



ORDINANCE



Ordinance No. 007-2020-112

Ashland County Wetland Conservation Ordinance

PART 1: GENERAL PROVISIONS

1.0: Title

This Ordinance is hereby officially known and cited as the Ashland County Wetland Conservation Ordinance. References to “this Ordinance” or “this ACWCO” shall be interpreted as references to this Ashland County Wetland Conservation Ordinance.

1.1: Authority

This Wetland Conservation Ordinance is enacted pursuant to the authority granted by Wisconsin Statutes section 59.69 for counties.

1.2: Findings of Fact

Healthy wetlands work to regulate the quantity and quality of water that moves across the landscape. These hydrologic functions support ecological and economic health, and the human health, safety, and welfare in our community by protecting people, property, and public infrastructure from floods; conserving soil and water for farms and forests; controlling water pollution; and maintaining our community’s outdoor recreation heritage.

Because the capacity of wetlands to provide these services can be hindered by direct, physical disturbance, as well as by activities outside of a wetland that alter the course of water and sediments flowing into or through the system, the preservation and restoration of wetland hydrology and habitat is a matter of public concern to the people of Ashland County.

1.3: Purpose and Intent

- A. For the purposes of promoting public health, safety, convenience and general welfare, protecting public and private property and infrastructure, and protecting and enhancing the use and enjoyment of the natural and agricultural resources of Ashland County, the ACWCO has been established to:
 - 1) Implement the goals, objectives, and policies, of Ashland County.
 - 2) Coordinate the enforcement of other applicable County ordinances and regulations, including but not limited to Shoreland zoning, General zoning, Sanitation, etc.
 - 3) Promote the protection, restoration and management of wetland hydrology and wetland habitat in order to:
 - a) Reduce flooding, and flood hazards, damages, and expenditures.
 - b) Prevent and control water pollution.
 - c) Prevent soil loss and erosion of streambeds and banks.
 - d) Preserve natural drainage features and minimize the need to construct, repair, maintain, or replace structural water management systems.

- e) Maintain and support stream base flow and temperature, lake levels, and shallow groundwater supplies.
- f) Preserve and improve fish and wildlife habitat, recreational opportunities, and open space.
- 4) Establish guidelines and standards to review and discourage direct and indirect impacts to wetlands, wetland hydrology, and wetland habitat from land disturbing activities.
- 5) Improve intergovernmental coordination on wetland conservation, including supporting the implementation and enforcement of federal and state laws governing wetland fill and other impacts, and collaborating on wetland mitigation, restoration, and management.
- 6) Limit the placement and design of structures, impervious surfaces, and other land disturbing activities on lands that contain, drain to, or are hydrologically connected to wetlands.
- 7) Protect any area that meets the wetland definition provided in this ordinance (Section 1.4), regardless of its size, location or depiction on maps such as the Wisconsin Wetland Inventory.

1.4: Definitions

- A. Adjacent – contiguous areas within 300 feet of the proposed land disturbing activity. Parcels are adjacent even if a road, waterway, or other barrier separates them.
- B. Artificial Wetland – a landscape feature where wetland vegetation may be present as a result of recent human modifications to the landscape or hydrology and for which there is no prior wetland or stream history.
- C. Associated Hydrologic Features – the lands or other features that are hydrologically connected to wetlands and that support or are supported by wetland hydrology. Associated hydrologic features can include, but are not limited to: lakes, rivers and streams, and their shorelands or floodplains; lands drained by tile or ditch systems, or impounded by water control structures; areas with perched groundwater or seasonally high groundwater levels; natural drainage, infiltration, or recharge areas, such as springs, seeps, steep slopes, swales, or channels.
- D. Coldwater Community – surface waters capable of supporting a community of cold-water fish and other aquatic life, or serving as a spawning area for cold-water fish species. This includes, but is not restricted to, surface waters identified as trout water by the Department of Natural Resources (Wisconsin Trout Streams, publication 6-3600 (80)).
- E. Direct Impact – disturbances that result from activities that occur within the boundary of a wetland, such as dredging, filling, draining, vegetation removal, and soil compaction.
- F. Hydrologically Connected – lands that contribute water to, receive water from, or exchange water with a wetland through surface, subsurface, overland, or channelized flow. Hydrologically connected lands can be upstream or downstream from a wetland and may not necessarily be directly contiguous.
- G. Hydric Soil – a soil that is formed under conditions of saturation, flooding, or ponding, long enough during the growing season to develop anaerobic conditions in the upper horizon(s).
- H. Indirect Impact – changes in wetland hydrology and habitat generated from land disturbing activities on lands that are outside the boundaries of, but adjacent or hydrologically connected to, wetlands, including but not limited to: changes in the volume and timing of surface, overland, and channelized flow into and out of the wetland, sediment deposition and pollutant accumulation, and increased non-native and invasive species.

- I. Infiltration – the entry and movement of precipitation, runoff, or other water into or through soil.
- J. Land Disturbing Activity – any human-made land alterations, disturbances, or construction activities including, but not limited to: clearing and grubbing, grading, excavation, drainage, and the discharge of dredged or fill material, that results in a change to existing topography, drainage patterns, rates of soil erosion, or hydrologic conditions.
- K. On-Site – a wetland, associated hydrologic feature, or other feature is on-site if it is contained, in whole or in part, within the boundary of the parcel to be developed.
- L. Potential Wetland – areas not shown on the Wisconsin Wetland Inventory, but which contain hydric soils mapped by the USDA Natural Resources Conservation Service in the drainage classes of somewhat poorly, poorly, and very poorly drained soils.
- M. Runoff – storm water or precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.
- N. Self-Sustaining Vegetative Cover – site-appropriate native trees, shrubs, grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
- O. Suitable – the lands or areas on a property that allow the land disturbing activity to be designed and implemented in compliance with the Wetland Conservation Standards in Section 2.2, and other applicable federal, state, and tribal laws and local codes, during and after completion of the land disturbing activity.
- P. Watershed – geographic area where all waters drain to a single waterbody.
- Q. Wetland – those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- R. Wetland Habitat – vegetative communities, hydrologic conditions, and physical features necessary to support wetland-dependent fish, wildlife and plants throughout their lifecycle. For fish and wildlife, this includes conditions which provide protective cover, food, and breeding, nesting, and rearing areas. Healthy wetland habitat is generally dominated by native, non-invasive plants, shrubs, and/or trees, and is most likely to be present in areas with minimal vegetative or hydrologic disturbance.
- S. Wetland Hydrology – the processes and conditions that provide and sustain the water levels, flows, fluctuations, and surface water, overland, and groundwater interactions that enable areas to periodically inundate or saturate, and be classified as wetland.
- T. Wetland Protective Area – an area of land that commences at the delineated wetland boundary and extends to the boundary of the authorized land disturbing activity.
- U. Wetland Restoration or Management Activities – activities that: 1) manipulate the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to former or degraded wetland; or 2) establish or maintain desired hydrology, habitat and human use conditions including water level manipulations, herbicide application, wetland species introduction and control, fencing, monitoring, signage and vandalism repair.

1.5: Areas to Be Regulated

The ACWCO applies to all lands located within the jurisdiction of Ashland County Zoning.

1.6: Abrogation and Greater Restrictions

The ACWCO is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever the WCO imposes greater restrictions, the provisions of the ACWCO shall govern.

1.7: Interpretation

In their interpretation and application, the provisions of the ACWCO shall be held to be minimum requirements and shall be liberally construed in favor of Ashland County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes, tribal law, or other applicable laws.

1.8: Severability

If any portion of the ACWCO is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ACWCO shall not be affected.

1.9: Administration

- A. Administration. The ACWCO shall be administered by the Ashland County Zoning Office.
- B. Variances. Variances from this ordinance shall follow the procedures found in the Shoreland Protection Ordinance section 14.4
- C. Nonconformance. Nonconforming uses, structures, and lots shall be subject to the requirements found in the Ashland County Zoning Ordinance.
- D. Enforcement. Enforcement of this ordinance will follow the process outlined in Section IX of the Ashland County Zoning Ordinance.

PART 2: Applicability and Standards

2.0: Applicability

- A. Unless exempted by the ACWCO, any person or entity applying for any of the following permits or approvals proposing land disturbing activities that directly or indirectly impacts wetlands, wetland hydrology, or wetland habitat shall comply with the requirements of the ACWCO:
 - 1) Land use (or zoning) permits
 - 2) Conditional use permits
 - 3) Rezoning
 - 4) Variances
 - 5) Plat approvals
 - 6) Certified survey map approvals
 - 7) Stormwater management or erosion control permits
- B. Permits issued by the Wisconsin Department of Natural Resources (WDNR), U.S. Army Corps of Engineers, tribal governments, or other agencies do not relieve a person of the need to seek approval under this ACWCO.

- C. The ACWCO shall not relieve an applicant of the need to obtain a permit for activities regulated by other ordinances, or other applicable federal, state, or tribal law; or to ensure compliance with the Wetland Conservation Provisions in the U.S. Farm Bill found in the Code of Federal Regulations at 7 CFR Part 12.
- D. Unless specifically exempted by law, all cities, villages, towns, counties, and other municipal corporations are required to comply with the ACWCO and obtain all required permits pursuant to Wisconsin statutes and administrative rules. State agencies are required to comply if Section 13.48(13) of the Wisconsin Statutes applies.

2.1: Exempt Activities

The following activities are exempt from the ACWCO:

- A. Established (ongoing) agricultural land uses or activities, such as planting, growing, cultivating and harvesting crops, pasturing of animals, and maintenance of existing drainage systems;
- B. Growing and tending gardens; harvesting of trees for commercial or forest management purposes;
- C. Land disturbing activities in artificial wetlands, as defined in Section 1.4 of the ACWCO.
- D. Wetland restoration or management activities, that meet all of the following criteria:
 - 1) Is sponsored by the WDNR, U.S. Natural Resources Conservation Service, U.S. Fish and Wildlife Service, or other agency or organization with demonstrable experience in wetland restoration or management activities.
 - 2) Addresses a priority and/or water resource management concern identified in a comprehensive plan, hazard mitigation plan, or land and water management plan.
 - 3) Is located outside of navigable waters with prior stream history.
 - 4) Is located outside of a floodplain and does not increase the regional flood elevation, as defined in the Ashland County Floodplain Zoning Ordinance.
 - 5) Does not significantly impact a cold water community.
 - 6) Does not significantly obstruct fish passage to existing spawning areas.
 - 7) Can be completed without the placement and design of dikes, embankments, low berms, or other structures that exceed 6 feet, measured from natural ground to the top of structure.

2.2: Wetland Conservation Standards

Wetlands, associated hydrologic features, and Wetland Protective Areas are generally unsuitable locations for land disturbing activities, unless the applicant clearly demonstrates that the proposed land disturbing activity can be sited and designed in compliance with the standards below and other requirements of this ACWCO.

- A. Standards. To protect, preserve, restore, and enhance the benefits that wetlands provide to our community, the proposed land disturbing activity shall not:
 - 1) Harm public interests;
 - 2) Adversely impact wetland hydrology or habitat; or,
 - 3) Substantially degrade a wetland's capacity to:
 - a) Reduce flooding, and flood hazards, damages, and expenditures.
 - b) Prevent and control water pollution.
 - c) Prevent soil loss and erosion of stream beds and banks.
 - d) Preserve natural drainage features and minimize the need to construct, repair, maintain, or replace structural water management systems.
 - e) Maintain and support stream base flow and temperature, lake levels, and shallow groundwater supplies.
 - f) Preserve and improve fish and wildlife habitat, recreational opportunities, and open space.

PART 3: Site Plan

3.0: General Requirements

- A. Purpose. The purpose of the Site Plan is to help the Zoning office determine whether the proposed land disturbing activity complies with the Wetland Conservation Standards in Section 2.2.
- B. Pre-Application Meeting. The applicant is encouraged to contact, or schedule an appointment with the Zoning office, to discuss the proposed land disturbing activity and determine what information must be submitted to the Zoning Department.
- C. Site Plan Content. In addition to submitting materials required for the permit or approval listed in Section 2.0, applicants shall submit a Site Plan meeting the requirements outlined below to the Ashland County Zoning Department. At a minimum, the Site Plan shall include a:
- 1) Wetland Map showing the location of wetlands and potential wetlands identified following the process outlined in Section 3.1; and the location of the Wetland Protective Areas to be established following the requirements of Section 3.3.
 - 2) Hydrologic Features Map showing topographic contours, lakes, rivers, and streams, watershed boundaries, and Associated Hydrologic Features, identified following the process outlined in Section 3.1 and 3.2.
 - 3) Reestablishment and Long-term Maintenance Plan prepared according to the requirements of Section 3.3.
 - 4) Narrative addressing the following items to support the compliance review:
 - a) The anticipated direct wetland impacts of the proposed land disturbing activity. The applicant shall summarize the nature and extent of the anticipated direct impacts, including an estimate of the location, acreage, types, and conditions of the wetlands to be directly impacted.
 - b) The anticipated indirect wetland impacts of the proposed land disturbing activity to on-site, adjacent, or hydrologically connected wetlands. The applicant shall summarize anticipated indirect impacts to wetland hydrology or habitat, such as the potential of the proposed land disturbing activity to change pre-construction contours or vegetative cover, and to increase, decrease, or alter the volume, quality, or timing of water flowing to, from, or through on-site, adjacent, or hydrologically connected wetlands.
 - c) Whether/how the proposed land disturbing activity will:
 - i. Alter the flow of water to flood-prone areas or structures that are vulnerable to flood damage, such as culverts, bridges, roads, or homes.
 - ii. Affect the concentration of pollutants such as sediment, phosphorus, nitrogen, bacteria, and other nutrients and chemicals in surface water or ground water.
 - iii. Alter the habitat of any endangered, threatened, rare, sensitive, or culturally significant plants, fish, or wildlife on or near the parcel to be developed.
 - d) The specific conservation measures or best management practices that will be utilized by the applicant to achieve compliance with the performance standards in Section 2.2 and other applicable codes. See Section 4.1 for the types of measures that may be required in order for the proposed land disturbing activity to be in compliance with Section 2.2.
- D. Additional Information. The Ashland County Zoning Department may request additional information that helps determine the presence of wetlands or associated hydrologic features, or that supports a review of the suitability of the site for the proposed land disturbing activity.

3.1: Identifying Wetlands

- A. Wetland Map(s). The Site Plan shall include a map (or maps) that depict wetlands that are on-site, adjacent, or hydrologically connected to the proposed land disturbing activity. This map shall depict mapped wetlands, as shown on the Wisconsin Wetlands Inventory; potential wetlands, as shown on the Wetland Indicators Map available on WDNR's *Surface Water Data Viewer*; and/or other potential wetland areas identified using the best available information (e.g., field inspections, aerial photos, other mapping tools). This map shall help inform the need for a wetland delineation in accordance with the following:
- 1) A wetland delineation is generally required to identify the boundaries of on-site wetlands. Wetlands shall be delineated and mapped by an experienced delineation professional, and in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and relevant regional supplements. Wetland boundaries shall be flagged before any land disturbing activities commence.
 - 2) The requirement to complete a wetland delineation may be waived by the Ashland County Zoning Department if the applicant demonstrates that sufficient area is clearly available on-site to accommodate the proposed land disturbing activity without incurring direct wetland impacts.
 - 3) As an alternative to the procedures in paragraph 1 above, applicants may request assistance from the Ashland County Zoning Department or the WDNR Wetland Identification Program to identify wetlands and potential wetlands.

3.2: Identifying Associated Hydrologic Features

- A. Hydrologic Features Map(s). The Site Plan shall also identify the following hydrologic features through a site inspection and review of aerial photographs and topographic and other maps:
- 1) On-site or adjacent lakes, rivers, streams, and their shorelands or floodplains.
 - 2) On-site lands drained by tile or ditch systems or impounded by water control structures.
 - 3) On-site areas with perched groundwater, or that are subject to seasonally high groundwater levels;
 - 4) On-site natural drainage, infiltration, or recharge areas that connect or drain to wetlands, such as: springs, seeps, steep slopes, swales, or channels.

3.3: Establishment of Wetland Protective Areas

- A. Purpose. Preserving and enhancing the vegetated cover on uplands immediately outside the wetland boundary helps to maintain wetland hydrology, wetland habitat, and the overall health of a wetland. If hydrologic, soil, and vegetation conditions are altered, wetlands can be vulnerable to increased sediment deposition, invasion of non-native or noxious plants, and other disturbances that can degrade or destroy a wetland's capacity to provide the benefits described in Section 1.2.

Based on the wetlands and associated hydrologic features identified following the process in Section 3.1 and 3.2, the Site Plan shall depict and describe a Wetland Protective Area that accomplishes the following:

- 1) Limits encroachment into and disturbances in wetlands.
- 2) Minimizes sediment and pollutant runoff.
- 3) Maintains and improves fish and wildlife habitat.
- 4) Prevents the spread of non-native and invasive plant species.

B. General Requirements.

- 1) Land disturbing activities shall be located outside of the protective area, to the greatest extent possible.
- 2) If disturbances cannot be avoided, the applicant shall maintain at least 70 percent self-sustaining vegetative cover.
- 3) The Site Plan shall identify and mark the boundaries of the Wetland Protective Area and include plans for the establishment and maintenance of the protective areas in accordance with the requirements established under Section 3.3(E).

C. Identification of Wetland Protective Area Boundaries. Applicants shall establish Wetland Protective Areas that conform to the widths prescribed below and the other requirements of Section 3.3.

- 1) **Tier 1: High-Functioning Wetlands.** Land disturbing activities shall be located a minimum of 75 feet from the boundary of a wetland, measured horizontally. High-functioning wetlands include, but are not limited to:
 - a) Wetlands that were rated “high” for specific functions in a watershed-scale wetland assessment.
 - b) Wetlands that are identified as priority wetlands in the Ashland County comprehensive plan, land and water management plan, or hazard mitigation plan; or in a watershed plan.
 - c) Wetlands connected to lakes, rivers, or streams with documented water resource management concerns, such as flooding, contaminated drinking water supply, or high levels of phosphorus, sediment, or nitrogen.
 - d) Other criteria to consider include:
 - i) Wetlands within the watersheds of high quality or sensitive lakes, rivers, or streams identified by a lake classification system or other planning processes.
 - ii) Unique, rare, or valuable wetlands, such as those listed in section NR 103.04 of the Wisconsin Administrative Code, or identified as highly susceptible in chapter NR 151.125 of the Wisconsin Administrative Code.
- 2) **Tier 2: Other Wetlands.** Land disturbing activities shall be located a minimum of 75 feet from the boundary of a wetland, measured horizontally. Applies to wetlands that are not rated Tier 1 Wetlands or eligible for width adjustments per Section 3.3(D).

D. Adjustments to the Width of Wetland Protective Areas. Site-specific conditions, including the size and configuration of pre-existing lots, may eliminate the feasibility of the applicant complying with this section. The Ashland County Zoning Department shall have the authority to reduce the required Wetland Protective Area if site conditions warrant the reduction or if the Ashland County Zoning Department determines that a decreased protective area will not significantly harm wetland hydrology and wetland habitat.

- 1) **Use of Conservation Measures.** Applicants may be required by the Ashland County Zoning Department to use conservation measures, such as those described in Part 4.1, to offset any direct or indirect impacts from the decreased Wetland Protective Area. The Ashland County Zoning Department shall also have the discretion to adjust the Wetland Protective Area widths required for Tier 1 and Tier 2 Wetlands, if the applicant voluntarily uses short- and long-term conservation measures to improve wetland and watershed health.

E. Long-Term Maintenance and Reestablishment Plan. Applicants shall submit a Long-Term Maintenance and Reestablishment Plan, which describes how the Wetland Protective Area will be

preserved or reestablished. The plan shall describe the location and sequence of conservation or management activities the applicant agrees to take to limit future disturbances and degradation of self-sustaining native vegetative cover within the protective area.

The Long-Term Maintenance and Reestablishment Plan shall document:

- 1) Type of vegetation. To the greatest extent possible, vegetative cover shall be dominated by a diverse assemblage of native, non-invasive plants, trees or shrubs.
- 2) Conservation and management activities. Management activities such as burning, mowing, haying, and grazing, may be allowed if the purpose is to preserve, restore, and enhance the Wetland Protective Area. Green infrastructure storm water management techniques that naturalize hydrology or utilize bio retention may also be allowed within the protective area.
- 3) Unique property limitations. A description of site-specific conditions that may prevent the protective area from consisting of 70% self-sustaining native vegetative cover.
- 4) Methods and Schedule. When vegetation needs to be reestablished, the plan shall identify the method to be used (natural recovery, seeding, planting). The plan shall also outline the timing of reestablishment activities, such as during the growing season or during/after the implementation of the land disturbing activity. The Zoning department may require alternative scheduling if the chances of reestablishing self-sustaining native vegetative cover are greater at another time.
- 5) Additional Information. The Ashland County Zoning Department may request additional information on proposed plant density, plant types, protective area boundaries, and any other information that helps in the review of the protective area design.

PART 4: Land Disturbing Activity Review and Approval

4.0: Procedures

- A. Timeline. The Site Plan prepared following the requirements in Section 3.0 and the materials for the underlying permit or approval of a land disturbing activity under Section 2.0 shall be submitted to the Ashland County Zoning Department. Within ten (10) days after submission, the department will notify the applicant if the materials submitted for review are incomplete.
- B. Complete Application. If the materials are complete, the department shall review the Site Plan following the timeframe for reviewing the application for a permit or approval under Section 4.0(A).

4.1: Final Action

Following review of the Site Plan, the Ashland County Zoning Department shall take one of the following actions on the Site Plan:

- A. Approval. Approve the proposed land disturbing activity if the land is suitable for the proposed land disturbing activity, and the applicant demonstrates that the proposed land disturbing activity is designed and can be implemented in compliance with the Wetland Conservation Standards in Section 2.2. The Zoning Department shall review the Site Plan to determine if the proposed land disturbing activity will generate direct or impacts to on-site, adjacent, and hydrologically connected wetlands.

- B. Conditional approval. Attach conditions to the approval or require the applicant to take conservation measures to ensure the proposed land disturbing activity complies with the Wetland Conservation Standards in Section 2.2 and other requirements of the ACWCO.
- 1) *Conservation Measures.* Examples of eligible conservation measures include, but are not limited to:
 - a) Configuring the layout, dimensions, and intensity of lots, roads, structures, and other land disturbing activities to reduce direct and indirect wetland impacts.
 - b) Preserving or restoring topography, drainage patterns, hydro period, and the natural flow of surface water to wetlands.
 - c) Implementing storm water best management practices to preserve, restore, and enhance the quality and quantity of water flowing into wetlands, and the natural infiltration of water on lands that drain to or are hydrologically connected to wetlands.
 - d) Preserving native and self-sustaining vegetative cover within on-site wetlands; or exceeding the vegetative cover requirements within the Wetland Protective Area.
 - e) Conservation and management activities, such as burning, mowing, haying, and grazing, if the purpose is to preserve, restore, or enhance the wetland.
 - 2) *Additional Conservation Measures.* Indirect impacts that cannot be avoided or minimized due to unique property limitations may be allowed if additional conservation measures are carried out to preserve or enhance wetland hydrology or habitat, or the quality of water flowing in and out of wetlands. Examples of these additional conservation measures include, but are not limited to:
 - a) Increasing the width of the protective area, especially near surface water inlets or outlets, and entry points of overland flow.
 - b) Enhancing the vegetative cover that is within the protective area.
 - c) Engaging in wetland restoration activities that enhance wetland hydrology and wetland habitat (e.g., reconnecting wetlands to their floodplains or water source.)
 - d) Placing an easement to preserve remaining wetlands and protective areas in perpetuity.
 - e) Other activities that preserve or improve the health of on-site wetlands or wetlands hydrologically connected to the proposed land disturbing activity.
- C. Deny approval. Deny the proposed land disturbing activity if it is not possible to comply with the Wetland Conservation Standards in Section 2.2 and other requirements of the ACWCO.

4.2: Recording

The final action taken on the proposed land disturbing activity by the Ashland County Zoning Department shall be recorded with the action taken on the applicable permit or approval under Section 2.0. As required by 2009 Wisconsin Act 373, approvals and conditional approvals shall include the statutory language about the need to comply with state and federal laws concerning construction on or near wetlands.

APPENDIX A –

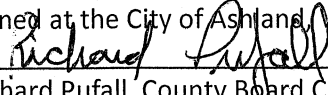
NR 103.04 established a list of wetlands that are classified as “wetlands in areas of special natural resource interest (ASNRI).” ASNRI wetlands includes “those wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas:”

1. Cold water communities as defined in s. NR 102.04(3)(a), including all trout streams and their tributaries and trout lakes;
2. Lakes Michigan and Superior and the Mississippi river;
3. State and federal designated wild and scenic rivers, designated state riverways and state designated scenic urban waterways, s. 30.26 Stats., ch. NR 302, 16 USC 1271 to 1287, ss. 30.40 to 30.49 Stats., and s. 30.275, Stats.;
4. Unique and significant wetlands identified in special area management plans (SAMP), special wetland inventory studies (SWIS), advanced delineation and identification studies (ADID) and areas designated by the United States environmental protection agency under section 404 (c), 33 USC 1344 (c);
5. Calcareous fens;
6. Habitat used by state or federally designated threatened or endangered species, s. 29.604, Stats., ch. NR 27 and 16 USC 1531 to 1543;
7. State parks, forests, trails and recreation areas;
8. State and federal fish and wildlife refuges and fish and wildlife management areas;
9. State and federal designated wilderness areas (16 USC 1131 to 1135 and s. NR 1.415)
10. Designated or dedicated state natural areas established under ss. 23.27 to 23.29, Stats.;
11. Wild rice waters; and
12. Any other surface waters identified as outstanding or exceptional resource waters in ch. NR 102.

NR 151 establishes the state’s minimum standards for runoff management. Applicants proposing land disturbing activities of 1 acre or more must establish a protective area near wetlands based on the wetlands’ community type and condition (e.g., presence of non-native species). Local governments administering erosion control or stormwater management ordinances may require protective areas for land disturbing activities which are smaller than 1 acre.

1. Highly susceptible wetlands are considered calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds. *NOTE: Under NR 151.125(1)(e), highly susceptible wetlands are subject to a 75-foot protective area.*
2. Less susceptible wetlands are considered degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
NOTE: Under NR 151.125(1)(f), less susceptible wetlands are subject to a 10-30 foot protective area. According to NR 151.125(1)(d), wetlands which do not meet the criteria of highly susceptible or less susceptible are subject to a 50-foot protective area under state law.
NOTE: Less susceptible wetlands may need a larger Wetland Protective Area if there is a need or opportunity to restore or enhance the wetland, or prevent further degradation from land use or development pressures.

Signed at the City of Ashland, Wisconsin on this 7th day of July, 2020.


Richard Pufall, County Board Chair


ATTEST: Heather Schutte, Ashland County Clerk

This Ordinance is effective on publication: Publication Date: July 15, 2020