

**RESOLUTION RELATING TO THE AMENDMENT OF RESOLUTION NO.
2018-07-03.04 REGARDING FLOODPLAIN DISTRICTS IN ORDER TO
DEFINE AND REGULATE ACCESSORY STRUCTURES AND
AGRICULTURAL STRUCTURES**

ADAMS COUNTY RESOLUTION NO. 2022-09-20.01

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF ADAMS COUNTY, NEBRASKA THAT THE FOLLOWING RESOLUTION BE ENACTED:

That Resolution No. 2018-07-03.04, enacted by the Adams County Board on July 3, 2018, be amended in the following manner:

That Section 4.6 of Resolution No. 2018-07-03.04 be amended as follows:

4.6 VARIANCES AND APPEALS

Variance and Appeals Procedures

- A. The Adams County Board of Adjustment as established by Adams County shall hear and decide appeals and requests for variances from the requirements of this resolution.
- B. The Adams County Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this resolution.
- C. Any person aggrieved by the decision of the Adams County Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in *Nebraska Revised Statutes* Section 23-168 as amended.
- D. In evaluating such appeals and requests, the Adams County Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this resolution, and:
 - i. The danger to life and property due to flooding or erosion damage;
 - ii. The danger that materials may be swept onto other lands to the injury of others;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
 - iv. The importance of the services provided by the proposed facility to Adams County;
 - v. The necessity of the facility to have a waterfront location, where applicable;
 - vi. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;



- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- xi. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

Conditions for Variances

- A. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
- B. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
- C. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items E-I below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- E. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances shall not be issued within any designated floodway if any increase in water surface elevations along the floodway profile during the base flood discharge would result.
- G. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- H. The applicant shall be given a written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this resolution.
- I. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by Adams County.
- J. Accessory structures:**
 - a. A variance is authorized to be issued for the construction or substantial**

improvement of accessory structures provided that the requirements of this section and the following are satisfied:

- i. The structure represents minimal investment and has low damage potential considering the amount of physical damage, contents damage, and loss of function which is possible.**
- ii. The structure is not larger than the size limits specified in Section 5.2 I.**
- iii. The structure complies with the wet floodproofing construction requirements of paragraph 5.2 H.**

K. Agricultural structures:

a. A variance is authorized to be issued for the construction or substantial improvement of agricultural structures provided the requirements of this section and the following are satisfied:

- i. The structure is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.**
- ii. The structure has low damage potential considering the amount of physical damage, contents damage, and loss of function which is possible.**
- iii. The structure does not increase risks and pose a danger to public health, safety, and welfare if flooded and the contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquefied natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.**
- iv. The structure complies with the wet floodproofing construction requirements of paragraph 5.2 H.**

That Section 5.2 of Resolution No.2018-07-03.04 be amended as follows:

5.2 ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

- i. In Zones A, AE, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.**
- ii. In Zone AO, all new construction and substantial improvements shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet.**
- iii. In the floodway, new structures for human habitation are prohibited.**

B. Nonresidential Structures

- i. In Zones A, AE, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - a. The structure is watertight with walls substantially impermeable to the passage of water and
 - b. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.

- ii. In Zone AO, all new construction and substantial improvements shall have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet; or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - a. The structure is watertight with walls substantially impermeable to the passage of water and
 - b. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.

C. Space Below Lowest Floor

- i. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
- ii. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,
 - b. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

D. Appurtenant Structures

- i. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements:
 - a. The structure shall not be used for human habitation.
 - b. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
 - c. The floor area shall not exceed 400 square feet.
 - d. The structure shall have a low damage potential.
 - e. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
 - f. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 1. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
 2. The bottom of all openings shall not be higher than one (1) foot above grade, and
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
 - g. No utilities shall be installed in the structure, except electrical fixtures which must be elevated or floodproofed to one (1) foot above base flood elevation.
 - h. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
 - i. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

E. Manufactured Homes. Within any floodplain, manufactured homes shall be prohibited.

F. All existing manufactured homes for which the placement and final of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities) is complete before the effective date of the floodplain management regulations adopted within this resolution shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

- i. Over-the top ties are required to be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, and for manufactured homes less than fifty (50) feet long, one additional tie per side is require

- ii. Frame ties shall be provided at each corner of the manufactured home with five additional ties per side at intermediate points, and for manufactured homes less than fifty (50) feet long four additional ties per side are required.

G. Existing Structures

- i. The provisions of this resolution do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions of 5.2 (G) (ii-iv) shall apply.
- ii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this resolution.
- iii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure in the floodway shall comply with the provisions of 5.1 (C).
- iv. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.

H. Wet-floodproofing for Agricultural Structures

- i. **Wet-floodproofing construction requirements which shall be used when owners elect to wet floodproof agricultural structures shall conform to the following:**
 - a. **The structure shall be anchored to resist flotation, collapse, and lateral movement.**
 - b. **The structure shall have flood-damage resistant materials below the base flood elevation in compliance with the definition in Section 8.0 entitled "Flood damage resistant materials".**
 - c. **The structure shall have mechanical, electrical, and utility equipment elevated to or above one (1) foot above the base flood elevation or floodproofed so that below one (1) foot above the base flood elevation they are:**
 - 1. **Watertight and substantially impermeable to the passage of water and**
 - 2. **Capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.**
- A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate**



shall be provided to the floodplain administrator as set forth in Section 4.

d. The structure shall have flood openings in compliance with the following requirements:

1. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for this requirement shall meet or exceed the following minimum criteria:

i. A minimum of two openings having a net area of not less than one square inch for every one square foot of enclosed space.

ii. The bottom of all openings shall not be higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that the openings allow the automatic entry and exit of floodwaters.

e. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

f. In the floodway, the structure shall be subject to the standards of Section 5.1 (C).

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.

I. Accessory Structures

i. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements:

a. The structure shall not be used for human habitation.

b. The use of the structure must be limited to the parking of vehicles or storage of items which are readily removable in the event of a flood warning.

c. The floor area shall not exceed 800 square feet.

d. The structure shall have a low damage potential.

e. The structure shall be adequately anchored to prevent flotation, collapse, or other lateral movement.

f. The structure shall be constructed with flood damage resistant materials.

g. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for this requirement shall meet or exceed the following minimum criteria:

- 1. A minimum of two openings having a net area of not less than one square inch for every one square foot of enclosed space.**
- 2. The bottom of all openings shall not be higher than one foot above grade.**
- 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that the openings allow the automatic entry and exit of floodwaters.**
- 4. A registered professional engineer or architect shall certify that the standards of this subsection have been complied with. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.0.**

h. The structure shall have mechanical, electrical, and utility equipment elevated to or above one (1) foot above the base flood elevation or floodproofed so that below one (1) foot above the base flood elevation they are:

- 1. Watertight and substantially impermeable to the passage of water and**
- 2. Capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.**

i. The structure shall be constructed and placed on the building sit so as to offer the minimum resistance to the flow of floodwaters.

j. If the structure is subsequently converted to another use, the structure must be brought into full compliance with the minimum standards governing such use.

k. In the floodway, the structure shall be subject to the standards in Section 5.1 (C).

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.

That Section 8.0 of Resolution 2018-07-03.04 be amended to add the following definitions:

Accessory Structure shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure.

Agricultural Structure shall mean, for floodplain management purposes, a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with the stated purposes or uses are also considered to have agricultural purposes or uses.

THIS RESOLUTION IS HEREBY RECOMMENDED FOR PASSAGE BY THE ADAMS COUNTY BOARD OF SUPERVISORS BY THE ADAMS COUNTY PLANNING AND ZONING BOARD ON THIS 6th DAY OF September, 2022.

W. Dean Rolls

Dean Rolls, Chairman

Judy Mignery

Judy Mignery, Adams County Planning and Zoning Administrator

THIS RESOLUTION IS HEREBY ENACTED BY THE ADAMS COUNTY BOARD OF COMMISSIONERS ON THIS 20th DAY OF September, 2022.

Lee Hogan

Lee Hogan, Chairman

Ramona Thomas

Ramona Thomas, County Clerk



