

## ARTICLE V -ZONING DISTRICTS

### SECTION 9-501: DISTRICTS; USE

For the purpose of this Chapter, the Municipality is hereby divided into eleven (11) districts, designated as follows:

(TA)	Transitional Agricultural
(R-1)	Low Density Residential
(R-2)	Medium Density Residential
(R-3)	High Density Residential
(C-1)	General Commercial
(C-2)	Downtown Commercial
(C-3)	Highway Commercial
(I-1)	Light Industrial
(PUD- 1)	Planned Unit Development
(PUB)	Public and Semi-Public
(FF/FW)	Flood Plain (overlay)

### SECTION 9-502: DISTRICTS; BOUNDARIES

The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the City of Albion, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map. (Ref 19-904 RS Neb.)

### SECTION 9-503: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such center lines;
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits;

- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections (A) -(E) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (A) -(F) above, the Board of Zoning Adjustment shall interpret the district boundaries;
- H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

SECTION 9-504: CLASSIFICATION OF DISTRICTS UPON ANNEXATION AND CONFORMANCE WITH THE LAND USE PLAN

Areas annexed into the corporate limits of Albion shall be zoned to conform with the Land Use Plan.

## SECTION 9-505: (TA) TRANSITIONAL AGRICULTURE DISTRICT

1. Intent. The Transitional Agriculture District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. Because the areas are not in the identified growth areas for the community, the district is designed to limit urban sprawl.
2. Permitted Uses:
  - a. Farming, pasturing, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot or yard for more than twelve (12) animals shall be established.
  - b. Farm dwellings for the owners and their families, tenants, and employees.
  - c. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
  - d. Railroads, not including switching, terminal facilities or freight yards.
  - e. Public overhead and underground local distribution utilities.
  - f. Single family dwelling.
  - g. Churches.
  - h. Stables and riding academies.
3. Permitted Conditional Uses:
  - a. Radio, television and communication towers and transmitters.
  - b. Cemeteries, provided all structures are located at least one hundred (100) feet from all property lines.
  - c. Wastewater treatment facilities.
  - d. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
  - e. Public and private schools and colleges.
  - f. Home occupations or professional offices, but only when conducted by residents living on the premises.
  - g. Garages for the storage, maintenance and repair of public vehicles.
  - h. Airports.
  - i. Veterinarians' offices and hospitals, and boarding kennels.
  - j. Raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
  - k. Hospitals and institutions.
  - l. Homes for convalescents, aged or children.
  - m. Wind energy systems on tracts of more than ten (10) acres.
  - n. Home Businesses.

- o. An existing feedlot or yard for more than twelve (12) animals may be relocated through a Conditional use Permit if such relocation does not bring it closer to the corporate limits of the City of Albion and such relocation is for purposes of adding additional livestock waste controls or meeting other state or federal requirements. No expansion of capacity shall be allowed. (Amended by Ordinance 189-09)

4. Permitted Accessory Uses:

- a. Buildings and uses customarily incidental to the permitted uses.
- b. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- c. Signs as provided for in Article VII.
- d. Parking as provided for in Article VII.

5. Height and Lot Requirements:

- a. The height and minimum lot requirements shall be as follows:

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height	Lot Coverage
Permitted Uses:	5 Acres*	150'	25'	50'	65'	35'	10%
Accessory Buildings			100'	15'	15'	22'***	5%**

\* 3-acre lot sizes are permitted in a subdivision of three (3) lots or more.

\*\* Provided that total lot coverage of all structures does not exceed 15%.

\*\*\* (Amended by Ordinance 189-09)

## SECTION 9-506: (R-1) LOW DENSITY RESIDENTIAL

1. Intent. The Low Density Residential District is intended to provide for large lot residential and compatible uses while maintaining reserve land for planned expansion of intense urban development to facilitate planned extension of municipal services; and to permit residential use of land where, because of forests, unstable land or other natural land features, intensive development is not in the best public interest.
2. Permitted Principal Uses:
  - a. Single family dwellings.
  - b. Two family, duplex, dwellings.
  - c. Publicly owned and operated buildings including, fire stations, libraries, and community centers.
  - d. Railroads, not including switching, terminal buildings or freight yards.
3. Permitted Conditional Uses:
  - a. Seasonal offering for sale of agriculture products produced on the premises.
  - b. Churches, temples, seminaries, and convents, including residences for pastors and teachers.
  - c. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools, junior and senior high schools and colleges; nursery schools, and private nonprofit schools.
  - d. Private recreation areas and facilities, including lakes, ponds, country clubs, golf courses, and swimming pools.
  - e. Hospitals, elderly or Retirement Housing nursing homes, and philanthropic charitable institutions.
  - f. Radio, television and communication towers and transmitters.
  - g. Overhead and underground utility *main* transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal, facilities, and reservoirs.
  - h. Cemeteries.
  - i. Public parks and recreation areas, playgrounds, forest and conservation areas, including commercial uses and campgrounds under franchise of the County or State government agencies.
  - j. Home occupation.
  - k. Mortuaries, funeral homes, and funeral chapels.
  - l. Day Care Center and Day Care Home.
  - m. Townhouses.
  - n. Home Business.

4. Accessory Uses:

- a. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.
- b. Buildings and uses customarily incidental to the permitted uses.
- c. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
- d. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- e. Signs as provided for in Article VII.
- f. Parking as provided for in Article VII.

5. Height and Lot Requirements:

- a. The height and minimum lot requirements shall be as follows:

	Lot Area (Sq. Feet)	Lot Width	Front Yard**	Side Yard	Rear Yard	Maximum Height	Lot Coverage
Dwelling							
Single Family	20,000	80'	35'	15'	30'	35'	20%
Other Permitted Uses	20,000	80'	35'	15'	30'	35'	20%
Accessory Buildings***	--	--	50'	8'	10'	22'##	10%*
Small Accessory Bldgs****	--	--	50'	5'	5'#	15'	10%

\* Provided the total lot coverage of all buildings does not exceed 30%.

\*\* On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures within 300 feet along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback. See Section 9-409: YARD REQUIREMENTS, paragraph C, regarding exceptions for Front Yard setbacks.

\*\*\* Total applies to all buildings with the total square footage of over 100 square feet.

\*\*\*\* Small accessory buildings are 120 square feet or less.

# Accessory buildings located in the rear yard, if the building has a vehicular alley entrance that is perpendicular to the alley line, the setback of the building shall not be less than ten (10') feet from the alley line and if the building is parallel to the alley line and has a vehicular entrance from a wall that is perpendicular to the alley line, no setback shall be required from the alley line. Small accessory building in the rear yard, if adjacent to an alley, no setback shall be required from the alley line.

## Amended by Ordinance 189-09.

## SECTION 9-507: (R-2) MEDIUM DENSITY RESIDENTIAL

1. This district is intended to provide for single to four family residential development in areas with adequate public facilities and supporting uses near population centers.
2. Permitted Uses:
  - a. Single family dwellings.
  - b. Single family attached dwellings (Maximum of four dwelling units per structure).
  - c. Two-family (duplex) dwellings.
  - d. Public and private schools.
  - e. Universities and colleges.
  - f. Churches, temples, seminaries, convents, including residences for teachers and pastors.
  - g. Accessory buildings as a primary use provided the building does not exceed 1,080 square feet, occupies less than ten percent (10%) of the total square footage of the lot and is positioned in such a way on the lot to allow a dwelling to be constructed at a future date. Buildings must meet the character of the neighborhood. Buildings shall not be roofed or sided with galvanized metal or any reflective material, and shall have siding and roofing consistent with the neighborhood character.
  - h. Publicly-owned and operated parks, playgrounds, fire stations, community centers, and libraries.
3. Permitted Conditional Uses:
  - a. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
  - b. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
  - c. Home business.
  - d. Mortuaries, funeral homes and funeral chapels.
  - e. Day Care Center and Day Care Home.
4. Accessory Uses: The following accessory uses are permitted in the R-2 Medium Density Residential District:
  - a. Buildings and uses customarily incidental to the permitted uses.
  - b. No accessory building shall exceed the ground floor coverage of the principal dwelling.
  - c. Parking for permitted uses as per Article VII.
  - d. Signs allowed in Article VII.

5. Height and Lot Requirements:

a. The height and minimum lot requirements shall be as follows:

	Lot Area (Sq. Feet)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height	Lot Coverage
Single Family Dwelling (existing development)	7,800	50'	25'	8'	25'	35'	35%
Single Family Dwelling (future development)	9,000	75'	25'	10'	25'	35'	40%
Two Family Dwelling**	8,000	75'	25'	8'	25'	35'	35%
Three & Four Unit** (per dwelling unit)	4,000	75	25'	8'	25'	35'	35%
Other Permitted Uses	10,000	80'	25'	8'	30'	30'	25%
Accessory Buildings# (existing development)	8,700	66'	50'	8'	10'	22'	10%
Accessory Buildings#	--	--	50'	8'	10'	22'	10%*
Small Accessory Buildings##	--	--	50'	5'	5'###	15'	10%

\*Provided the total lot coverage of all buildings does not exceed 45%

\*\* On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures within 300 feet along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback. See Section 9-409: YARD REQUIREMENTS, paragraph C, regarding exceptions for Front Yard setbacks.

\*\*\* Future development shall be defined as all new subdivisions created after the date of passage of this Ordinance.

# Total applies to all buildings with the total square footage of over 100 square feet.

## Small accessory buildings are 120 square feet or less.

### Accessory buildings located in the rear yard, if the building has a vehicular alley entrance that is perpendicular to the alley line, the setback of the building shall not be less than ten (10') feet from the alley line and if the building is parallel to the alley line and has a vehicular entrance from a wall that is perpendicular to the alley line, no setback shall be required from the alley line. Small accessory building in the rear yard, if adjacent to an alley, no setback shall be required from the alley line.



## SECTION 9-508: (R-3) HIGH DENSITY RESIDENTIAL

1. The purpose of this district is to permit high density residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.
2. Permitted Uses:
  - a. Single family dwellings.
  - b. Two-family, duplex, dwellings.
  - c. Single family attached dwellings.
  - d. Multiple family dwellings.
  - e. Lodging and boarding houses.
  - f. Public and private schools.
  - g. Universities and colleges.
  - h. Churches, temples, seminaries, and convents including residences for teachers and pastors.
  - i. Publicly-owned and operated parks, playgrounds, fire stations, community centers, and libraries.
  - j. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions.
  - k. Mortuaries, funeral homes and funeral chapels.
3. Permitted Conditional Uses:
  - a. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
  - b. Mobile home parks. In addition to the regular requirements of a conditional use permit, the following requirements must be met:
    1. Certification of compliance with all ordinances and regulations regarding mobile home park licensing, zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations.
    2. Individual mobile home lots shall have an area of not less than three thousand (3,000) square feet for single wide mobile homes and forty-five hundred (4,500) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed seven (7).
    3. A minimum of twenty-five (25) feet measured from any entrance, lean-to or other extension from said mobile home shall be maintained between mobile homes.
    4. A mobile home park shall have an area of not less than two (2) acres, nor more than five (5) acres and no mobile home or office or service building shall be

closer to a street right-of-way or other property line than twenty (20) feet.

5. All mobile homes shall meet all applicable Federal and State Regulations.
  6. Individually owned lots on which mobile homes are placed may be purchased within an approved mobile home park if the owner wishes to sell.
  7. The area of the mobile home shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, or overturning.
  8. The mobile home shall be provided with anchors and tiedowns such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home. The tie-down devices shall be compatible with the foundation system provided for the mobile home such that the tie-downs are designed to resist the action of frost in the same manner as the foundation system.
  9. Anchors and tie-downs shall be placed at least to each corner of the mobile home and at intervals not to exceed ten (10) feet and shall be able to resist the design wind pressures. Wheels shall not be for bearing pressures. All anchoring and tie-downs shall meet the minimum manufacturer requirements.
  10. The skirting of all mobile homes is required. Such skirting shall not attach a mobile home permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for debris or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home and its subsequent connection to the utility risers if they are located within the skirted area.
- d. Home Occupations.
  - e. Home Business.
  - f. Day Care Center and Day Care Home.
  - g. Charitable clubs and organizations.

4. Accessory Uses:

- a. Buildings and uses customarily incidental to the permitted uses.
- b. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- c. Signs as provided for in Article VII.
- d. Parking as provided for in Article VII.

5. Height and Lot Requirements:

a. The height and minimum lot requirements shall be as follows:

	Lot Area (Sq. Feet)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height	Lot Coverage
Single Family Dwelling***	7,000	50'	25'	10'	25'	35'	40%
Two Family Dwelling***	8,000	75'	25'	10'	25'	35'	40%
Multi-Family Dwelling***	4,000	100'	25'	(*)	25'	45'	40%
Other Permitted Uses	10,000	70'	25'	10'	25'	45'	30%
Accessory Buildings#	--	--	50'	8'	10'	22'	10%
Small Accessory Buildings##	--	--	50'	5'	5'###	15'	10%

\*For Multi-Family units the side yard shall be 10 feet if it IS a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

\*\*Provided total area of accessory structure for single family does not exceed 600 sq. ft. and the total lot coverage of all buildings does not exceed 50%.

\*\*\*On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures within 300 feet along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback. See Section 9-409: YARD REQUIREMENTS, paragraph C, regarding exceptions for Front Yard setbacks.

#Total applies to all buildings with the total square footage of over 100 square feet.

##Small accessory buildings are 120 square feet or less.

### Accessory buildings located in the rear yard, if the building has a vehicular alley entrance that is perpendicular to the alley line, the setback of the building shall not be less than ten (10') feet from the alley line and if the building is parallel to the alley line and has a vehicular entrance from a wall that is perpendicular to the alley line, no setback shall be required from the alley line. Small accessory building in the rear yard, if adjacent to an alley, no setback shall be required from the alley line.

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## SECTION 9-509: (C-1) GENERAL COMMERCIAL DISTRICT

1. Intent. The General Commercial District is intended to provide a compact area of retail and office uses to serve portions of the community. The edge of such districts shall be designed to provide compatibility with residentially zoned properties.
2. Permitted Uses:
  - a. Retail and Service establishments carried on within an enclosed building.
  - b. Business services including: banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers; dealers and exchange, title abstracting, savings and loans, finance services and investment services.
  - c. Civic and cultural facilities.
  - d. Clothing and apparel services, including: dressmaking, millinery, shoe repair, furrier, and tailors.
  - e. Self-service cleaning establishments including laundromats and laundries.
  - f. Equipment sales and service including: radio or television shops, business machines, musical instrument shops, sewing machines, plumbing and heating, and electrical fixtures.
  - g. Personal services including barber shops, beauty salons, reducing salons, and photographic studios.
  - h. Retail stores including: food markets, delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationery, newspaper distribution, shoe and apparel shops, hobby, camera and sporting goods, dry goods, furniture, household appliances, home furnishings, hardware, gift, jewelry, variety stores, retail mail order stores, confectionery, retail dairy stores, men's and boy's clothing and furnishings store, radio, electronics and music store, retail liquor store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, 'drapery, or floor covering store, convenience mart (with gasoline sales) and camera shops.
  - i. Food service including ice cream parlor, and sandwich shops.
  - j. Public overhead and underground local distribution utilities.
  - k. Mortuaries, funeral homes, and funeral chapels.
  - l. Transportation depots including railroad passenger station, bus station.
  - m. Cocktail lounges and taverns.
  - n. Churches, temples, seminaries, and convents including residences for teachers and pastors.
3. Permitted Conditional Uses:
  - a. Temporary structure for festivals or commercial events.
  - b. Drive-in restaurants.
  - c. recreational establishments including bowling alleys, billiard halls.

- d. Gasoline service stations with service and/or repair.
  - e. Auto sales and service.
  - f. Laundry pickup and delivery stations.
  - g. Printing and publishing.
  - h. Apartment Buildings , multi-family rental units, and single-family rental units:
    - 1) Shall meet all off-street parking requirements;
    - 2) Shall be adjacent to an existing residential use;
    - 3) Conditional use permit remains valid until structure is demolished or property redeveloped for a new permitted or conditionally permitted use.
4. Accessory Uses:
- a. Buildings and uses customarily incidental to the permitted uses.
  - b. Parking as allowed in Article VII.
  - c. Signs allowed in Article VII.

5. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

	<u>Lot Area</u> <u>(Sq. Feet)</u>	<u>Lot</u> <u>Width</u>	<u>Front</u> <u>Yard</u>	<u>Side</u> <u>Yard</u>	<u>Rear</u> <u>Yard</u>	<u>Maximum</u> <u>Height</u>
Permitted Uses	3,500	50'	20'(^3)	0'(^1)	0'	35'(^2)

- 1. Side yard 10 Feet when abutting a zone requiring a side yard and 25 feet for front yards.
- 2. Special Provisions. Any building over two (2) stories in height permitted in. Commercial District shall be so designed to provide for adequate light and air so that any part of such building above the second story shall be no closer than twenty (20) feet perpendicular distance from the vertical extension of any lot boundary.
- 3. Front Yard may be reduced to less than 25' or the same setback as 50% or more of the buildings in the same block.

6. Use Limitations:

- 1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property.
- 2. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.



## SECTION 9-510: (C-2) DOWNTOWN COMMERCIAL DISTRICT

1. Intent. The Downtown Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.
2. Permitted Uses:
  - a. Clothing and apparel services, including: dressmaking, millinery, shoe repair, furrier, and tailors.
  - b. Business services including: banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services.
  - c. Self-service cleaning establishments including laundromats and laundries.
  - d. Personal services including barber shops, beauty salons, reducing salons and photographic studios.
  - e. Retail stores including: delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationery, newspaper distribution, shoe and apparel shops', hobby, camera and sporting goods, dry goods, furniture, household appliances, home furnishings, hardware, gift, jewelry, variety stores, confectionery, men's and boy's clothing and furnishings store, radio, electronics and music store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, drapery, or floor covering store and camera shops.
  - f. Food service, including: ice cream parlor, and sandwich shops.
  - g. Recreational establishments including bowling alleys, billiard halls.
  - h. Theaters, fraternal and cultural facilities.
  - i. Cocktail lounges, taverns and retail liquor stores.
  - j. Public buildings, assembly halls, auditoriums, civic centers.
  - k. Mortuaries, funeral homes, and funeral chapels.
  - l. Commercial lodging uses including hotels and motels.
  - m. Residences and Apartment Facilities, secondary to an active principle use of property, when located above the ground floor.
  - n. Churches, temples, seminaries, and convents including residences for teachers and pastors.
3. Permitted Conditional Uses:
  - a. Temporary structures for festivals or commercial events.
  - b. Printing and publishing.
  - c. Convenience mart (with gasoline sales).
  - d. Exterior modifications, alterations, signage.
  - e. Auto dealerships and related service garages.

- f. Apartment Facilities, multi-family rental units, and single-family rental units:
  - 4) Shall meet all off-street parking requirements;
  - 5) Shall be adjacent to an existing residential use;
  - 6) Conditional use permit remains valid until structure is demolished or property redeveloped for a new permitted or conditionally permitted use.

4. Accessory Uses

- a. Buildings and uses customarily incidental to the permitted uses.
- b. Parking as permitted in Article, VII.
- c. Signs-allowed in Article VII.

5. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

	Lot Area (Sq. Feet)	Front Yard	Side Yard*	Rear Yard	Maximum Height
Permitted Uses	3,500	0'	0'	0'	45'

\* 10 feet when abutting a zone requiring a side yard and 20 feet for any street side yards. Such side yard shall not be used for parking, driveways, storage or signs.

## SECTION 9-511: (C-3) HIGHWAY COMMERCIAL DISTRICT

1. Intent. This district adds certain design standards in comparison to zoning districts located along Nebraska Highways 14, 39, 91 and County Road 8525. This district is indicated as HC on the Land Use Map. They are designed to promote:
  - a. Safe traffic circulation on and off and across the highway.
  - b. A high quality of design and site planning.
  - c. Flexibility in development in order to provide an attractive, viable employment corridor.
  
2. Permitted Uses:
  - a. Agriculture on more than ten (10) acres.
  - b. Public or semi public buildings on more than ten (10) acres.
  - c. Automobile display, sales, service, and repair.
  - d. Any Permitted Use in the C-1 and C-2 districts.
  - e. Motels, hotels and trailer campgrounds.
  - f. Commercial greenhouse.
  - g. Farm implement display or salesroom.
  - h. Golf driving ranges, miniature golf.
  - i. Lumber yards, hardware stores and building material sales yards.
  - j. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
  - k. When located at least one hundred (100') feet away from any (R) District Boundary: Bowling alley, Drive-In restaurant, and Drive-in theater.
  
3. Permitted Conditional Uses:
  - a. Apartments
  - b. Living quarters used by watchmen or custodians of the commercially used property.
  - c. Parking.
  
4. Accessory Uses:
  - a. Buildings and uses customarily incidental to the permitted uses.
  - b. Parking as permitted in Article VII.
  - c. Signs allowed in Article VII.

5. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

	<u>Lot Area (Sq. Feet)</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Height</u>
Permitted Uses	3 Acres*	150'	25'(^1)	10'	25'	35'
Apartments	3 Acres**	150'	25'	10'***	25'	45'***

\* If on City water and sewer minimum lot area can be reduced to 10,000 sq. ft

\*\* If the lot area is reduced under the sewer/water provision then the minimum lot area shall be 4,000 square feet per dwelling unit

\*\*\*For Multi-Family units, the side yard shall be 10 feet if it is a maximum of a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

1. 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50'.

6. Use Limitations

- a. Thirty-five percent (35%) of the required front yard shall be maintained in a landscaped yard.
- b. Signs: One pole sign not to exceed fifteen (15') feet in height and one wall sign affixed to the side of a principal permitted building. Maximum size: eighty (80) square feet.
- c. All lots shall be served by a paved frontage road and may not take access directly from the Highway. When area permits, access roads shall be implemented.

## SECTION 9-512: (1-1) LIGHT INDUSTRIAL

1. Intent. It is the intent of the Light Industrial District Regulations to provide standards for area suitable for some limited industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that users of this land conduct activities that create low to moderate hazards to adjacent properties.

Adult Entertainment Facilities are included in this Zoning District. The intent of the Albion Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

2. Permitted Uses:
  - a. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
  - b. Laboratories.
  - c. Manufacture and assembly of electrical and electronic appliances.
  - d. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
  - e. Manufacture of light sheet metal products including heating and ventilation equipment.
  - f. Printing and publishing business.
  - g. Stone and monument works.
  - h. Public local distribution and main transmission utilities.
  - i. Warehouses and wholesale businesses.
  - j. Building materials yards with enclosed and screened storage areas.
  - k. Highway maintenance yards or buildings.
  - l. Self-storage units.
3. Permitted Conditional Uses
  - a. Radio, television and communication towers and transmitters.
  - b. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
  - c. Cabinetry millwork.
  - d. Adult entertainment.
    - i. Not less than 1,000 feet from residences, recreational, and/or religious uses from property line to property line.
    - ii. Not less than 1,000 feet from another adult entertainment activity from property line to property line.
  - e. Ethanol Plants. (Amended by Ordinance 151-04).

- 4. Accessory Uses
  - a. Signs as permitted in Article VII.
  - b. Parking as permitted in Article VII.

5. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

	Lot Area (Sq. Feet)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Permitted Uses	3 Acres*	70'	25'	25'	15'	45'

\* If on City water and sewer, minimum lot area can be reduced to 10,000 sq. ft.

6. Performance Standards:

- a. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- b. Fire hazard: No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating, fuels, motor fuels and welding gasses when handled in accordance with other regulations of Boone County.
- c. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak, hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
- d. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- e. Air Contaminants:
  - 1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an

- opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in anyone' half hour, at which time it may equal but not exceed six-tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit,
  3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
  - f. Odor: The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of these Regulations.
  - g. Gasses: The gasses sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million, All measurements shall be taken at the zoning lot line.
  - h. Vibration: All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
  - i. Glare and heat: All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

## SECTION 9-513: (PUD-1) PLANNED UNIT DEVELOPMENTS

1. Intent. The intent of the PUD-1 District is to encourage the creative design of new living and retail areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings" open space, and their inter-relationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

The PUD-1 District is a floating zone. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met.

2. The planning commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a PUD-1 District, along with specific, evidence and facts showing that the proposal meets or does not meet the following conditions.
  - (a) Said planned unit development shall be in general conformity with the provisions of the Albion Comprehensive Plan.
  - (b) Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
  - (c) The minimum size allowed for a PUD-1 District shall be as follows: Residential, one acre; Commercial, three (3) acres -except in District C-1 and C-2 only, one acre; Residential-commercial, four (4) acres.
  - (d) Height, bulk, and setback requirements may be varied so as to promote an efficient and creative PUD-1 District.
3. Use regulations. In District PUD-1 no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in Districts R-1 through R-3 inclusive and Districts C-1 through C-3. All uses must be approved as shown on the development plan as specified in this division.
4. Standards and conditions for development. A planned unit development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the development by geographic division of the state:
  - A. The applicant shall satisfy the planning commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the final application by the City Council. A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the plan shall expire. The period of



time established for the completion of the development may be modified from time to time by the planning commission upon the showing of good cause by the developer.

- B. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
- C. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
- D. The development shall not impose an undue burden on public services and facilities; such as fire and police protection.
- E. The entire tract or parcel of land to be occupied by the planned unit development shall be held in single ownership or control, or if there are two (2) or more owners, the application for such planned unit development shall be filed jointly by all owners.
- F. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a planned unit development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved.
- G. Off-street parking and loading shall be provided in accordance with the parking and loading regulations.
- H. When a commercial use within a PUD-1 District abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet high, but not more than eight (8) feet high, and having a density of not less than eighty (80) percent per square foot, shall be provided adjacent to any adjoining residential district; except in the event the adjacent residential district and the commercial developer are separated by a street right-of-way.
- I. All residential and commercial buildings shall set back not less than twenty-five (25) feet from the right-of-way of any street and ten (10) feet from any district boundary lines that do not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the planning commission for protection of health, safety, and general welfare.
- J. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of planned unit development: Residential, forty (40) percent maximum; Commercial, thirty-five (35) percent maximum.

- K. A minimum of thirty (30) percent of the net area of that part of a planned unit development reserved for residential use shall be provided for open space as defined by these regulations under subsection (P) below. Common open space for the leisure and recreation of PUD-1 residents only shall be owned and maintained in common by them, through a homeowner's association.
- L. The PUD-1 District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community.
- M. No residential use shall have direct access onto an arterial street.
- N. All commercial areas must have access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
- O. Sidewalks shall be built to city specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the planned unit development.
- P. Open space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants in common by a homeowner's, condominiums or residents association.

5. Application for approval of Preliminary PUD-1.
- A. An application for a PUD-1 shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public bearing: protests, and adoption shall be required as zoning changes.
- B. The applicant shall prepare and submit thirteen (13) copies of the preliminary development plan for review and approval by the planning commission. Said preliminary shall include:
- (1) A site plan showing:
- a) Contours at intervals of two (2) feet or spot elevations on a one hundred foot grid shall be required on flat land;
  - b) Location, size, height, and use of all proposed structures in conformance with the yard requirements;
  - c) All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
  - d) All streets adjoining subject property and the width of the existing right-of-way;
  - e) Areas set aside for public and private open space with the type of recreational facilities planned for each are indicated;
  - f) Designation of individual parcels if the proposed development is to be set up in separate construction phases;
  - g) Designation of individual lots if such lots are proposed to be sold to individual owners;
  - h) Location at required screening;
  - i) Location of natural features such as ponds, tree clusters, and rock outcropping;
  - j) Existing development on adjacent properties within two hundred (200) feet.
- (2) The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when said items are applicable:
- a) Net area in square feet or acres. (Note: Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area.)
  - b) Density at dwelling units per acre of the total dwelling units for the entire plan.
  - c) Building coverage of the net area of the planned unit development by individual parcel or total development.

- d) The percentage of the development plan provided for common open space as defined by this regulation. (Note: Normally, this figure should be approximately fifty (50) percent.)
  - e) If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
  - f) Required number of off-street parking spaces.
  - g) Gross floor area proposed for commercial buildings.
  - h) All proposed land uses shall be listed by parcel.
- (3) A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - (4) The full legal description of the boundaries of the property or properties to be included in the planned unit development.
  - (5) A vicinity map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed planned unit development.
  - (6) A description, rendering or drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
  - (7) When a planned unit development includes provisions for common space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
  - (8) Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
- C. The planning commission shall, within fifteen (15) days after a preliminary PUD-1 is filed, hold a public hearing on said development after giving notice as required by statute for hearings in amendments. Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the planning commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the preliminary plan complies with those regulations, together with its recommendations in respect to the action to be taken on the preliminary PUD-1. The planning commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.

- D. The City Council shall or shall not approve the preliminary development plan and authorize the submitting of the final development plan.
  - E. Substantial or significant changes in the preliminary PUD-1 shall only be made after rehearing and re-approval.
6. Final approval.
- A. After approval of a preliminary plan and prior to the issuance of any building permit or zoning certificate, the applicant shall submit an application for final approval with the planned unit development compliance review committee. The planned unit development compliance committee sh-1 ( consist of members of the Albion Planning Commission, Albion City Council, Albion City Attorney, and/or the Albion City Engineer: this committee will be assembled only on an as needed basis. Said final application may include the entire PUD-1 District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include fifteen (15) copies of such drawings, specifications, covenants, easements, conditions, and form of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in this chapter for a PUD-1 District. The final plan shall include the same information as the preliminary plan except the following shall also be provided:
    - (1) A surveyor's certificate certifying to the accuracy of the boundary surveys shown.
    - (2) Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
    - (3) All easements and appropriate building setback lines;
    - (4) All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
    - (5) Lot and/or parcel numbers;
    - (6) Location, size, height, and use of all proposed or present buildings;
    - (7) Dedication of all streets, public highways, or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property.
    - (8) A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established.
  - B. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the plan by the landowner as tentatively approved does not:

- (1) Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor,
  - (2) Increase by more than ten (10) percent the floor area proposed for nonresidential use; nor,
  - (3) Increase by more than five (5) percent the total ground area covered by buildings, nor involve a substantial change in the height of buildings;
  - (4) Substantially change the design of the plan so as to significantly alter:
    - a) Pedestrian or vehicular traffic flow.
    - b) The juxtaposition of different land uses.
    - c) The relation of open space to residential development.
    - d) The proposed phasing of construction.
    - e) Proposed use of one or more buildings to a more intensive use category as delineated in this chapter.
- C. A public hearing need not be held for the 'approval of a final plan if it is in substantial compliance with the approved preliminary plan. The planning commission shall, within fifteen (15) business days of the time of filing, review the final plan for compliance with the approved preliminary plan. Upon review approval, said final plan shall be filed with the City Council for final approval and acceptance.
- D. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this division as for original approval.
7. Enforcement and modification of plan. To further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the PUD-1 plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:
- A. The provisions of the plan relating to:
- (1) The use of land and the use, bulk, and location of buildings and structures; and
  - (2) The quality and location of common space; and
  - (3) The intensity of use or the density of residential units shall run in favor of the City and shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law.

- B. All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or equity by said residents and owners acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the planned unit development except as to those portions of the plan which have been finally approved and have been recorded.
8. Amendments. The PUD-1 District ordinance or an approved preliminary or final development plan maybe amended in -the same manner prescribed in this division for approval of a preliminary or final plan. Application tor amendment may be made by the homeowners association or fifty-one (51) percent of the owners of the property within the PUD-1 District.
9. Platting. For unplatted tracts or tracts being replatted, the approval of the preliminary PUD-1 shall be considered as the approval of a preliminary plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be either one hundred (100) feet, fifty (50) feet, or twenty (20) feet to the inch.
10. Fees. For the following applications, the indicated fees shall be paid to the City:
- (a) Preliminary PUD-1, one hundred dollars (\$100.00);
  - (b) Final PUD-1, fifty dollars (\$50.00).

These fees are separate and do not include any Preliminary and Final Plat Fees and/or any Change of Zone Fees required by the City of Albion.

## Section 9-515 (PUB) PUBLIC AND SEMI-PUBLIC DISTRICTS

1. Intent. To promote and allow public use and recreation throughout the community:
2. Permitted Uses
  - a. Recreational uses including the following: parks, ball fields, swimming pools, soccer fields, trails, and associated uses.
  - b. Other public uses including cemeteries and fairgrounds.
  - c. Public and Semi-Public uses are allowed in all Zoning Districts in the City.
3. Permitted Conditional Uses (reserved)
4. Accessory Uses
  - a. All secondary uses associated with Permitted Uses.
  - b. Parking as allowed in Article VII.
  - c. Signs as allowed in Article VII.



SECTION 9-516: FF/FW FLOOD PLAIN DISTRICTS (OVERLAY DISTRICT)

1. LOCAL ADMINISTRATOR RESPONSIBILITIES The zoning administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Ordinance and all other Ordinances of the City now in force or hereafter adopted, related to zoning, subdivision or building codes.
  
2. DESIGNATION OF CURRENT FHBM/FIRM  
The City hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map, for the City of Albion, Nebraska and amendments, as the official map to be used in determining those areas of special flood hazard.
  
3. PERMITS REQUIRED  
Permits Required: No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this ordinance.
  - a. Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the replacement of manufactured homes.
  - b. Application: To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
    - (a) Identify and describe the development to be covered by the floodplain development permit for which application is made.
    - (b) Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
    - (c) Indicate the use or occupancy intended.
    - (d) Be accompanied by plans and specifications for proposed construction.
    - (e) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
    - (f) Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of flood proofed non-residential structures, the elevation to which it shall be flood proofed. Documentation or certification of such elevations will be maintained by the City.
    - (g) Provide such other information as reasonably may be required by the City (e.g., require a statement from the applicant that they are aware that elevating or flood proofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential flood proofing when a minus

one foot (-1') penalty is assessed at the time of rating the structure for the policy premium.)

4. DEVELOPMENT PERMIT APPLICATIONS REVIEW

The zoning administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law. In reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section R. of this Ordinance), the administrator will:

- a. Obtain, review and reasonably utilize if available, any regulatory flood elevation data and floodway data available from Federal, State or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards be met:
  - (a) That until a floodway has been designated - No development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one (1) foot at any location.
  - (b) Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.
  - (c) Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local administrator.

- (d) Require for all new construction and substantial improvements -That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- b. Require the use of construction materials that are resistant to flood damage,
- c. Require the use of construction methods and practices that will minimize flood damage.
- d. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- e. New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the component during conditions of flooding.
- f. Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured and mobile homes must be anchored in accordance With State laws, local building codes and FEfOA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - (a) Over-the-top ties be provided at each of the four comers of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
  - (b) Frame ties be provided at each comer of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.

- (c) All components of the anchoring system be capable of carrying a force of 4,800 pounds.
  - (d) Any additions to manufactured homes be similarly anchored.
- g. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:
- (a) Outside of a manufactured home park or subdivision;
  - (b) In a new manufactured home park or subdivision;
  - (c) In an expansion to an existing manufactured borne park or subdivision; or
  - (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7.F; of Federal Emergency Management Agency regulations.
- h. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of Section 7.G of Federal Emergency Management Agency regulations be elevated so that either:
- (a) The lowest floor of the manufactured home is at least one foot above the base, flood elevation, or
  - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than .36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7.F. of Federal Emergency Management Agency regulations.

- i. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the community's official map either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

## 5. SUBDIVISION APPLICATIONS

The City Council shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

- a. All such proposed developments are consistent with the need to minimize flood damage.
- b. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.
- c. Adequate drainage shall be shown and necessary easements provided so as to reduce exposure to flood hazards.
- d. All public utilities and facilities are located so as to minimize or eliminate flood damage.

## 6. WATER AND SEWAGE SYSTEMS

New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

## 7. STORAGE OF MATERIAL AND EQUIPMENT.

The storage or processing of materials that are in time of flooding buoyant flammable, explosive, or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

8. FLOOD-CARRYING CAPACITY WITHIN ANY WATERCOURSE

The City Council will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The City will notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Natural Resources Commission) prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the City will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973, as amended.

9. VARIANCE PROCEDURES

- a. The Board of Adjustment as established by the City shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b. The Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
- c. Any person aggrieved by the decision of the Board or any taxpayer may appeal such decision to the District Court as provided in Section 23-168, R. R.S. 1943 (for counties); 19-912, R.R.S. 1943 (for municipalities).
- d. In passing upon such applications, the Board shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and;
  - (1) the danger that materials may be swept onto other lands to the injury of others;
  - (2) the danger to life and property due to flooding or erosion damage;
  - (3) the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) the importance of the services provided by the proposed facility to the community;
  - (5) the necessity to the facility of a waterfront location, where applicable;
  - (6) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (7) the compatibility of the proposed use with existing and anticipated development;

- (8) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

e. Conditions for Variances

- (1) Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure is continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford-relief.
- (4) Variances shall only be issued upon
  - (i) a showing of good and sufficient cause,
  - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (5) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### 10. NON-CONFORMING USE

- a. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
  - (1) If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance:
  - (2) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.
- b. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

#### 11. PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

#### 12. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.



13. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

14. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

15. SEVERABILITY

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

16. APPEAL

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Adjustment.

17. CONFLICTING ORDINANCES

This ordinance shall take precedence over conflicting Ordinances or parts of Ordinances. The City Council of Albion may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act. .

## 18. DEFINITIONS

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

"Base Flood" means the flood having one percent chance of being equaled or exceeded in any given year.

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

"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 or drilling operations or storage of equipment or materials.

"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 of 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" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters; (2) The usual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Administrator has delineated both the special flood hazards areas and the risk premium applicable to the community.

"Flood proofing" means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" means the channel of the 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 a designated height.

"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 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.

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

"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.

"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.

"100-Year Flood" means the condition of flooding having one-percent chance of annual occurrence.

"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 projection; (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 water surface elevation of the 100-year flood.

"Special Flood Hazard Area" 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" [for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)] 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.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any construction, rehabilitation, addition, or other improvement of a structure, the 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" means a grant of relief to a person from the terms of a floodplain management ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.