

Village Of Ashwaubenon

Municipal Code Book

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Article 14-1

Municipal Code Book

Chapter 14 - Floodplain	3
Article 1 - In General	3
14-1-1 Statutory Authorization	3
14-1-2 Finding of Fact	3
14-1-3 Statement of Purpose	3
14-1-4 Title	3
14-1-5 Definitions	4
14-1-6 General Provisions	10
14-1-7 Establishment of Floodplain Zoning Districts	12
14-1-8 Locating Floodplain Boundaries	12
14-1-9 Removal of Lands from Floodplain	12
14-1-10 Compliance	13
14-1-11 Municipalities and State Agencies Regulated	13
14-1-12 Abrogation and Greater Restrictions	14
14-1-13 Interpretation	14
14-1-14 Warning and Disclaimer of Liability	14
14-1-15 Severability	15
14-1-16 Annexed Areas for Cities and Villages	15

Chapter 14 - Floodplain

Article 1 - In General

14-1-1 Statutory Authorization

This ordinance is adopted pursuant to the authorization in Wis. Stats. §§ 61.35 and 62.23, for villages and cities; and the requirements in Wis. Stats. § 87.30.

Ord. No 2-2-23, 2-28-2023

14-1-2 Finding of Fact

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

Ord. No 2-2-23, 2-28-2023

14-1-3 Statement of Purpose

This ordinance 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 buyers and homebuyers.
- (H) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners.
- (I) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

Ord. No 2-2-23, 2-28-2023

14-1-4 Title

This ordinance shall be known as the Floodplain Zoning Ordinance for the Village of Ashwaubenon, Wisconsin.

14-1-5 Definitions

Unless specifically defined, words and phrases in this ordinance 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.

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.

AH Zone – See “Area of Shallow Flooding”.

AO Zone – See “Area of Shallow Flooding”.

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. An accessory structure shall not be used for human habitation.

Alteration – An enhancement, upgrade, 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.

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 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

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 sub-grade on all sides.

Breakaway Wall – A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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 Wis. Stats. § 30.11, 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 ordinance.

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 ordinance.

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

Crawlways 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 and 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.

Dryland 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 the 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 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 or Flooding - a general and temporary condition of partial or complete inundation of normally dry land areas caused by any of the following:

1. The overflow or rise of inland waters;
2. The rapid accumulation or runoff of surface waters from any source;
3. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior;
4. The sudden increase caused by an 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.

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 percentage chance of occurring in any given year.

Floodfringe – That portion of the floodplain outside of the floodway which is covered by flood waters 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 Study (FIS) - 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.

Floodplain - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe 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 - Policies 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 Regional Flood Elevation. (See also 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 riverbed or streambed.

Habitable Structure - Any structure or portion thereof used or designed for human habitation.

Hearing Notice - Publication or posting meeting the requirements of Wis. Stats. Ch. 985. 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. Local ordinances or bylaws may require additional notice, exceeding these minimums.

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.

Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure - Any structure that is either:

1. 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; or
2. 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 of the Interior to qualify as a registered historic district; or
3. 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
4. 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. (See also, 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 the basement floor.

Maintenance – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, non-structural 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 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, 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 ordinance. 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 / Manufactured Home Park, Expansion To Existing – The preparation of additional sites by the construction of facilities 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 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 vehicles.

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, Duplicative Effective Model, or Corrected Effective Model to reflect revised or post-project conditions.

Municipality or Municipal - The Village of Ashwaubenon enacting, administering, and enforcing this zoning ordinance.

NAVD or North American Vertical Datum - Elevations referenced to mean sea level datum, 1988 adjustment.

NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.

New Construction – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.

Non-Flood Disaster – A fire, ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.

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

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance 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 - The map adopted and made part of this ordinance, as described in section 14-1-6(B), 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. Also known as a Private Onsite Wastewater Treatment System (POWTS).

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 - Means base floodwaters will not inundate the land or damage structures to be removed from the floodplain and that 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 regional flood elevation (RFE) is equivalent to the base flood elevation (BFE).

Start of Construction - The date the building permit was issued, provided 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 manmade object with form, shape, and utility, either permanently or temporarily attached to,

placed upon, or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams, and culverts.

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

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 percent 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 percent 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 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 an 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 ordinance.

Variance - An authorization by the board of appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

Violation - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. 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.

Ord. No 2-2-23, 2-28-2023

14-1-6 General Provisions

(A) Areas to be Regulated

This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, or AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and Village may also be regulated under the provisions of this ordinance, where applicable.

(B) Official Maps & Revisions

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, or AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in Section 14-1-6(B)(1)(i) and (ii). Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the Department and listed in 14-1-6(B)(1)(iii). These maps and revisions are on file in the office of the Community Development Department of the Village of Ashwaubenon.

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

- (a) Brown County Flood Insurance Rate Map (FIRM), panel numbers 55009C0168G, 55009C0254G, 55009C0256G, and 55009C0258G, dated 05/09/2023;
- (b) Brown County Flood Insurance Rate Map (FIRM), panel numbers 55009C0144G, 55009C0163F, 55009C0164F, , 55009C0234F, 55009C0251F, 55009C0252F, and 55009C0253F, , dated 08/18/2009;
- (c) Flood Insurance Study (FIS) for Village of Ashwaubenon (Brown County), Volume numbers 55009CV001C, 55009CV002C, 55009CV003C, and 55009CV004C dated 05/09/2023.
- (d) Letters of Map Revision (LOMR) as follows:
 - 19-05-1474P-550600 (effective 02/24/2020)
 - 20-05-2968P-550600 (effective 10/16/2020)

(2) Official maps: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

- (a) Floodplain study for Dutchman Creek completed by McMahon Associates Inc. and approved by the Department of Natural Resources on June 29, 2021.
 - Map dated February 24, 2020 and titled Map Number 55009C0253F.
 - Floodway data table dated February 24, 2020 and titled Floodway Data - Dutchman Creek Southeast Tributary.
 - Flood profiles dated February 24, 2020 and titled Flood Profiles – Dutchman Creek Southeast Tributary.

Approved by the WDNR and FEMA

Ord. No 3-3-23, 3-28-2023; Ord. No 2-2-23, 2-28-2023

14-1-7 Establishment of Floodplain Zoning Districts

The flood hazard areas regulated by this ordinance are divided into districts, as follows:

- (A) 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, within AE Zones as shown on the FIRM or within A Zones shown on the FIRM when determined according to Section 14-5-5.
- (B) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to 14-5-5, within A Zones shown on the FIRM.
- (C) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified on as AH and AO zones on the FIRM.

Ord. No 2-2-23, 2-28-2023

14-1-8 Locating Floodplain Boundaries

Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subsection (A) or (B) of this section. If a significant difference exists, the map shall be amended according to Article 9 - Amendments of this ordinance. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a floodplain permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual predevelopment field conditions and the basis upon which the district boundary was determined. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Section 14-8- 5(C) and the criteria in subsections (A) and (B) of this section. 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 9 - Amendments of this ordinance.

- (A) 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.
- (B) Where flood profiles do not exist for projects, including any boundary of zone A, or AO, the location of the boundary shall be determined by the map scale.

Ord. No 2-2-23, 2-28-2023

14-1-9 Removal of Lands from Floodplain

- (A) Compliance with the provisions of this ordinance 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 9 - Amendments of this ordinance.

- (B) The delineation of any of the Floodplain Districts may be revised by the Village where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The Zoning Administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
- (1) The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation.
 - (2) The fill must be contiguous to land outside the floodplain. Applicant shall obtain a floodplain permit before applying for a LOMR or LOMR-F.
- (C) Removal of lands from the floodplain may also occur by operation of Wis. Stats. § 87.30(1)(e) if a property owner has obtained a letter of map amendment from the Federal Emergency Management Agency under 44 C.F.R. 70.

Ord. No 2-2-23, 2-28-2023

14-1-10 Compliance

- (A) No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- (B) Failure to obtain a Floodplain Permit shall be a violation of these regulations and shall be punishable in accordance with Article 10 of this ordinance.
- (C) Floodplain Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use and arrangement set forth in such approved plans and applications, or amendments thereto if approved by the Zoning Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Article 10 of this ordinance.

Ord. No 2-2-23, 2-28-2023

14-1-11 Municipalities and State Agencies Regulated

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation (WisDOT) is exempt when Wis. Stats. § 30.2022 applies. Although exempt from a local floodplain permit and permit fees, WisDOT must provide sufficient project documentation and analysis to ensure that the Village is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under § 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Zoning Administrator that the proposed project

is a culvert replacement or a bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under Wis. Stats. § 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

Ord. No 2-2-23, 2-28-2023

14-1-12 Abrogation and Greater Restrictions

- (A) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 61.35 for villages, or Wis. Stats. § 87.30, 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.
- (B) This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

Ord. No 2-2-23, 2-28-2023

14-1-13 Interpretation

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the Village of Ashwaubenon and are not a limitation on, nor repeal, of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by Wis. Admin. Code Ch. NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of the ordinance or in effect on the date of the most recent text amendment to this ordinance.

- (A) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. §§ 59.69, 59.692 or 59.694 for counties; Wis. Stats. § 62.23 for cities; or Wis. Stats. § 61.35 for villages; or Wis. Stats. § 87.30, which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (B) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

Ord. No 2-2-23, 2-28-2023

14-1-14 Warning and Disclaimer of Liability

The flood protection standards in this ordinance 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 ordinance does not imply nor guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding or flood damages. This ordinance does not create liability on the part of, or a cause of action against the Village or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

Ord. No 2-2-23, 2-28-2023

14-1-15 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.

Ord. No 2-2-23, 2-28-2023

14-1-16 Annexed Areas for Cities and Villages

The Brown County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the Village for all annexed areas until the Village adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code Ch. NR 116 and 44 CFR 59-72 National Flood Insurance Program (NFIP). These annexed lands are described on the Village'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 Village Zoning Administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

Ord. No 2-2-23, 2-28-2023