1988; 11-6-1990; 10-18-2005 by Ord. No. 10-62-2005; 11-14-2006 by Ord. No. 57-2006; 9-19-2007 by Ord. No. 21-2007; 5-20-2008 by Ord. No. 12-2008; 10-16-2012 by Ord. No. 8-2012. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Citations — See Ch. **17**.

Building construction — See Ch. **166**.

Dam property — See Ch. **178**.

Stormwater runoff — See Ch. **313**.

Comprehensive Plan — See Ch. **365**.

Land division — See Ch. **382**.

Planning and zoning permits — See Ch. **391**.

Shoreland, wetland and habitat protection — See Ch. **396**.

Zoning — See Ch. **405**.

Article I
Introduction

§ 370-1 **Statutory authorization.**

This chapter is adopted pursuant to the authorization in §§ 59.69, 59.692, and 59.694, Wis. Stats., and the requirements in § 87.30, Wis. Stats.

§ 370-2 **Finding of fact.**

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

§ 370-3 **Statement of purpose.**

This chapter is intended to regulate floodplain development to:

A. Protect life, health and property;

B. Minimize expenditures of public funds for flood-control projects;

C. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

D. Minimize business interruptions and other economic disruptions;

E. Minimize damage to public facilities in the floodplain;

F. Minimize the occurrence of future flood blight areas in the floodplain;

G. Discourage the victimization of unwary land and home buyers;

H. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

I. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

§ 370-4 **Title.**

This chapter shall be known as the "Floodplain Zoning Ordinance for Adams County, Wisconsin."

§ 370-5 **General provisions.**

A. Areas to be regulated. This chapter regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO Zones. Regional flood elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

B. Official maps and revisions. The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the letter of map change process (see Article **VIII**, Amendments) before it is effective. No changes to RFEs on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Planning and Zoning Department, Adams County. If more than one map or revision is referenced, the most restrictive information shall apply.

(1)Official maps. Based on the Flood Insurance Study (FIS):

(a) Flood Insurance Rate Map (FIRM) panel numbers: 55001C0006D, 55001C0007D, 55001C0008D, 55001C0009D, 55001C00011D, 55001C00012D, 55001C00013D, 55001C00014D, 55001C00016D, 55001C00017D, 55001C00018D, 55001C00026D, 55001C00030D, 55001C00035D, 55001C00045D, 55001C00075D, 55001C000100D, 55001C000107D, 55001C000109D, 55001C000117D, 55001C000119D, 55001C00126D, 55001C000127D, 55001C000128D, 55001C000129D, 55001C000136D, 55001C000138D, 55001C000139D, 55001C000145D, 55001C000175D, 55001C000200D, 55001C000226D, 55001C000227D, 55001C000229D, 55001C000231D, 55001C000232D, 55001C000233D, 55001C000234D, 55001C000236D, 55001C000237D, 55001C000238D, 55001C000239D, 55001C000245D, 55001C000251D, 55001C000252D, 55001C000256D, 55001C000257D, 55001C000269D, 55001C000300D, 55001C000327D, 55001C000331D, 55001C000332D, 55001C000333D, 55001C000334D, 55001C000342D, 55001C000352D,

55001C000353D, 55001C000354D, 55001C000358D, 55001C000359D, 55001C000360D, 55001C000361D, 55001C000362D, 55001C000363D, 55001C000364D, 55001C000400D, 55001C000425D, 55001C000427D, 55001C000429D, 55001C000431D, 55001C000433D, 55001C000434D, 55001C000437D, 55001C000441D, 55001C000442D, 55001C000443D, 55001C000475D, 55001C0500D dated June 17, 2008, with corresponding profiles that are based on the Flood Insurance Study (FIS) dated June 17, 2008, volume number 55001CV000A.

(2) Official maps. Based on other studies and approved by DNR and FEMA: **[Amended 10-20-2015 by Ord. No. 22-2015; 4-17-2019 by Ord. No. 9-2019]**

(a) Friendship Dam Field file 1.01.

Study titled: Dam Failure Analysis Friendship Dam
Prepared by: Ayres Associates
Dated: March 2018
Approved by the WDNR on April 17, 2018
Map titled: Hydraulic Shadow Sheets 1, 2, and 3
Data table titled: Table 5 Hydraulic Shadow Floodway Data
Profile titled: 100-year failure

(b) Arkdale Dam Field file 1.03.

Study titled: Arkdale Lake Dam - Dam Failure Analysis
Prepared by: MSA
Dated: January 30, 2018
Approved by the WDNR on September 5, 2018
Map titled: Dam Failure Scenario Arkdale Dam
Data table titled: Data Table
Profile titled: Plan: Dam Failure

(c) Easton Dam Field File 1.04.

Study titled: Dam Hazard Assessment Easton Dam
Prepared by: Ayres Associates
Dated: March 2007
Approved by the WDNR on April 30, 2007
Map titled: Hydraulic Shadow Map Exhibit 3
Data table titled: Table 3 Flood Crest Summary
Profile titled: Exhibit 4 sheets 1 and 2

(d) Cottonville Dam (Big Roche a Cri) Field File 1.08.

Approved by the WDNR on January 29, 2003
Map titled: Figure 2 Floodplain Map
Data table titled: DAMBRK Output Table 1B Dam w/Failure
Profile titled: Figure 6 Big Roche A Cri Dam Failure Analysis

(e) McGinnis Lake Dam Field file 1.18.

Study titled: Dam Hazard Assessment
Prepared by: Ayres Associates
Dated: January 2010
Approved by the WDNR on May 10, 2010
Map titled: Figure 5 100 Year Flood Hydraulic Shadow
Data table titled: Table 5 Hydraulic Shadow Floodway Data
Profile titled: Exhibit 6 100 Year Flood Profile

(f) Sherwood Dam Field file 1.19.

Study titled: Hydrologic, Hydraulic, and Stability Analysis for Lake Camelot, Lake Sherwood, and Lake Arrowhead
Prepared by: R.A. Smith and Associates
Dated: March 31, 1992
Approved by the WDNR on September 30, 1993
Map titled: Flood Inundation Maps (Lake Camelot, Lake Sherwood and Lake Arrowhead) Sheet 2 and 3 of 5
Data table titled:
Profile titled: Flood Profiles Sheet 5 of 5 100 yr Water Surface Profile

(g) Camelot Dam Field file 1.20.

Study titled: Hydrologic, Hydraulic, and Stability Analysis for Lake Camelot, Lake Sherwood, and Lake Arrowhead
Prepared by: R.A. Smith and Associates
Dated: March 31, 1992
Approved by the WDNR on September 30, 1993
Map titled: Flood Inundation Maps (Lake Camelot, Lake Sherwood and Lake Arrowhead) Sheet 1 and 2 of 5
Data table titled:
Profile titled: Flood Profiles Sheet 4 of 5 100 yr Water Surface Profile

(h) Fawn Lake Dam Field File 1.21.

Study titled: Dam Hazard Assessment
Prepared by: Ayres Associates
Dated: January 2010
Approved by the WDNR on May 10, 2012

Map titled: Exhibit 5 100 Year Flood Hydraulic Shadow
Data table titled: Table 4 Hydraulic Shadow Floodway Data
Profile titled: Exhibit 6 Dam Break Flood Profiles

(i) Peppermill Dam Field file 1.22.

Study titled: Dam Hazard Assessment
Prepared by: Ayres Associates
Dated: January 2010
Approved by the WDNR on May 10, 2012
Map titled: Exhibit 5 100-year Flood Map Hydraulic Shadow
Data table titled: Table 4 Hydraulic Shadow Floodway Data
Profile titled: Exhibit 6 100 Year Flood Profile

(j) Arrowhead Dam Field File 1.26.

Study titled: Hydrologic, Hydraulic, and Stability Analysis for Lake Camelot, Lake Sherwood, and Lake Arrowhead
Prepared by: R.A. Smith and Associates
Dated: March 31, 1992
Approved by the WDNR on September 30, 1993
Map titled: Flood Inundation Maps (Lake Camelot, Lake Sherwood and Lake Arrowead) Sheet 3 of 5
Data table titled:
Profile titled: Flood Profiles Sheet 5 of 5 100 yr Dam Failure Water Surface Profile

(k) Schwahn Dam Field file 1.27.

Study titled: Research on Schwahn Dam Repairs
Prepared by: General Engineering Company
Dated: May 2002
Approved by the WDNR on May 31, 2002
Map titled: Schwahn Cross Sections
Data table titled: Dam Failure page 441
Profile titled: None

(l) White Creek Quincy Dam (Fossid) Field File 1.30.

Study titled: White Creek Flowage Dam Failure Analysis
Prepared by: AECOM
Dated: November 2013
Approved by the WDNR on December 2, 2013
Map titled: Figure 1 Regional Flood Inundation 11/25/2013
Data table titled: Figure 1 Regional Flood Inundation 11/25/2013
Profile titled: Regional Dam Poor Breach 4/11/2013

(m) All DNR and FEMA-approved floodplain maps, flood profiles, floodway data tables, regional or base flood elevations and other information: The community shall provide the most up-to-date information to the DNR and FEMA regional offices.

C. Establishment of floodplain zoning districts. The regional floodplain areas are divided into three districts as follows:

(1) The floodway district (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and is contained within AE Zones as shown on the FIRM.

(2) The flood-fringe district (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.

(3) The general floodplain district (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO Zones on the FIRM.

D. Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in Subsection **D(1)** or **(2)** below. If a significant difference exists, the map shall be amended according to Article **VIII**, Amendments. The Planning and Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The Planning and Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this subsection. Disputes between the Planning and Zoning Administrator and an applicant over the district boundary line shall be settled according to § **391-17** and the criteria in Subsection **D(1)** and **(2)** below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Article **VIII**, Amendments.

(1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

E. Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Article **VIII**, Amendments.

F. Compliance. Any development or use within the areas regulated by this chapter shall be in compliance with the terms of this chapter and other applicable local, state, and federal regulations.

G. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary

permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies.

H. Abrogation and greater restrictions.

(1) This chapter supersedes all the provisions of any municipal zoning ordinance enacted under § 59.69, 59.692, 59.694 or 87.30, Wis. Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

I. Interpretation. In their interpretation and application, the provisions of this chapter are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by Ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

J. Warning and disclaimer of liability. The flood protection standards in this chapter are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This chapter does not imply or guarantee that nonfloodplain areas or permitted floodplain uses will be free from flooding and flood damages. This chapter does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

K. SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

L. ANNEXED AREAS FOR CITIES AND VILLAGES

The Adams County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

Article II

General Standards Applicable to All Floodplain Districts

§ 370-6 **General requirements.**

A. The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; and be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

B. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the "subdivision" definition of this chapter and all other requirements in § **370-26B**. Adequate drainage shall be provided to reduce exposure to flood hazards, and all public utilities and facilities, such as sewer, gas, electrical, and water systems, are located and constructed to minimize or eliminate flood damages.

§ 370-7 **Hydraulic and hydrologic analyses.**

A. No floodplain development shall:

(1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

(2) Cause any increase in the regional flood height due to floodplain storage area lost.

B. The Planning and Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Article **VIII**, Amendments, are met.

§ 370-8 **Watercourse alterations.**

A. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the Planning and Zoning Administrator has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The standards of § **370-7** must be met and the flood-carrying capacity of any altered or relocated watercourse shall be maintained.

B. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Article **VIII**, Amendments, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

§ 370-9 **Development requiring state permit.**

Development which requires a permit from the Department, under Chs. **30** and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary

permits are obtained and amendments to this chapter are made according to Article **VIII**, Amendments.

§ 370-10 **Public or private campgrounds.**

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

A. The campground is approved by the Department of Health Services;

B. A land use permit for the campground is issued by the Planning and Zoning Administrator;

C. The character of the river system and the campground elevation are such that a seventy-two-hour warning of an impending flood can be given to all campground occupants;

D. There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the Emergency Management Coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

E. This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in Subsection **D**, to remain in compliance with all applicable regulations, including those of the State Department of Health Services and all other applicable regulations;

F. Only camping units that are fully licensed, if required, and ready for highway use are allowed;

G. The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

H. All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

I. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

J. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Article **III**, Article **IV** or Article **V** for the floodplain district in which the structure is located;

K. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

L. All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells, shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Article IIA
Flooded Agriculture-Cranberry Farms (FA-C)

[Added 4-17-2019 by Ord. No. 9-2019]

§ 370-10.1 **Statement of purpose.**

A. The federal government created the National Flood Insurance Program (NFIP) to establish flood risk zones and to provide flood insurance to property owners in communities that adopt and enforce floodplain regulations in accordance with regulatory floodplain maps approved by the Federal Emergency Management Agency (FEMA). In recognition of the NFIP's requirements, the following article shall apply to flooded agriculture-cranberry farms (FA-C).

B. Cranberry farming uses extensive water management systems that are often located in areas designated as a special flood hazard area (SFHA).

C. Within the SFHA, this article establishes the minimum floodplain regulations, which apply to maintenance and FA-C development activities and it preserves the orderly and efficient use of land for agricultural purposes. The provisions of this article are limited to floodplain management requirements. This section is designed to clarify permit procedures for routine activities related to cranberry culture.

§ 370-10.2 **Applicability.**

A. The ordinance provisions for this district shall apply to all flooded agriculture-cranberry farms (FA-C) in the SFHA as identified on the effective Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) for the community. The intent of this district is to provide a consistent regulatory framework for both maintenance and development activities, which are required for the efficient management of a cranberry farming operation.

B. These provisions describe the activities associated with FA-C, the potential for each activity to impact the base flood elevation (BFE) or floodway and the requirements for each activity. This article does not apply to the construction, maintenance, repair or modification of any building in this district. Buildings and all other development activities not associated with cranberry farming are regulated by other sections of this floodplain zoning ordinance.

§ 370-10.3 **Permitted use.**

Any use or FA development activity, which occurs in a FA-C must meet the requirements in this section.

§ 370-10.4 **Definitions.**

In this section:

DEPARTMENT

The Wisconsin Department of Natural Resources.

EXISTING CRANBERRY FARM

The area of established cranberry farming as established pursuant to § **370-10.5**.

FA-C

The portions of the existing cranberry farm as defined in § **370-10.5** and that are subject to the SFHA regulations.

FA-C DEVELOPMENT ACTIVITIES

Development activities listed in § **370-10.6D**. FA-C development activities do not include maintenance activities and do not include the construction, maintenance, repair or modification of any building.

MAINTENANCE ACTIVITIES

Activities identified in § **370-10.6E** that take place within the boundary of an existing cranberry farm.

PERIMETER DIKE

The dike or system of dikes that are closest to the boundary line of the existing cranberry farm, usually the outermost dike.

PERMIT REQUIRED

A FA-C permit is required.

SPECIAL FLOOD HAZARD AREA (SFHA)

An area having special flood hazards and is shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as an A, AE, AH or AO Zone.

§ 370-10.5 **Establishment of existing cranberry farm.**

The construction or maintenance of a building is not covered by this section. (For construction or maintenance, please refer to Articles **III**, **IV** and **V** of this chapter.)

A. To establish the boundary of an "existing cranberry farm," a person must file with the community a certified legal description of the farm boundary as it existed on June 17, 2008. The area of existing use includes all farm production areas, all farm support land and all farm support areas, including dikes, impoundments, water storage reservoirs, ditches, sand stockpiles and roads. The area of established use does not include buildings. **[Amended 7-16-2019 by Ord. No. 16-2019]**

B. Upon issuance of the FA-C permit, the FA-C development that is completed in accordance with the FA-C permit shall be established as an existing cranberry farm upon completion.

§ 370-10.6 **Requirements for new FAD development activities in flooded agriculture districts-cranberry farms.**

(For construction or maintenance, please refer to Articles **III**, **IV** and **V** of this chapter.)

A. A Zones: FA-C development activities in an A Zone may not cause a cumulative impact on the base flood elevation (BFE) of more than 1.0 foot at any point on the waterway. If any project causes an increase in flooding elevations that would impact other properties, then the provisions of the community's floodplain zoning standards apply. Increases equal to or greater than one foot would require submittal of the engineering study to FEMA for a conditional letter of map revision (CLOMR). It is the project sponsor's responsibility to contract for and submit the engineering study to the community. All studies shall be reviewed and approved by the Department at the community's request. It is the community's responsibility to determine if the project meets the district criteria, determine if a permit is appropriate, and submit the CLOMR application to FEMA when necessary.

B. AE Zones: FA-C development activities in the designated floodway of an AE Zone must be analyzed using the current, effective hydraulic model to ensure that the project does not cause an increase to the BFE. If any project causes an increase in flooding elevations that would impact

other properties, the provisions of § NR 116.11(3), Wis. Adm. Code apply. Any increase requires submittal of the engineering study to FEMA for a conditional letter of map revision (CLOMR). It is the project sponsor's responsibility to contract for and submit the engineering study to the community. All studies shall be reviewed and approved by the Department at the community's request. It is the community's responsibility to determine if the project meets the district criteria, determine if a permit is appropriate, and submit the CLOMR application to FEMA when necessary.

C. All FA-C development activities require a FA-C permit in accordance with § **370-10.6G**. **[Amended 7-16-2019 by Ord. No. 16-2019]**

D. FA development activities include:

(1) New dikes and impoundments. Construction of a dike or an impoundment outside the boundary of existing cranberry farm. Includes the use of heavy machinery.

(2) New ditches. Construction of a new ditch outside the boundary of existing cranberry farm. Includes the use of heavy machinery to dig the ditch and the removal of plant and debris material.

(3) New farm roads. Construction of a farm road outside the boundary of existing cranberry farm. Includes the placement of materials as appropriate to build a road that is adequate for expected loads.

(4) New reservoirs. Construction of a reservoir outside the boundary of existing cranberry farm. Includes the use of heavy machinery for excavation.

(5) Sand mining. Sand mining outside the boundary of existing cranberry farm. Includes the extraction and stockpiling of sand using heavy equipment or hydraulic dredges.

(6) New water control structures. Placement of a water control structure in a ditch or reservoir outside the boundary of existing cranberry farm. Includes the placement of a bulkhead or other water control structure in a dike to control water movement in ditches and reservoirs. Riprap and other material may be used to prevent erosion and failure of the structure.

(7) New bed construction. Construction of a new cranberry bed outside of the boundary of an existing cranberry farm.

E. Maintenance activities.

(1) Maintenance activities conducted in accordance with § **370-10.6F** in the designated floodway of an A Zone or an AE Zone will not cause an increase in the BFE. **[Amended 7-16-2019 by Ord. No. 16-2019]**

(2) Maintenance activities do not require an FA-C permit.

F. Requirements for maintenance activities in Flooded Agriculture-Cranberry Farms.

(1) Maintenance activities must take place within the boundary of an existing cranberry farm

and below the top of the existing perimeter dike.

(2) Maintenance of dikes or impoundments must be conducted such that the height of the existing dike or impoundment is maintained.

(3) No spoil materials may be placed such that the height of the top of the perimeter dike on an existing cranberry farm is increased above the established height of the perimeter dike. If spoils materials are placed outside of the existing farm perimeter dike but within the existing farm boundary, then they must be placed outside of the SFHA, must meet the cumulative impact requirement for an A Zone or must be in the nonfloodway portion of an AE Zone.

(4) Maintenance activities include the following:

(a) New bed drainage within boundary of existing cranberry farm. Includes installation of drain tiles to improve water management; creation of perimeter ditches around the bed area (inside the impoundments) to direct water on and off the bed; and/or installation of water control structures on ends of beds to allow for flooding and drainage.

(b) Bed drainage: renovation within boundary of existing cranberry farm. Includes installation of drain tiles to improve water management; creation of perimeter ditches around the bed area (inside the impoundments) to direct water on and off the bed; and/or installation of water control structures on ends of beds to allow for flooding and drainage.

(c) New bed leveling within boundary of existing cranberry farm. Cranberry beds are leveled using heavy equipment and a laser level. Sand is deposited onto the bed surface as needed to achieve a level surface with a slight crown in the center such that water drains to the edges of the bed. Beds are entirely surrounded by dikes.

(d) Bed leveling: renovation within boundary of existing cranberry farm. Cranberry beds are leveled using heavy equipment and a laser level. Sand is deposited onto the bed surface as needed to achieve a level surface with a slight crown in the center such that water drains to the edges of the bed. Beds are entirely surrounded by dikes.

(e) New bed planting within boundary of existing cranberry farm. Vines are planted into the bed surface using plugs, mechanical planting equipment and/or vines spread on the ground and pushed into the surface with a modified disc. Beds are entirely surrounded by dikes.

(f) Bed planting: renovation within boundary of existing cranberry farm. Vines are planted into the bed surface using plugs, mechanical planting equipment and/or vines spread on the ground and pushed into the surface with a modified disc. Beds are entirely surrounded by dikes.

(g) New bed removal of materials or scalping within boundary of existing cranberry farm. Existing plant material is removed. Plant material is loaded into trucks and removed.

(h) Bed removal of materials or scalping: renovation within boundary of existing cranberry farm. Existing plant material is removed. Plant material is loaded into trucks and removed.

(i) New bed sanding within boundary of existing cranberry farm. Sand is deposited onto the bed surface using heavy equipment to bring the planting surface to the desired level.

(j) Bed sanding: renovation within boundary of existing cranberry farm. Sand is deposited onto the bed surface using heavy equipment to bring the planting surface to the desired level.

(k) Dike: seeding. Reservoirs and bed dikes are seeded to stabilize banks and prevent erosion. Most seeding is done with a hydroseeder after a suitable planting medium has been placed on the area to be seeded.

(l) New dike or impoundment within boundary of existing cranberry farm. New construction of dikes and impoundments and placement of new water control structures within the established perimeter of an existing cranberry farm.

(m) Dike or impoundment: repair/maintenance of existing structures. Includes excavating adjacent to dikes to increase storage capacity and control of water flow, excavating sand from a reservoir to increase the water storage capacity, installation of splitter dikes to manage water flow and subdivide reservoirs, and replacement of existing water control structures.

(n) Ditch: cleaning and maintenance of existing ditches. Drainage and irrigation ditches are cleaned using heavy equipment to remove plant material and debris. Spoils cannot be placed on the ditch side of any adjacent dike.

(o) New ditch within boundary of existing cranberry farm. New ditches are constructed using heavy machinery. Plant material and debris are removed.

(p) Farm road: maintenance of existing roads. Farm roads are graded and repaired to maintain height, stability and width. Sand or gravel is placed in damaged areas. Culverts are replaced. Roads are mowed to prevent growth of brush or flowers that serve as competition for pollinators.

(q) New farm road within boundary of existing cranberry farm. Farm roads are constructed using placement of materials as appropriate for the loads expected to be carried.

(r) Harvest: flood. Water is released from storage areas and gravity flowed or pumped into production (cranberry bed) areas. An initial "raking" flood of six inches to 12 inches is applied. After harvest machinery moves through the beds, the water level is increased above the vine canopy to allow the fruit to be corralled and removed.

(s) Irrigation: flood. Water is released from the reservoir or pumped onto the beds to provide a flood for insect control or protection during severe weather. Water is then

returned to the reservoir or other water body.

(t) Irrigation system maintenance and renovation. Periodic repair of cranberry bed sprinkler systems includes nozzle replacement; mainline replacement with aluminum or plastic materials; burial of laterals; upgrades to pumping systems and construction of pumping stations within the perimeter of the most external impoundment of the farm.

(u) Reservoir maintenance and construction of reservoirs within the boundary of existing cranberry farm. Reservoirs are periodically excavated to alter or maintain depth levels. Heavy equipment is used for excavation.

G. FA-C permits. A FA-C permit shall be obtained before any development in the FA-C may be initiated. Application to the Zoning Administrator shall include:

(1) General information.

(a) Name and address of the applicant, property owner and contractor;

(b) Legal description of the proposed development area; and

(c) Statement that the proposed use is cranberry farming.

(2) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

(a) Location, dimensions, area and elevation of the proposed development area;

(b) Location of the ordinary high water mark of any abutting navigable waterways;

(c) Location of any structures with distances measured from the lot lines and street center lines; and

(d) Location of SFHA floodplain and floodway limits as determined from the official floodplain zoning maps.

(3) A Zone application. An application for FA-C development activity in an A Zone shall include a certificate of no-rise, or a technical analysis sufficient to show that the proposed development will not cause a cumulative impact on the base flood elevation (BFE) of more than 1.0 foot within the regulatory floodway of a particular reach on the waterway.

(4) AE Zone application. An application for FA-C development activity in an AE Zone shall include submission of a certificate of no-rise. If the analysis shows the project will cause an increase greater than 0.00 foot in the BFE, then the project sponsor shall provide the community with information necessary for the community to evaluate the proposed project.

Article III
Floodway District (FW)

§ 370-11 **Applicability.**

This article applies to all floodway areas on the floodplain zoning maps and those identified pursuant to

§ 370-12 **Permitted uses.**

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance, they meet the standards in §§ **370-13** and **370-14**, and all permits or certificates have been issued according to § **370-25 and Chapter 391 of the Adams County Code of Ordinances**:

A. Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

B. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

C. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of § **370-13D**.

D. Uses or structures accessory to open space uses or classified as historic structures that comply with §§ **370-13** and **370-14**.

E. Extraction of sand, gravel or other materials that comply with § **370-13D**.

F. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Chs. **30** and 31, Wis. Stats.

G. Public utilities, streets and bridges that comply with § **370-13C**.

§ 370-13 **Standards for developments in floodway.**

A. General.

(1) Any development in the floodway shall comply with Article **II** of this Chapter and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to §§ **370-7** and **370-25(A)(3)**:

(a) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

(b) An analysis calculating the effects of this proposal on regional flood height.

(3) The Planning and Zoning Administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for Subsection **A(2)** above.

B. Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

(1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;

(2) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:

(a) Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;

(b) Have structural components capable of meeting all provisions of Section 370-13 (B)(7) and;

(c) Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 370-13 (B)(7).

(3) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets or exceeds the following standards:

(a) The lowest floor must be elevated to or above the flood protection elevation;

(b) A minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area subject to flooding; and

(c)The bottom of all such openings being no higher than one foot above the lowest adjacent grade. The openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open;

(4) Must be anchored to resist flotation, collapse, and lateral movement;

(5) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

(6) Must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.

(7) Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:

(a). Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;

(b). Construction of wells, water supply systems and waste treatment systems so as to prevent

the entrance of flood waters in such systems and must be in accordance with provisions in Sections 370-14 (D) and 370-14 (E).

(c). Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;

(d). Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and

(e). Placement of utilities above the flood protection elevation.

C. Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:

(1) Adequate floodproofing measures are provided to the flood protection elevation; and

(2) Construction meets the development standards of § 370-7.

D. Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:

(1) The requirements of § 370-7 are met;

(2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Ch. **30**, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344 has been issued, if applicable, and all other requirements have been met;

(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(4) The fill is not classified as a solid or hazardous material.

§ 370-14 **Prohibited uses.**

All uses not listed as permitted uses in § **370-12** are prohibited, including the following uses:

A. Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;

B. Storing materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

C. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

D. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code;

E. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chs. NR 811 and NR 812, Wis. Adm. Code;

F. Any solid or hazardous waste disposal sites;

G. Any wastewater treatment ponds or facilities, except those permitted under § NR 110.15(3)(b), Wis. Adm. Code; and

H. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Article IV
Flood-Fringe District (FF)

§ 370-15 **Applicability.**

This article applies to all flood-fringe areas shown on the floodplain zoning maps and those identified pursuant to § **370-21**.

§ 370-16 **Permitted uses.**

Any structure, land use, or development is allowed in the flood-fringe district if the standards in § **370-17** are met, the use is not prohibited by this chapter or any other ordinance or regulation and all permits or certificates specified in § **370-25 and Chapter 391 of the Adams County Code of Ordinances**: have been issued.

§ 370-17 **Standards for development in flood-fringe.**

Section **370-7** shall apply in addition to the following requirements according to the use requested. Any existing structure in the flood-fringe must meet the requirements of Article **VI**, Nonconforming Uses.

A. Residential uses. Any structure, including a manufactured home, which is to be newly constructed or moved into the flood-fringe shall meet or exceed the following standards. Any existing structure in the flood-fringe must meet the requirements of Article **VI**, Nonconforming Uses.

(1) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.

(2) Notwithstanding s. 370-17 (A)(1), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed lower than one foot above the regional flood elevation;

(3) Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in Subsection **A(4)**.

(4) In developments where existing street or sewer line elevations make compliance with Subsection **A(3)** impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:

(a) The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a

regional flood event; or

(b) The municipality has a DNR-approved emergency evacuation plan.

B. Accessory structures or uses. Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

C. Commercial uses. Any commercial structure which is erected, altered or moved into the flood-fringe shall meet the requirements of Subsection **A**. Subject to the requirements of Subsection **E**, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

D. Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected, altered or moved into the flood-fringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in § **370-30**. Subject to the requirements of Subsection **E**, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

E. Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with § **370-30**. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

F. Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans and:

(1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with § **370-30**.

(2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

G. Sewage systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of floodwater into the system, pursuant to § **370-30C**, to the flood protection elevation and meet the provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.

H. Wells. All wells shall be designed to minimize or eliminate infiltration of floodwaters into the system, pursuant to § **370-30C**, to the flood protection elevation and shall meet the provisions of Chs. NR 811 and NR 812, Wis. Adm. Code.

I. Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in flood-fringe areas.

J. Deposition of materials. Any deposited material must meet all the provisions of this chapter.

K. Manufactured homes.

(1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage and prepare, secure approval and file an

evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

(a) Have the lowest floor elevated to the flood protection elevation; and

(b) Be anchored so they do not float, collapse or move laterally during a flood.

(3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the flood-fringe in Subsection **A**.

L. Mobile recreational vehicles. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Subsection **K(2)** and **(3)**. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

Article V
General Floodplain District (GFP)

§ 370-18 **Applicability.**

The provisions for this district shall apply to all floodplains mapped as A, AO or AH Zones.

§ 370-19 **Permitted uses.**

A. Pursuant to § **370-21**, it shall be determined whether the proposed use is located within the floodway or flood-fringe.

B. Those uses permitted in the floodway (§ **370-12**) and flood-fringe (§ **370-16**) districts are allowed within the general floodplain district, according to the standards of § **370-20**, provided that all permits or certificates required under § **370-25 and Chapter 391 of the Adams County Code of Ordinances**: have been issued.

§ 370-20 **Standards for development in general floodplain district.**

Article **III** applies to floodway areas; Article **IV** applies to flood-fringe areas. The rest of this chapter applies to either district.

A. In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below, whichever is higher:

(1) At or above the flood protection elevation;

(2) Two feet above the highest adjacent grade around the structure; or

(3) The depth as shown on the FIRM.

B. In AO/AH Zones, provide plans showing adequate drainage paths to guide floodwaters around

structures.

§ 370-21 **Determining floodway and flood-fringe limits.**

Upon receiving an application for development within the general floodplain district, the Planning and Zoning Administrator shall:

A. Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures, and the flood zone as shown on the FIRM.

B. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

(1) A hydrologic and hydraulic study as specified in § **370-26B(3)**.

(2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types; and other pertinent information.

(3) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

Article VI
Nonconforming Uses

§ 370-22 **Applicability; conditions for continued use.**

A. Applicability. If these standards conform to § 87.30, Stats. And ch NR116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.

B. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this chapter may continue subject to the following conditions:

(1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this chapter. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure

may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this chapter.

(3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

(4) No modification or addition to any nonconforming structure or any structure with a nonconforming use which over the life of the structure would equal or exceed 50% of its present equalized assessed value shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § **370-17A**. The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this subsection.

(5) No maintenance of any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § **370-17A**.

(6) If on a per-event basis the total value of the work being done under Subsection **B(4)** and **(5)** equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § **370-17A**.

(7) Except as provided in Subsection **B(8)**, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

(8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

(a) Residential structures.

(1) Shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of § **370-30B**.

(2) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.

(3) Shall be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

(5) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § **370-20A**.

(6) In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(b) Nonresidential structures.

(1) Shall meet the requirements of Subsection **B(8)(a)[1]** to **[6]**.

(2) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation or, together with attendant utility and sanitary facilities, shall meet the standards in § **370-30A** or **B**.

(3) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § **370-20A**.

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with § **370-13A**, flood-resistant materials are used, and construction practices and floodproofing methods that comply with § **370-30** are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Subsection **B(8)(a)** if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

§ 370-23 **Floodway district.**

A. Modification or addition.

(1) No modification or addition shall be allowed to any nonconforming structure or any

structure with a nonconforming use in the floodway district, unless such modification or addition:

(a) Has been granted a permit or variance which meets all ordinance requirements.

(b) Meets the requirements of § **370-22**.

(c) Shall not increase the obstruction to flood flows or regional flood height.

(2) Any addition to the existing structure shall be floodproofed, pursuant to § **370-30**, by means other than the use of fill, to the flood protection elevation.

(3) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

(a) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

(b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

(c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

(d) The use must be limited to parking, building access or limited storage.

B. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, § **370-30C** and Ch. SPS 383, Wis. Adm. Code.

C. No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing well in the floodway district shall meet the applicable requirements of all municipal ordinances, § **370-30C** and Chs. NR 811 and NR 812, Wis. Adm. Code.

§ 370-24 **Flood-fringe district.**

A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of § **370-17**, except where Subsection **B** is applicable.

B. Where compliance with the provisions of Subsection **A** would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment, using the procedures established in § **370-28**, may

grant a variance from those provisions of Subsection **A** for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(1) No floor is allowed below the regional flood elevation for residential or commercial structures;

(2) Human lives are not endangered;

(3) Public facilities, such as water or sewer, shall not be installed;

(4) Flood depths shall not exceed two feet;

(5) Flood velocities shall not exceed two feet per second; and

(6) The structure shall not be used for storage of materials as described in § **370-17E**.

C. All new private sewage disposal systems or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, § **370-30C** and Ch. SPS 383, Wis. Adm. Code.

D. All new wells, or addition to, replacement, repair or maintenance of a well, shall meet the applicable provisions of this chapter, § **370-30C** and Chs. NR 811 and NR 812, Wis. Adm. Code.

Article VII
Administration

§ 370-25 **Permits**

A. Land use (zoning) permit. A land use permit shall be obtained before any new development, repair, modification or addition to an existing structure or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Planning and Zoning Administrator shall include:

(1) General information.

(a) Name and address of the applicant, property owner and contractor.

(b) Legal description, proposed use, and whether it is new construction or a modification.

(2) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

(a) Location, dimensions, area and elevation of the lot;

(b) Location of the ordinary high-water mark of any abutting navigable waterways;

(c) Location of any structures with distances measured from the lot lines and street center lines;

(d) Location of any existing or proposed on-site sewage systems or private water supply systems;

(e) Location and elevation of existing or future access roads;

(f) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

(g) The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

(h) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Article **III** or Article **IV** are met; and

(i) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to § **370-7**. This may include any of the information noted in § **370-13A**.

(3) Hydraulic and hydrologic studies to analyze development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

(a) Zone A floodplains.

(1) Hydrology. The appropriate method shall be based on the standards in § NR 116.07(3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

(2) Hydraulic modeling. The regional flood elevation shall be based on the standards in § NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of Regional Flood Elevation, and the following:

(a) Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.

(b) Channel sections must be surveyed.

(c) Minimum four-foot contour data in the overbanks shall be used for the development of cross-section overbank and floodplain mapping.

(d) A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

(e) The most current version of HEC_RAS shall be used.

(f) A survey of bridge and culvert openings and the top of road is required at each structure.

(g) Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.

(h) Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

(i) The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

[3] Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

(a) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

(b) If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

(b) Zone AE floodplains.

(1) Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on § NR 116.07(3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

(2) Hydraulic model. The regional flood elevation shall be based on the standards in § NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of Regional Flood Elevation, and the following:

(a) Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and

downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

(b) Corrected effective model. The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

(c) Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.

(d) Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

(e) All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

(f) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The effective model shall not be truncated.

(3) Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

(a) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, and bridge plans.

(b) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

(c) Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

(d) If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

(e) The revised floodplain boundaries shall tie into the effective floodplain boundaries.

(f) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

(g) Both the current and proposed floodways shall be shown on the map.

(h) The stream center line or profile baseline used to measure stream distances in the model shall be visible on the map.

(4) Expiration. All permits issued under the authority of this chapter shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

B. Certificate of compliance. No land shall be occupied or used and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Planning and Zoning Administrator, except where no permit is required, subject to the following provisions:

(1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter.

(2) Application for such certificate shall be concurrent with the application for a permit.

(3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.

(4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of § **370-30** are met.

C. Other permits. Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344.

§ 370-30 **Floodproofing standards for nonconforming structures or uses.**

A. No permit or variance shall be issued for a nonresidential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or

development to the flood protection elevation and submits a FEMA floodproofing certificate.

B. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

(1) Certified by a registered professional engineer or architect; or

(2) That meets or exceeds the following standards:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(b) The bottom of all openings shall be no higher than one foot above grade; and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

C. Floodproofing measures shall be designed, as appropriate, to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral movement;

(4) Minimize or eliminate infiltration of floodwaters; and

(5) Minimize or eliminate discharges into floodwaters.

§ 370-31 **Public information.**

A. Place marks on structures to show the depth of inundation during the regional flood.

B. All maps, engineering data and regulations shall be available and widely distributed.

C. Real estate transfers should show what floodplain district any real property is in.

Article VIII
Amendments

§ 370-32 **Obstructions or increases.**

Obstructions or increases may only be permitted if amendments are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with § **370-33**.

A. In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with § **370-33**. Any such alterations must be reviewed and approved by FEMA and the DNR.

B. In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant

receives a conditional letter of map revision from FEMA and amendments are made to this chapter, the official floodplain maps, floodway lines, and water surface profiles, in accordance with § **370-33**.

§ 370-33 **Actions requiring amendment.**

The governing body shall change or supplement the floodplain zoning district boundaries and this chapter in the manner outlined in s. § **370-34** below. Actions which require an amendment to this chapter and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:

A. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

B. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

C. Any changes to any other officially adopted floodplain maps listed in § **370-5B(2)**;

D. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

E. Correction of discrepancies between the water surface profiles and floodplain maps;

F. Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

G. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood-fringe that is based on a base flood elevation from a FIRM require prior approval by FEMA.

§ 370-34 **Amendment procedure.**

Ordinance amendments may be made upon petition of any party according to the provisions of § 59.69, Wis. Stats. The petitions shall include all data required by §§ **370-21** and **370-26B**. The land use permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.

A. The proposed amendment shall be referred to the Planning and Zoning Committee for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of § 59.69, Wis. Stats.

B. No amendments shall become effective until reviewed and approved by the Department.

C. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

Article IX
Enforcement

§ 370-35 **Violations and penalties.**

Any violation of the provisions of this chapter by any person shall be unlawful and shall be referred to the Municipal Attorney who shall expeditiously prosecute all such violators. A violator shall, upon

conviction, forfeit to the municipality a penalty of not less than $10 and not more than $50, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to § 87.30, Wis. Stats.

Article X
Word Usage and Definitions

§ 370-36 **Word usage.**

Unless specifically defined, words and phrases in this chapter shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and is not discretionary.

§ 370-37 **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE OR USE

A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

AH ZONE

See "area of shallow flooding."

ALTERATION

An enhancement, upgrading or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air-conditioning and other systems within a structure.

AO ZONE

See "area of shallow flooding."

AREA OF SHALLOW FLOODING

A designated AO, AH, AR/AO, AR/AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

A ZONES

Those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

BASEMENT

Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

BUILDING

See "structure."

BULKHEAD LINE

A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to § 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this chapter.

CAMPGROUND

Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is advertised or represented as a camping area.

CAMPING UNIT

Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck, or tent that is fully licensed, if required, and ready for highway use.

CERTIFICATE OF COMPLIANCE

A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this chapter.

CHANNEL

A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

CRAWLWAY or CRAWL SPACE

An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

DECK

An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.

DEPARTMENT

The Wisconsin Department of Natural Resources.

DEVELOPMENT

Any artificial change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

DRY LAND ACCESS

A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

ENCROACHMENT
Any fill, structure, equipment, use or development in the floodway.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
The federal agency that administers the National Flood Insurance Program.

FLOOD FREQUENCY
The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

FLOOD-FRINGE
That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

FLOOD HAZARD BOUNDARY MAP
A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

FLOOD INSURANCE RATE MAP (FIRM)
A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

FLOOD INSURANCE STUDY
A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

FLOOD or FLOODING
A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

A. The overflow or rise of inland waters;

B. The rapid accumulation or runoff of surface waters from any source;

C. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

D. The sudden increase caused by unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

FLOODPLAIN
Land which has been or may be covered by floodwater during the regional flood. It includes the

floodway and the flood-fringe, and may include other designated floodplain areas for regulatory purposes.

FLOODPLAIN ISLAND

A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

FLOODPLAIN MANAGEMENT

Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

FLOOD PROFILE

A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

FLOODPROOFING

Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

FLOOD PROTECTION ELEVATION

An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see "freeboard.")

FLOOD STORAGE

Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

FLOODWAY

The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

FREEBOARD

A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

HABITABLE STRUCTURE

Any structure or portion thereof used or designed for human habitation.

HEARING NOTICE

Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing, is required. Local ordinances or bylaws may require additional notice, exceeding these minimums.

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a

structure.

HIGH FLOOD DAMAGE POTENTIAL

Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

HISTORIC STRUCTURE

Any structure that is either:

A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or by the Secretary of the Interior in states without approved programs.

INCREASE IN REGIONAL FLOOD HEIGHT

A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions, which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

LAND USE

Any nonstructural use made of unimproved or improved real estate. (Also see "development.")

LOWEST ADJACENT GRADE

Elevation of the lowest ground surface that touches any of the exterior walls of a building.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of 44 CFR 60.3.

MAINTENANCE

The act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed

to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a mobile recreational vehicle.

MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading or the pouring of concrete pads.

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING

A parcel of land divided into two or more manufactured home lots for rent or sale on which the construction of facilities for servicing the lots is completed before the effective date of this chapter. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

MOBILE RECREATIONAL VEHICLE

A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicle."

MODEL, CORRECTED EFFECTIVE

A hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

MODEL, DUPLICATE EFFECTIVE

A copy of the hydraulic analysis used in the effective FIS and referred to as the "effective model."

MODEL, EFFECTIVE

The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

MODEL, EXISTING (PRE-PROJECT)

A modification of the duplicate effective model or corrected effective model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

MODEL, REVISED (POST-PROJECT)

A modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

MUNICIPALITY or MUNICIPAL

Adams County, Wisconsin.

NAVD or NORTH AMERICAN VERTICAL DATUM

Elevations referenced to mean sea level datum, 1988 adjustment.

NEW CONSTRUCTION

For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

NGVD or NATIONAL GEODETIC VERTICAL DATUM

Elevations referenced to mean sea level datum, 1929 adjustment.

NONCONFORMING STRUCTURE

An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the flood-fringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

NONCONFORMING USE

An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies (such as a residence in the floodway).

OBSTRUCTION TO FLOW

Any development which blocks the conveyance of floodwaters such that this development, alone or together with any future development, will cause an increase in regional flood height.

OFFICIAL FLOODPLAIN ZONING MAP

That map, adopted and made part of this chapter, as described in § **370-5B**, which has been approved by the Department and FEMA.

OPEN SPACE USE

Those uses having a relatively low flood damage potential and not involving structures.

ORDINARY HIGH-WATER MARK

The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

PERSON

An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

PRIVATE SEWAGE SYSTEM

A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

PUBLIC UTILITIES

Those utilities using underground or overhead transmission lines, such as electric, telephone and telegraph, and distribution and collection systems, such as water, sanitary sewer and storm sewer.

REASONABLY SAFE FROM FLOODING

Base flood waters will not inundate the land or damage structures to be removed from the floodplain and any subsurface waters related to the base flood will not damage existing or proposed buildings.

REGIONAL FLOOD

A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one-percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

START OF CONSTRUCTION

The date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE

Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, streambed or lake bed, including but not limited to roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

SUBDIVISION

Has the meaning given in § 236.02(12), Wis. Stats.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50% of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

UNNECESSARY HARDSHIP

Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

VARIANCE

An authorization by the Board of Adjustment for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this chapter.

VIOLATION

The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

WATERSHED

The entire region contributing runoff or surface water to a watercourse or body of water.

WATER SURFACE PROFILE

A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

WELL

An excavation opening in the ground made, by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

4. Damage the rights or property values of other persons in the area;

5. Allow actions without the amendments to this chapter or map(s) required in Chapter 370 of the Adams County Code of Ordiannces - Article **VIII**, Amendments; and

6. Allow any alteration of a historic structure, including its use, which would preclude its continued designation as a historic structure.

e. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to $25 per $100 of coverage. A copy shall be maintained with the variance record.

391-17 Boundary Disputes

A. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

1. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;

2. The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

3. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to this Chapter.

Article 3

Planning & Zoning Committee

391-18 The Planning & Zoning Committee shall:

A. Oversee the functions of the office of the Zoning Administrator; and

B. Review and advise the governing body on all proposed amendments to this ordinance, maps and text.

391-19 The Planning & Zoning Committee shall not:

A. Grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or

B. Amend the text or zoning maps in place of official action by the governing body.

391-20 Conditional Uses

A. The Planning & Zoning Committee may authorize the Planning and Zoning Administrator to issue a conditional use permit for uses specified in each district. Such permit shall only be issued after giving public notice thereof, due notice to the parties in interest, review and a public hearing, and a finding that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.

B. Application. Applications for conditional use permits shall be made on forms furnished by the Planning and Zoning Administrator and shall include the following:

1. The information required under § **405-20B** of this chapter.

2. Additional information as may be required by the County Planning and Zoning Committee or Planning and Zoning Administrator.

C. Review and approval.

1. The County Planning and Zoning Committee shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

2. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operations control, hours of operations, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the County Planning and Zoning Committee upon its finding that these are necessary to fulfill the purpose and intent of this chapter.

3. Compliance with all other provisions of this chapter, such as lot width and area, yards, height, traffic, parking, loading, and highway access, shall be required of all conditional uses. Variances shall only be granted as provided in § **405-23**.

D. Denial and reapplication. No application for a conditional use which has been denied wholly or in part by the County Planning and Zoning Committee shall be resubmitted for a period of one year from the date of said denial, except on the grounds that substantial new evidence or proof of change to comply with the applicable conditions is included in the resubmitted application.

E. Revocation.

1. A conditional use permit may be revoked if:

a. The use does not conform to the conditions of approval within the time limits established in the permit;

b. The use does not continue to conform to the conditions of the original approval;

c. The character of the use itself has changed, causing the use to be incompatible with the surrounding area; or

d. The use no longer conforms to public health, safety, and welfare needs.

2. Action to terminate a conditional use permit may be taken by the County Planning and Zoning Committee.

3. After revocation of the conditional use permit, such use shall be classified as a nonconforming use.

391-21 Rezonings

A. Authority. Whenever the public necessity, convenience, general welfare or good zoning practice requires, the County Board may, by ordinance, change the district boundaries or amend, change, or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be made in accordance with the procedures prescribed in § 59.69, Wis. Stats.

B. Petitions. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the County Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:

1. A plot plan showing the area proposed to be rezoned, its location and its dimensions.

2. Additional information as required by the County Planning and Zoning Committee or County Board.

Article 4

Public Hearings

391-22 Hearings.

A. The Board of Adjustment or Planning & Zoning Committee, as applicable, shall fix a reasonable time and place for the required public hearing, give public notice thereof and shall give due notice to the parties in interest. At the hearing the appellant or applicant may appear in person, by agent, or by attorney.

391-23 Decision.

A. Conditions may be placed upon any Conditional Use or Special Exception authorized by the Board or Adjustment or the Planning & Zoning Committee.

B. Variance applications may be amended by the Board of Adjustment at the Board's discretion.

C. Variances, Special Exceptions, or Conditional Use permits granted by the Board or Committee shall expire within two years unless substantial work has commenced.

391-24 Review by court of record.

A. Any person or persons aggrieved by any decision of the Board of Adjustment may appeal the decision to the Court with jurisdiction. Such appeal shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Adjustment.

B. Any person or persons aggrieved by a decision of the Planning & Zoning Committee, regarding a Conditional Use request, may appeal the decision to the Court with jurisdiction. Such appeal shall be presented to the court within 30 days after the filing of the decision in the office of the Planning & Zoning Committee.

391-25 Notice

A. Written notice shall be given to the appropriate district and area offices of the Department of Natural Resources at least 10 days prior to hearings on proposed Shoreland and Floodplain Zoning ordinance variances, special exceptions, appeals for map or text interpretations and map or text amendments.

B. Copies of decisions on Shoreland and Floodplain variances, special exceptions, appeals for map or text interpretations and map or text amendments shall be submitted to the appropriate district or area offices of the Department of Natural Resources within 10 days after they are granted or denied.

C. Notice of any public hearing which the County Board, County Planning and Zoning Committee, or Board of Adjustment is required to hold under the terms of this Code of Ordinances shall specify the date, time, and place of the hearing and shall state the matter to be considered. The notice shall be published in accordance with the Wisconsin Statutes.

391-26 Fees.

A. Fees shall be required of all persons, firms, or corporations requesting an ordinance amendment, interpretation, variance, or appeal. Fees shall also be required of all persons, firms, or corporations performing work for which this chapter requires a permit. Such fees defray the County's cost of administration, investigation, legal advertisement, and processing. The fees shall be as set from time to time by the Adams County Board of Supervisors.

Article 5
Violations

391-27 Any building or structure hereinafter erected, moved or any use hereinafter established in violation of the provisions of this Chapter by any person, firm, association, corporation (including building contractors or their agent), shall be deemed an unlawful structure or use.

391-28 It shall be the duty of the Zoning Administrator, acting under the supervision of the Officer and Zoning Committee to enforce the provisions of this Chapter. The Zoning Administrator is hereby delegated authority to enforce the provisions of this Chapter, including the power to delegate these duties to subordinates, inspect private premises, issue orders for abatement and take action to abate violations of this Chapter.

391-29 Whenever in the judgment of the Zoning Administrator, it is determined that a violation of the provisions of this Chapter is being committed, exists, or is being maintained in the County, that Officer may issue a written order of abatement ordering the person committing or maintaining said violation to cease and desist, remove the conditions, or remedy the defects creating the violation. The order for abatement shall include the following information:

A. The name and address of the owner, operator and or occupant and description of the real estate involved.

B. The nature of the violation and the steps necessary to abate or correct it.

C. The time period in which the violation must be corrected and or abated which will be no less than five (5) days and not more than thirty (30) days depending on the nature of the violation. Allowance for limited extension of this time period may be permitted if warranted by extenuating circumstances as determined by the Zoning Administrator.

D. The order of abatement shall be served upon the person committing or maintaining the Zoning violation by either certified mail or registered mail, or in the manner set forth for service of a summons in Chapter 801, Wis. Stats. If the premises are not occupied and the address of the owner is unknown and cannot be determined with due diligence, service on the owner may be accomplished by posting a copy of the order of abatement in a prominent place on the premises. The order of abatement shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable period of time to abate and remove the Zoning violation. Whenever an investigation hereunder involves a search of private premises and the owner or other person having equal rights to the use and occupancy thereof does not consent thereto, and absent any exception to the warrant requirement, that Officer shall apply to the Circuit Court of the County for a special inspection warrant pursuant to § 66.0119, Wis. Stats.

391-30 Exceptions to the Written Orders.

A. In cases where a violation poses an immediate risk of public health or safety as determined by the Zoning Administrator or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in noncompliance and subject to immediate action under 391-33 of this Section, without issuance of a written abatement order.

391-31 Non-compliance with Written Orders.

A. If a person does not comply with a written order from the Zoning Administrator or his/her designee, the violator may be subject to one (1) or more of the following actions and/or penalties:

B. The issuance of a citation.

C. Commencement of legal action against the person seeking an injunction to abate the violation

and/or correct the violation.

D. Commencement of legal action against the person seeking a court imposed forfeiture, court costs, and/or the costs of abatement.

E. Seeking appropriate injunctive relief to abate the violation and enjoin its continuation in the future, and/or recovery of the costs of abatement.

F. The initiation of one (1) action or penalty under this Section does not exempt the violator from any additional actions and/or penalties prescribed by law.

391-32 Abatement of Zoning Violations.

A. Where Zoning violations as defined in this Chapter or in the Wisconsin Statutes are encountered on private property which require ordered abatement and/or correction, the Zoning Administrator shall serve on the responsible person a written Court order as per Subsection C of this Section. If the violation is not abated and/or corrected within the time period specified in the order, the Zoning Administrator may enter upon the property and abate and/or correct the violation or cause such action to be taken. The cost of such abatement and/or correction is to be recovered either directly from the responsible party or as a special tax assessment on the property.

391-33 Penalties.

A. Penalties shall be as set forth in each Ordinance, otherwise this chapter applies. The Court may order injunctive relief. Failure to comply with an Order for Abatement issued under this Chapter in the time allowed shall constitute a separate violation of this Chapter, and each day of continued violation shall constitute a separate offense.

B. Any person, firm, or corporation who or which fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not less than $50 nor more than $500 and costs of prosecution for each violation and, in default of payment of such forfeiture and costs, shall be imprisoned in the County jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

C. Execution against defendant's property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of Adams County, the court may issue a lien against the property of the defendant for such forfeiture and costs.

D. Commencement of an activity requiring a permit prior to obtaining the appropriate permit(s) through the Planning and Zoning Department may result in the required permit fee being doubled.

391-34 Coordination with State or Federal Agencies.

A. Where a Zoning violation involves noncompliance with a Federal or State-enforced Statute or Administrative Code, the Zoning Administrator may refer the complaint to the appropriate agency for abatement and/or correction in lieu of, or in addition to an enforcement action under this Chapter. If the violation continues without adequate enforcement from the Federal or State agency to cause abatement and/or correction, then the Zoning Administrator or his/her designee shall initiate action under this Section to bring about proper abatement and/or corrections

391-35 POWTS Violations.

A. If the owner of a POWTS, holding tank or non-plumbing sanitation system fails to have his or her system properly serviced in accordance with the Adams County Mandatory Management and Maintenance Program in response to orders issued by the Adams County Planning and Zoning Department to prevent or abate a human health hazard as described in § 254.59, Wis.

Stats., the County may enter upon the property and cause to have the servicing performed and place the actual costs of such servicing on the property tax bill as a special charge for current services rendered, as prescribed by § 66.0627, Wis. Stats.