

**ORDINANCE NO. 347 (26)**

**AN ORDINANCE PERTAINING TO MUNICIPAL PLANNING; AMENDING ALBION MUNICIPAL CODE CHAPTER 9, SECTION 9-514 FF/FW FLOOD PLAIN DISTRICTS (OVERLAY DISTRICT) ORIGINALLY ADOPTED AS ORDINANCE NO. 303 (20); PROVIDING FOR THE REPEAL OF ANY ORDINANCE OR PART OF ORDINANCE IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ALBION, NEBRASKA THAT ALBION MUNICIPAL CODE CHAPTER 9, SECTION 9-514 FF/FW FLOOD PLAIN DISTRICTS (OVERLY DISTRICT) ORIGINALLY ADOPTED BY ORDINANCE NO. 303 (20) AND ENACTED BY THE MAYOR AND CITY COUNCIL ON JANUARY 12, 2021, BE AMENDED AND ENACTED AS FOLLOWS:

That Subsection 2.1 of Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) be amended as follows:

**2.1 LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the jurisdiction of the City of Albion identified on the Flood Insurance Rate Map(FIRM) panels 31011C0325D, 31011C0328D, 31011C0336D, and 31011C0309D dated June 10, 2026, and shown as Zone A and within the Zoning District established in Section 3.0 of this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 4.0 and 5.0.

That Section 3.0 of Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) be amended as follows:

**3.0 ESTABLISHMENT OF ZONING DISTRICTS**

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district, as identified in the flood insurance study 31011CV000A dated 06/10/2026 and on accompanying FIRM panels as established in Section 2.1. The floodplain overlay district shall correspond to flood zone A. Within this district, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

That Subsection 4.3 of Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) be amended as follows:

### **4.3 DUTIES OF THE FLOODPLAIN ADMINISTRATOR**

A. Duties of the floodplain administrator shall include, but not be limited to the following:

- i. Review, approve, or deny all applications for floodplain development permits.
- ii. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
- iii. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
- iv. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
- v. Coordinate with the Nebraska Department of Water, Energy and Environment to obtain base flood elevation information when applicable and required.
- vi. Notify adjacent communities and the Nebraska Department of Water, Energy and Environment prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- vii. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- viii. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
- ix. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.
- x. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.

That Subsection 5.1 of Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) be amended as follows:

### **5.1 GENERAL PROVISIONS**

A. Alteration or Relocation of a Watercourse

- i. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base

flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.

ii. No alteration or relocation shall be made until all adjacent communities that may be affected by such action, and the Nebraska Department of Water, Energy and Environment have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency (FEMA).

#### B. Encroachments

i. When proposing to permit any of the following encroachments, the standards in Section 5.1 (B) (ii) shall apply:

a. Any development in Zone A without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or

b. Alteration or relocation of a stream; then

ii. The applicant shall:

a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and

b. Supply full package to the floodplain administrator including any required notifications to potentially affected property owners. That Subsection 5.2.F of Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) be amended as follows:

i. New or substantially improved manufactured or mobile homes shall be prohibited within any floodplain.

ii. The repair or replacement of substantially damaged manufactured or mobile homes shall be prohibited within any floodplain

That Subsection 7.0 of Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) be amended as follows:

### **7.0 AMENDMENTS**

A. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be take until after a public hearing in relation thereto, at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Albion. At least 10 days shall elapse between the date of this publication and the public

hearing.

B. A copy of such amendments will be provided to the Nebraska Department of Water, Energy and Environment and the Federal Emergency Management Agency for review and approval.

That Subsection 8.0 of Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) be amended as follows:

## **8.0 DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:

**1% Annual Chance Flood Hazard.** See "Base Flood".

**Addition.** An extension or increase in floor area, number of stories, or height of an existing building or structure.

(Nebraska Existing Building Code 2018, Chapter 202)

**Alteration.** Any construction or renovation to an existing structure other than a repair or addition.

(Nebraska Existing Building Code 2018, Chapter 202)

**Appeal** means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for

**Appurtenant 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. Also shall be known as "accessory structure."

**Area of Shallow Flooding** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood** means the flood having one (1) percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation** means the elevation to which floodwater is expected to rise during the base flood.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** means "structure." See definition for "structure."

**Community.** Any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

**Development** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

**Drainway.** Any depression two feet or more below the land which serves to give direction to a current of water less than nine (9) months of the year, and which has a bed and well-defined banks.

**Existing Construction.** Any structure for which the “start of construction” commenced before the effective date of the floodplain management regulations adopted by the community as a basis for that community’s participation in the NFIP. “Existing construction” may also be referred to as “existing structures.

**Existing Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas.

**Flood Fringe** is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

**Floodplain** means any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.

**Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**Floodplain Management Regulations.** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such regulations which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

**Flood damage resistant material.** Any building product capable of withstanding direct and prolonged contact with floodwaters, without sustaining significant damage. Prolonged contact is defined as at least 72 hours. (FEMA Technical Bulletin 2)

**Floodway** or Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

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

**Historic Structure** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Revision (LOMR).** Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and

thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.  
(FEMA MT-2 Form Instructions)

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Letter of Map Change (LOMC).** An official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- A. **Letter of Map Amendment (LOMA).** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property or structure is not located in a special flood hazard area.  
(FEMA MT-1 Form Instructions)
- B. **Conditional Letter of Map Revision Based on Fill (CLOMR-F).** A determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed.  
(FEMA MT-1 Form Instructions)
- C. **Letter of Map Revision Based on Fill (LOMR-F).** A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.  
(FEMA MT-1 Form Instructions)
- D. **Conditional Letter of Map Revision (CLOMR).** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective FIRM.  
(FEMA MT-2 Form Instructions)
- E. **Letter of Map Revision (LOMR).** Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

(FEMA MT-2 Form Instructions)

**Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mobile Home.** See definition for "Manufactured Home"

**New Construction for floodplain management purposes,** "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Nonresidential Structure.** A commercial or mixed-use building where the primary use is commercial or non-habitational.

**Obstruction.** Any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained by the DWEE pursuant of the Safety of Dams and Reservoirs Act (Neb. Rev. Stat. §§46-1601 to 46-1670, as amended).

**Overlay District** is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

**Post-FIRM Structure** means a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated **April 2, 1986**, whichever is later.

**Pre-FIRM Structure** means a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated **April 2, 1986**, whichever is later.

**Principally Above Ground** means that at least 51 percent of the actual cash value of the structure is above ground.

**Recreational Vehicle** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Elevation** means the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.

**Residential Structure.** A non-commercial structure designed for habitation by one or more families or a mixed-use structure that qualifies as a single-family, two-to-four family, or other residential structure.

**Special Flood Hazard Area (SFHA)** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

**Start of Construction** means the date the floodplain development 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. "Start of construction" also includes substantial improvement, and means 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 the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of 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 a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**Structure** means a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground.

**Subdivision** means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.

**Substantial Damage** means damage of any origin sustained by a structure whereby the cumulative

cost of restoring the structure to its before-damage condition would equal or exceed 50 percent. Cumulative costs shall include all costs for reconstruction, rehabilitation, or other improvement of the structure to repair damage incurred within 10 years preceding the date of the floodplain development permit]

**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Variance** is a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**Violation** means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**Watercourse** means any depression two feet or more below the surrounding land that serves to give direction to a current of water at least nine months of the year and that has a bed and well defined banks.

**Any ordinance or part of ordinance passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with the provisions of this ordinance, is hereby repealed.**

**This ordinance amending Albion Municipal Code Chapter 9, Section 9-514 FF/FW Flood Plain Districts (Overly District) shall be in full force and effect on the 1ST day of MAY, 2026 and after its passage, approval, and publication according to law.**

**INTRODUCED BY \_\_\_\_\_**

**PASSED AND ADOPTED BY A VOTE OF \_\_\_\_\_ TO \_\_\_\_\_ ON THIS 14TH DAY OF APRIL, 2026.**

**PUBLISHED \_\_\_\_\_, 2026.**

---

**Mayor**

**ATTEST:**

**{seal}**

---

**Clerk**